SENATE—*Monday, October 3, 1985*

(Legislative day of Monday, September 30, 1985)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer will be offered by the Reverend Adam Lewis, rector, Christ Church Christiana Hundred, Greenville, DE. He is sponsored by Senator WILLIAM ROTH, Jr., and he is Senator ROTH's pastor.

PRAYER

The Reverend Adam Lewis, rector, Christ Church Christiana Hundred, Greenville, DE, offered the following prayer:

Almighty God, in this hour we offer prayers for all people and nations who on this Earth do dwell and most especially for the United States of America.

We pray for the Members of this Senate, that Thou wouldst be pleased to direct and prosper all their consultations to the advancement of the safety, honor, and welfare of Thy people; that their endeavors may be so ordered as to provide the best and surest foundations for peace, justice, and the pursuit of happiness.

We further beseech Thee O God that as a nation we may prove ourselves mindful of Thy favor. Bless this land with honorable industry; instill in us a sincere desire for peace on Earth and good will to men and women of every kindred and tongue. Save us from violence, discord, and confusion; from pride, arrogancy, and every evil way. Endue with wisdom those to whom in Thy name we have entrusted the authority of this Government that they may be obedient to Thy law and that we as a people may show forth Thy praise among all nations.

Finally, we pray for our fellow men and women who are hungry, destitute, and homeless. By Thy mercy, lift up the poor, those who are cast down and the innocent who suffer. Open our eyes, our minds, and our hearts to the less fortunate and by Thy grace may we have wisdom to relieve the sorrow of pain throughout the world.

Grant these petitions for Thy sake and for Thy glory, O God. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Delaware.

TRIBUTE TO THE REVEREND ADAM LEWIS

Mr. ROTH. I thank the distinguished majority leader.

I would like to take this opportunity to express my deep appreciation to Reverend Lewis for being with us here today and offering such a thoughtful prayer.

In the 2 short years that he has guided and carefully tended our church at home, Reverend Lewis has distinguished himself both as a deeply spiritual man and one of the most articulate, thought-provoking rectors our congregation has ever had. I greatly appreciate his taking the time to open the Senate today. And I would also like to welcome his lovely wife, Linda, who is sitting in the family gallery. We look forward to seeing more of them, and I wish them well and Godspeed.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. ARMSTRONG). The distinguished majority leader.

Mr. DOLE. Mr. President, I thank my distinguished colleague from Delaware for those comments, and I share the views which the Senator expressed.

SCHEDULE

Mr. DOLE. Under the standing order, the leaders have 10 minutes each, followed by special orders for the following Senators: CHAFEE, MURKOWSKI, COHEN, DOLE, SIMPSON, ARMSTRONG, GOLDWATER, NUNN, and PROXMIRE for not to exceed 15 minutes each.

I ask unanimous consent that the special orders in favor of Senators DOLE, SIMPSON, and ARMSTRONG for today be under the control of the Senator from Maine [Mr. COHEN].

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

Mr. DOLE. Following special orders, there will be routine morning business not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not more than 5 minutes. That time limit may by necessity have to be extended if everyone uses his special order. But in any event, at about 12 noon we hope to turn to the consideration of House Joint Resolution 372, the debt limit extension.

Rollcall votes can be expected during today's session but will not occur after the hour of 3 p.m. today. We could also turn to any other legislative matters or any matters on the Executive Calendar that might not require rollcall votes after 3 o'clock—hopefully, even beyond 3 o'clock. If there are discussions with reference to any amendment or amendments on the debt ceiling, we can have some debate after 3 o'clock.

A number of our colleagues have made long-time commitments—about an equal number on each side—to be absent after 3 p.m. today.

We will have a Friday session. It would be my hope we could come in early tomorrow morning. If we can limit the number of amendments on the debt ceiling extension on each side, then I see no reason we cannot complete action on the debt ceiling extension fairly early tomorrow afternoon. We would then recess until Monday at which time if we complete action on the debt ceiling extension we would move to the reconciliation bill. Senator DOMENICI and Senator CHILES, I understand, are prepared to do that. That could consume Monday, Tuesday, Wednesday, and Thursday of next week. If not, as I indicated last night, it would be my intention to return to the Micronesia bill and the pending textile amendment unless we can work out some other arrangement because that will then interfere with the consideration of the farm bill. I hope that between now and next week those interested in the textile amendment and the Micronesia bill can all get together to resolve the problem and compromise the textile bill. It is obviously in some difficulty with 42 votes to table the amendment. I would think those who are strong supporters of the textile bill might want to review the proposed modifications to that amendment if in fact they intend to finally succeed. But in any event, that will be up to the distinguished Senators from South Carolina, Senator THURMOND and Senator HOLLINGS; and Senator HELMS and others who have taken the lead in this particular amendment.

I will confer with the distinguished minority leader as soon as I have additional information on the debt ceiling extension and what I feel may be the number of amendments to be offered on this side.

I reserve the balance of my time.

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized.

THE DEBT LIMIT EXTENSION

Mr. BYRD. Mr. President, in listening to the distinguished majority leader, I wish to say that once the situation is clear on the other side as to the number and nature of amendments that may be called up to the debt limit extension, I feel that on this side we may be able to reach a decision as to how many amendments we may have to offer.

I hope that we will not have many amendments. I hope we can confine them to the area of the budget deficit.

The distinguished majority leader and I have discussed this more than once. I think each of us would have been happier if no amendments were going to be offered and none adopted. But that does not seem to be the way the stream is flowing. Monday night is the deadline. I hope the distinguished majority leader could perhaps, before the day is over, tell us what the Monday situation will be.

Mr. President, I am not sanguine about the prospects of finishing action on this bill tomorrow. I am not expressing an attitude of reluctance to see it passed. I would be happy to see it passed tomorrow. But in view of the event that if it is not adopted on Friday, and in view of the fact that we will not have a session on Saturday, I think it would be of benefit to all of us, including the distinguished majority leader, to determine whether or not we can really get the debt limit legislation passed Monday, which will necessitate rollcall votes, or whether or not there is indeed a likelihood that it might go over until Tuesday for final action.

I am not suggesting that we go over until Tuesday, but I think that is a real possibility. If the Senate is still on the debt limit Monday, it might require some rollcalls prior to the usual threshold on Mondays, 4 or 5 o'clock.

I would be happy to engage in a conversation with the majority leader as to how we might do that by Monday.

Mr. DOLE. Or maybe even by Friday.

Mr. BYRD. I hope so, but I have a feeling that Monday is probably going to be the day.

Mr. DOLE. If the distinguished minority leader will yield, I think the only problem is in delaying. There is an amendment, of course, which may be adopted. And it would take a day or two, I assume, to get in and out of conference. We would be looking at the end of next week.

This next week, as the distinguished minority leader knows, is a short week because of the Interparliamentary Conference in San Francisco where about a dozen Senators will be participating. That starts on Friday morning.

It is also our hope, at least, to finish reconciliation next week. If we can somehow figure out how to do both of those, that would help in resolving the problem. I know Senator HATFIELD, the chairman of the Appropriations Committee, is eager to get into the appropriations bills, but I do not see how we can do many of those next week unless there is some kind of double-tracking.

Mr. BYRD. What I have said, of course, is partly based on the fact that after 3 o'clock today, several Senators on both sides of the aisle will not be here. The distinguished majority leader has been very understanding and gracious to all those Senators on both sides of the aisle in assuring that there will be no rollcall votes after 3 o'clock today. So for votes on amendments to the debt limit, this only leaves up to 3 o'clock today and Friday and Monday, unless we go beyond Monday.

Anyhow, the distinguished majority leader and I will be talking more during the day.

I ask the Chair if I have any time remaining.

The PRESIDING OFFICER. The minority leader has 5 minutes remaining.

Mr. BYRD. I thank the distinguished Presiding Officer.

Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

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

Mr. BYRD. I yield the floor.

RECOGNITION OF SENATOR CHAFEE

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

JOE CONNORS, U.S. SENATE PAGE

Mr. CHAFEE. Mr. President, during the month of July this year, the U.S. Senate had an opportunity to learn first hand something I have always believed—that disabled individuals have something to offer all of us.

Joe Connors, a 16-year-old young man, became the first Senate page with Downs syndrome. To Joe, it was not a major event. He came, tried his best to do a good job, had a good time in Washington and then went back home—just like every other page. To the rest of us, his tenure in the job was a special event because he was not just like every other page.

Because of the nature of Congress, Joe Connors was probably one of the most visible demonstrations that we have been able to give of the abilities of individuals with disabilities. Most people would have thought someone like Joe would be unable to be a U.S. Senate page. However, through appearing on the Today Show with Bryant Gumbel, on various news programs, and in the print media, Joe showed us all that we ought to open our eyes to the capabilities of those considered to have disabilities.

After Joe's appearance on the Today Show I received many letters from all over the country about Joe. I ask unanimous consent to have the most touching of those letters inserted in the RECORD at this point.

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

PROVIDENCE, RI,
July 24, 1985.

Senator JOHN CHAFEE,
Senate Office Building,
Washington, DC.

DEAR SENATOR CHAFEE: I was very much impressed with your appearance on the Today Show this morning. Your sensitivity to the needs and abilities of a person, Joseph Connors, afflicted with Down's Syndrome and your willingness to bring the facts before a national TV audience very much pleased me. Not to mention the fact that Joseph himself was also willing to appear—apparently with the approval of his family.

You see, many years ago—in 1927, to be exact—a sister was born into my family, also afflicted with what was then simply known as Mongoloid Idiocy. Although she only lived to May, 1929, and therefore we never could come to understand that she probably had much more potential than we could realize it was understood within the family that she would not be institutionalized, but rather that she would be brought up within the family setting. yet institutionalization was the more normal way of handling such cases simply because science and medicine had really no idea of the causes, the treatment, the potential of such a condition. It was simply viewed as a tragedy—even within my own family where both my father and mother were doctors.

Again, many thanks to you and to Joseph. The nation really learned something! Joseph by serving as your page spoke volumes for you and is certainly a credit to himslf.

Faithfully yours,

REV. EDWIN K. PACKARD.

PAWTUCKET, RI,
July 25, 1985.

Hon. JOHN H. CHAFEE,
U.S. Senate,
Washington, DC.

DEAR SENATOR CHAFEE: It was with interest that I recently viewed the story on television about your recent hiring as a Senate Page the young boy with Down's Syndrome. Words can't express how deeply moving it was to learn about this young man who, despite his disability, is determined to prove to the general public that if given the chance the disabled have a valuable contribution to make.

I am very proud to have you as our Senator and I support you in your efforts to bring to the forefront this important issue. Please continue your efforts to assist those

in society who suffer from disabling afflictions. While it is true that we do need social programs to support those incapable of engaging in meaningful and gainful employment, it occurs all to frequently that this problem is swept under the rug simply by throwing federal dollars out the window to support these individuals without giving them a chance to prove the valuable contribution they have to make. To be sure, many of these unfortunate people would rather find jobs if only people would give them a chance.

Please keep up the good work.

Yours truly,

RAYMOND A. PACIA.

MOUNT LEBANON, PA,
July 24, 1985.

DEAR SENATOR CHAFEE: As my husband and three children were eating breakfast with me this morning, we enjoyed Bryant Gumbel's interview with you and your page, Joseph. It was very special for us as we are the "parents" of three children with Down's Syndrome. I put that term in quotes as they are not our children legally, but we have been their houseparents in our community living program for nine years. As we have no natural children and two of them have no families. We have become a much closer family than most people would expect.

I thank you for your support of so many pieces of legislation which betters the lives of our exceptional citizens and helps them become more productive members of our society.

I hope that Joseph continues to enjoy and to learn from his experience at the Capitol. Also, I hope that others will learn from him that our exceptional citizens are caring, giving, and productive members of this country.

Please share with Joseph how wonderful a young man I find him to be and how sincerely caring a man you are. Thank you for what you have done for Joseph, my Jim, Michael, and Mario, and others like them.

Sincerely,

NANCY J. MURRAY.

PEORIA, IL, *July 26, 1985.*

DEAR SENATOR CHAFEE: I say you on television Thursday, July 25th with Joseph Connors. I was delighted that finally someone realized that a Down's person can do almost anything if given the challenge.

I wish you luck and success. This is a positive step that I hope will educate the public about Down's Syndrome.

My granddaughter, Katie, aged 2½ has Down's and she is a real darling. She, too, has a lot of ability and I want to help her reach her full potential.

With people like yourself in high places willing to teach and set an example I feel much encouraged as you have taken a positive step and I hope others will follows.

Gratefully yours,

ELEANOR MCGRATH.

P.S.—Please convey my congratulations to Joseph for me, also my best wishes!

Thank you,

E. MCG.

LAMAR, PA.

DEAR SENATOR CHAFEE: I saw you and Joe O'Conner on the Today Show. I think that you are doing something fantastic. I have two adopted Downs babies. I am associated with other parents of Downs children also (adopted and home made). I hope this shows the President and the other law makers and the people who decide where moneys go that these people are a plus to society not a burden. They deserve all they can get to bring them to their full potential. Thank you for giving them a chance.

Yours truly,

CHARLAINE SHANK.

FLAGSTAFF, AZ, *July 24, 1985.*

Mr. JOSEPH CONNORS,
c/o Senator John Chafee

DEAR JOSEPH: We saw you on TV this morning, and congratulate you for your work at the Capitol. I used to spend a few weeks each summer in Washington when I was your age, and I know how exciting it is there.

I hope my own boy can have the same kinds of opportunities when he grows older. Your boss, Senator Chafee, is a great man for fighting for these opportunities. And your fine work—though it's too bad people need special proof—will likely help many other people to have the chances in life that they deserve.

Enjoy your trip back to Rhode Island!

Sincerely yours,

FRANK ROACH.

WALTHAM, MA, *July 24, 1985.*

DEAR SENATOR CHAFEE: I am sure this will be one of many letters you will receive regarding your appearance on the "Today" show with Joe, Mr. Joseph Connors.

I am writing through my tears, my heart is so full—what a wonderful thing for you to do—what an opportunity, a life experience for Joe—to be integrated into the real world.

As the mother of a retarded son, Mark, I have always been so frustrated with the lack of opportunity and challenge; acceptance in general, for people like him. He has so many untapped resources. Mark is twenty-six, and so what is, will be, but for the younger generation perhaps, a newer world. With people like you in the Senate, showing the way, with new ideas, greater understanding, and tolerance, God will bless us all.

My best wishes to you.

MARGARET CINCOTTA.
(Mrs. Anthony)

P.S.—I am enclosing a note for Joe.

DEAR SENATOR CHAFEE: I was so pleased to see you on TV with the young man who is working in Washington as a page.

So little is really understood by most people concerning "Downs Syndrome." I think you do a great service by showing that, given training, etc., most persons suffering from this disorder can live happy and productive lives.

Having a little great-granddaughter who is a "Downs Child" I am aware, for the first time, how much can be done for these children through the wonderful programs that exist.

I thank you for taking the time to show how much one courageous young man has been able to accomplish despite his handicap.

Sincerely,

MARY E. MCSWEENEY.

Mr. CHAFEE. Unfortunately, because of space limitations I cannot insert all of the letters I received. However, I would like to thank everyone who took the time to share their very touching thoughts and experiences with me.

I also ask unanimous consent to insert at this point in the RECORD some of the articles that appeared in the Providence Journal about Joe.

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

16-YEAR-OLD FROM EAST PROVIDENCE MAKES HIS MARK ON U.S. SENATE

WASHINGTON.—He took in the July Fourth fireworks-and-Beach Boys blast on the National Mall. He has chatted about space with Jake Garn of Utah, the Senate's only space shuttle veteran. And he has a standing invitation to go swimming in Sen. Edward M. Kennedy's pool.

For a 16-year-old away from home for the first time, this is the kind of heady stuff that goes with the title tagged on his blue uniform blazer: "U.S. Senate Page Joe Connors."

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The emblem is Connors' gold medal (first place, butterfly stoke) from the Special Olympics last month at the University of Rhode Island. He was born with Down's Syndrome, a genetic condition associated with retardation and—until recent years—with virtual exclusion from the mainstream of society.

Connors is the first such disabled person to work as a Senate page. But the distinction, in a way, is less extraordinary than it sounds, according to Sen. John H. Chafee.

Chafee said he gave Connors a three-week appointment as a page because "I just felt in Joe's case that it would illustrate to the world the capabilities of people with certain disabilities."

His case and his plucky capabilities are getting plenty of illustration. He has sat for several interviews and camera sessions (one of which will air this morning on NBC's "Today" show), displaying a flair for the limelight and a proper irreverence toward politics.

Questioned yesterday as to his early favorite in the 1988 presidential sweepstakes, Connors shot back, "Me."

* * * * *

That stands to reason. Rock and radio (his tastes run to heavy metal and Madonna) are part of the daily routine that Connors ticked off yesterday:

"Wake up call. Turn on the radio. Get myself ready—shower and shave—get my wallet and keys. Then I turn off the radio and air-conditioner and call Chafee's office."

Then, depending on the orders of the day, it's out of the pages' dormitory on Capitol Hill and over to Chafee's office or the Senate chamber, where pages are expected to know 100 new faces and master unteenagerly habits of deference and promptness as they make their rounds.

Connors, by all accounts, has taken it in stride. His mother, Barbara, reported to Chafee during a visit this week that her son, the youngest of six children, has adapted remarkably well to the independence and responsibility that are heaped on the youthful couriers of the Senate.

"It's been a challenge," said Christine Ferguson, the Chafee aide who supervises Connors. Joe, for example, has never before had to deal with little things like remembering housekeys and finding subways.

But he's not shy about figuring the shortcuts and getting things pat. If he's lost in the maze of tunnels under the Capitol he said, "I just find a guard, or call Chafee's office."

"He's gotten confidence in knowing his way around," said Chafee. The senator is pushing legislation to promote group homes and other "community living" arrangements for the great numbers of disabled Americans who can blossom "to their highest potential," as he put it, outside of state institutions.

"There are plenty of others like Joe that don't get a whole lot of press," said Ferguson, "but they're out there making it."

Speaking for himself, Connors is unimpressed by any sort of inspirational talk. When he was asked late in the afternoon to state his ambitions for the future, he said, "Go to dinner and go home." He said that with a grin.

SENATE PAGE WHO SETS AN UNUSUAL EXAMPLE

Together a United States senator and a 16-year-old boy from East Providence have made an eloquent statement.

Sen. John H. Chafee appointed Joseph Connors a senatorial page for three weeks this summer. "I just felt in Joe's case," the senator said, "that it would illustrate to the world the capabilities of people with certain disabilities."

Joseph was born with Down's Syndrome or mongolism, a genetic defect manifested in mental retardation and physical disabilities. Last month he won a gold medal in the Special Olympics at the University of Rhode Island.

When he joined Senator Chafee's staff he gained a new distinction. He became the first person with such disabilities to be appointed a Senate page. He is doing things he's never done before and bearing responsibilities of which some might think him incapable. But he's making it and by his example is telling all of us that handicapped people have potential to live normal lives in the community and make a significant contribution.

When Joe and the senator appeared on NBC's "Today" show Wednesday morning, that message got network coverage. Stories in the print media have spread Joe's story far and wide, bolstering the hope that some day the stigma some still attach to being handicapped will be eliminated. When that day comes, Senator Chafee and Joe Connors will be ushered to the front ranks of those who broke down the barriers and helped to promote understanding and compassion for people who struggle daily to overcome mental or physical handicaps.

Mr. CHAFEE. Mr. President, one of the people most overlooked in this event was Joe's mother, Barbara Connors. Soon after Joe's birth, Barbara Connors lost her husband. She has six children. Joe is the youngest. She raised her children on her own. Being a parent is not easy in the best of circumstances, but when you have a child with special needs, it takes even more energy, patience, and love. Barbara Connors believes in Joe's abilities and potential. That belief has been the most essential part of Joe's development.

Some people would say that Joe is an exceptional case, that other people with his disability could not do the same. I would suggest, however, that if Joe is extraordinary, it was because his family never gave up on him. Because he had the advantage of living at home, not in an institution. Because he had the advantage of being born late enough that he had the chance to attend school with nonhandicapped children. Because he had the support, friendship, and encouragement from older brothers and sisters at home.

Joe is an example of how lives can be changed with the simple passage of important legislation—in his case the passage of the Education for all Handicapped Children Act of 1973. The next step is to ensure that Medicaid funds are available and widely used in noninstitutional settings—a situation that does not exist today.

I hope that all of my colleagues in Congress will remember Joe and his experiences here as we consider legislation that affects disabled individuals. There are people like Joe all over this country, in all of our communities. They deserve a chance that we are not giving them today—a chance to grow, to flourish and to become part of society. Each of us should have the opportunity to work and live our lives with dignity. We should be challenged and given the chance to feel good about our achievements. Joe and the hundreds of thousands of individuals like him in our country today have a contribution to make to society. I hope that everyone who has been touched by Joe—through meeting him or seeing him on television—will think seriously about giving them that chance, which is through legislation that we have sponsored here to provide that Medicaid funds can be used for those who are living in the community rather than solely in institutions.

RECOGNITION OF SENATOR COHEN

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

EXECUTIVE DEPARTMENT COMPLIANCE WITH LAW

Mr. COHEN. Mr. President, soon the Senate will consider the nomination of James C. Miller to be the new Director of the Office of Management and Budget. I participated in the Governmental Affairs Committee's hearing last week on this important nomination and found Mr. Miller to be a man of integrity and good character. His answers to tough questions were forthright and candid.

Based on that hearing and what I know of Mr. Miller's background, I believe that he is an excellent choice to head the OMB. His outstanding academic credentials, as well as his distinguished service in previous Government posts, make him eminently qualified to lead what is arguably the most powerful agency in the Federal Government.

I intend to support his nomination.

I am, however, deeply troubled by his response to a question that I asked at his nomination hearing that goes right to the heart of our constitutional system of Government. I asked Mr. Miller whether or not he believes that the executive branch has an obligation to follow a law that is duly enacted by Congress and signed by the President, provided that no court has ruled it unconstitutional.

This was not a hypothetical question. Last year, Mr. Miller's predecessor at the OMB, acting at the behest of the Attorney General, issued a directive ordering Federal agencies to ignore certain provisions of the Competition in Contracting Act that the Justice Department believed to be unconstitutional.

Mr. Miller's response, in essence, was that he would defer to the Department of Justice should such an issue arise. Since it was the Department of Justice which ordered his predecessor to direct all agencies to ignore the law, his response greatly concerns me. I ask unanimous consent that my exchange with Mr. Miller during the September 24 Governmental Affairs Committee hearing be printed in the RECORD.

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

EXCERPT FROM THE GOVERNMENTAL AFFAIRS COMMITTEE TRANSCRIPT OF THE HEARING ON THE NOMINATION OF JAMES MILLER SEPTEMBER 24, 1985

Senator COHEN. Last year, the Congress passed into law the Competition in Contracting Act. The President signed it.

At the time, the President expressed some reservations about certin provisions of the bill, but the President, nonetheless, did sign the bill, which was designed to get at some of the problems that Chairman Roth has talked about in terms of contractor competition, reducing fraud, waste, abuse, et cetera.

Shortly after it was signed into law, the former Director of the OMB issued a directive, a memorandum, ordering all federal officials to ignore certain provisions of the law because the Justice Department thought they were unconstitutional, even though no court had ruled those provisions unconstitutional.

Senator Gramm has indicated, and I accept this, knowing your reputation, that you have been successful in carrying out the letter of the law. The question I have is, would you make a recommendation that any federal officials ignore certain provisions of a law that has been passed by Congress and signed by the President?

Mr. MILLER. That's a very complicated question on a complicated issue, Senator. We are—of course, part of the oath of office is to uphold the Constitution. If you believe, truly, that something was adverse to the Constitution, I don't see how, someone, a public official in good conscience, could carry out that provision.

Senator COHEN. No, no, the decision to sign the bill into law is the real test, isn't it? Once the President puts his stamp of approval, saying, "I don't like certain provisions and I might question them, but I am going to sign this bill into law," it seems to

me the issue is whether you or anybody within the Administration can subsequently question the constitutionality of the law in the absence of a court ruling. It seems to me you have to uphold the letter of the law.

Mr. MILLER. Well, I would certainly defer, I think, to the legal scholars at the Department of Justice and those who would guide me in such a case. But I do recognize that the Constitution is the supreme law of the land and is—and all others are subservient to it.

Senator COHEN. A court subsequently ruled that the law, in fact, was constitutional and said that the Executive Branch's decision to deliberately disobey the law flatly violates the express instruction of the Constitution that the President "take care that the laws be faithfully executed." I think that we have to arrive at some sort of an understanding as to whether or not you believe that once the President signs a bill into law, in the absence of a court decision is it your belief that the Administration has an obligation to carry out the law?

Mr. MILLER. Well, I would say, given the language you have just read, that would be an admonition to do as you suggest, and as I indicated, I would defer, think, to the legal scholars on what was required.

Senator COHEN. So you would recommend that we carry out the law in the absence of an opinion of legal scholars. Who would they be, the Justice Department?

Mr. MILLER. Justice Department, primarily, the Office of Legal Counsel. They do that.

Senator COHEN. And if the Justice Department recommended that a certain provision was unconstitutional, you would then feel obligated to issue such a memo?

Mr. MILLER. If the Office of Legal Counsel concluded that I would be violating the Constitution itself by doing, making, engaging in a certain act, I would not engage in that certain act. I would have sworn to uphold the Constitutional laws.

Senator COHEN. Do you think that the Justice Department and the Office of Legal Counsel have an obligation to make that determination before the President signs the bill into law? Isn't that the way it should be done?

Mr. MILLER. It ususally is done that way, Senator,

This is a hypothetical. I would have to see the facts. I would have to see the facts.

Senator COHEN. It is not hypothetical. We have an exact case involving the Competition in Contracting Act. What I am trying to get at is what is the orderly processing of the rule of the law so we don't have a President signing something into law and then later, having a postscript added by the Justice Department saying, "By the way, we don't like section 201," or whatever the section might be, "and don't enforce it." It seems to me that erodes respect for the law.

Mr. MILLER. I would just have to know the facts, and I am not trained as a lawyer, Senator COHEN. I would have to defer, I think, judgment to officials that would counsel me on that matter.

Mr. COHEN. Mr. President, it perhaps would be helpful to my colleagues if I provided some background on the Competition in Contracting Act. This law was enacted, after nearly 5 years of careful deliberation, to strengthen and reform the laws governing Federal contracting. In the Senate, the Competition Act was reported unanimously by both the Governmental Affairs and Armed Service Committees, passed unanimously by the full Senate, and eventually was incorporated into the deficit reduction package, which the President signed in July 1984.

Upon signing the bill, however, the President objected to certain provisions of the Competition Act that he believed to be unconstitutional. On October 17, the Justice Department's Office of Legal Counsel subsequently issued an opinion recommending that executive agencies should take no action to implement the provisions in question.

Briefly, these provisions codify and strengthen the Comptroller General's role in resolving bid protests. The provisions in dispute include the triggering of contract award and performance stays when protests are filed, and the authorization to award costs to successful protestors. The Justice Department contested the constitutionality of these provisions on the grounds that they purportedly authorize the Comptroller General to exercise executive authority in violation of the principle of separation of powers.

The Justice Department, however, stands alone in its judgment. The General Accounting Office, the American Law Division of the Congressional Research Service, the Senate and House legal counsels, the American Bar Association, and a number of constitutional scholars all agree that the provisions of the Competition in Contracting Act pass constitutional scrutiny. I ask unanimous consent that their opinions be printed in the RECORD.

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

U.S. SENATE,
OFFICE OF SENATE LEGAL COUNSEL,
Washington, DC.

MEMORANDUM

To: Link Hoewing, Ira Shapiro.
From: Morgan J. Frankel.
Date: August 1, 1984.
Re Constitutionality of Procurement Statute.

INTRODUCTION

You have requested our views concerning the opinion of the Department of Justice that provisions of Title VII of the Deficit Reduction Act of 1984 ("the Act") establishing a statutory basis for the bid protest system administered by the Comptroller General are unconstitutional. The Department raised two principal separation-of-powers objections to the enactment of an earlier version of the Act, H.R. 5184. First, it asserted that the bill's vesting of judicial or executive powers in the Comptroller General violates the Appointments Clause of the Constitution and *Buckley v. Valeo*, 424 U.S. 1 (1976). Second, it contended that the bill violates the prohibition of *Immigration and Naturalization Service v. Chadha*, 103 S.Ct. 2764 (1983), against legislative action by the legislative branch without action by both Houses and presentation to the President. We disagree with the Department's conclusions and believe that Title VII is consistent with the doctrine of separation of powers as illuminated by the Supreme Court.

THE STATUTORY SCHEME

The Department's objections are directed at two provisions of the Act.[1] First, section 2741(a) establishes a statutory procedure for interested parties to file protests with the Comptroller General alleging violations of government procurement requirements. Under the statutory scheme, the initiation of a bid protest with the Comptroller General automatically stays the authority of the procuring agency to award a contract. The purpose of the stay is to enable the Comptroller General expeditiously to consider the protest and the agency's response, and to preclude the intervening award of a contract from altering the circumstances of his decision. To that end, the statute prohibits the award of a contract in a procurement subject to a pending protest, unless the procuring agency has advised the Comptroller General that "urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General." (To be codified at 31 U.S.C. § 3553(c).) The Act provides the Comptroller General with discretion to establish a period of forty-five days, ninety days, or a longer period if necessary, to complete his review of the protest or to dismiss a protest as frivolous at any time. (To be codified at 31 U.S.C. § 3554(a).)

If the Comptroller General determines that a protested procurement does not comply with a statute or regulation, he may recommend that the agency take actions, such as recompeting the contract or issuing a new solicitation, to promote compliance with its procurement obligations. (To be codified at 31 U.S.C. § 3554(b).) To complete this purely recommendatory scheme, procuring agencies must report to the Comptroller General if they have not fully implemented the Comptroller General's recommendations, and the Comptroller General must annually report to Congress on agencies' failures to implement his recommendations. (To be codified at 31 U.S.C. § 3554(e).)

Second, section 2441(a) of the Act authorizes the Comptroller General to award to a successful protesting party his costs, including attorney's fees, of pursuing the protest and of bidding on the procurement. (To be cofified at 31 U.S.C. § 3554(c).) The statute provides that such monetary awards "shall be paid promptly by the Federal agency concerned." (To be codified at 31 U.S.C. § 3554(e).)

THE DEPARTMENT OF JUSTICE'S OBJECTIONS

The Justice Department asserts that the statutory bid protest system violates *Chadha* because it "delegates to an entity such as GAO the power effectively to block Executive action outside the legislative process." Letter of Assistant Attorney General Robert A. McConnell to Representative Jack Brooks, Apr. 20, 1984, at 3. The De-

[1] While the legislation was pending in the Congress, the Department also objected to a provision of H.R. 5184 that would have authorized courts to refer bid disputes to the Comptroller General. This provision is not contained in the Act. Instead the conference report states, "The Comptroller General currently receives from courts and agencies requests concerning the propriety of procurements. The conferees intend that the Comptroller General have the discretion to continue to process these requests in a manner consistent with the one used for bid protests." 130 Cong. Rec. H6760 (daily ed. June 22, 1984).

partment analogizes the role of the Comptroller General in the protest process to that of a congressional committee in a "committee approval" provision, "the only difference being that the GAO would play the pivotal role." *Id.* This argument is grounded upon the Department's view that the Comptroller General is a legislative entity: "The GAO is an instrumentality 'independent of the executive branch,' 31 U.S.C. § 702(a), and the Comptroller General is properly considered to be an officer of the Legislative Branch." *Id.* at 1.

THE STATUS OF THE COMPTROLLER GENERAL AS AN OFFICER OF THE UNITED STATES

The Department's separation of powers objections to the statute's vesting of authority in the Comptroller General fail because the Department miscomprehends the status of the Comptroller General. Although for some purposes he may be considered a legislative official, [t]he Comptroller General has also a second status as the chief accounting officer of the Government. . . . *This is an executive function and in performing it the Comptroller General acts as a member of the Executive Branch of the Government.* The dual status of the General Accounting Office is not anomalous, for many regulatory commissions fulfill in part a legislative function and in part carry out executive duties, . . . *United States v. Stewart*, 264 F.Supp. 89, 99 (D.D.C.), *Aff'd*, 339 F.2d 753 (D.C. Cir. 1964) (emphasis supplied). The fact that the General Accounting Office is statutorily "independent of the executive departments," 31 U.S.C. § 702(a), no more renders it a legislative entity than the independence of the Federal Trade Commission renders it a congressional body. The Supreme Court has long recognized the legitimacy of agencies, like the Federal Trade Commission, that perform a combination of quasi-judicial, quasi-legislative, or quasi-executive functions and that, though composed of presidential appointees, operate free from executive control. *See Humphrey's Executor v. United States*, 295 U.S. 602, 628 (1935) (the Federal Trade Commission is "a body which shall be independent of executive authority, *except in its selection*").

Rather than focusing on the hybrid functions of such an entity, for separation of powers purposes the Supreme Court looks to its mode of selection. In *Buckley v. Valeo*, 424 U.S. 1, 133 (1975) (per curiam) (quoting *Humphrey's Executor*), the Court held that the Appointments Clause of the Constitution[2] "controls the appointment of the members of typical administrative agency even though its functions . . . may be 'predominantly quasi-judicial and quasi-legislative' rather than executive." Congress had given the Federal Election Commission, whose membership then included individuals appointed by Members of Congress, "extensive rulemaking and adjudicative powers," *Id.* at 110. The Court concluded that the composition and duties of the Commission violated the Appointent Clause: "[A]ny appointee exercising significant authority pursuant to the laws of the United States is an 'Officer of the United States,' and must, therefore, he appointed in the manner prescribed by § 2, cl. 2 of" article two of the Constitution. *Id.* at 126.

The Comptroller General is "appointed by the President, by and with the advice and consent of the Senate." 31 U.S.C. § 703(a)(1).[3] Accordingly, under *Buckley* he properly exercises authority as an officer of the United States.[4] Because of the Comptroller General's status as an officer of the United States, the Department's invocation of *Chadha* is inapposite. Consistent with the Court's decisions in *Buckley* and *Chadha*, the Congress has a choice: it may create purely legislative entities and appoint purely legislative officials to administer them, in which case any authority the officials exercise outside the legislative branch must meet the constitutional requirements of bicameralism and presentation to the President. Alternatively, the Congress may establish governmental entities to exercise delegated authority, in which case the officials in those entities may be appointed only by the President, the courts, or the heads of departments. Here, the Congress has properly chosen to delegate authority to an officer appointed by the President.[5]

This understanding of the role of the Comptroller General as an officer of the United States coheres with the functions previously assigned to the Comptroller General by statute. The Comptroller General has sweeping statutory authority to audit accounts and expenditures of agencies of the United States Government. 31 U.S.C. §§ 3522-3525. The Comptroller General also has statutory authority to settle all accounts of Government, to settle claims of or against the Government, and to supervise the recovery of debts due the Government. 31 U.S.C. §§ 3526-31, 3702. Moreover, decisions of the Comptroller General are binding upon agencies of the Executive Branch. *See United States ex rel. Skinner & Eddy Corp. v. McCarl*, 275 U.S. 1, 4 n.2 (1927).

The suggestion by the Executive Branch that the delegation of authority to the Comptroller General in the Deficit Reduction Act contravenes the separation of powers brings into question the broad responsibilities that the Congress has delegated to the Comptroller General over time. The Justice Department here maintains that the statutory role of the Comptroller General in the bid protest system constitutes an unconstitutional authority "to block Executive action outside the legislative process." McConnell Letter, *supra*, at 3. Further, the Department objects specifically to the Comptroller General's authority to award legal costs against procuring agencies: Whether this authority is analyzed as GAO's performing a judicial function which is binding on an executive agency, or as GAO's rendering an administrative decision for the Executive Branch, it is clearly unconstitutional. The doctrine of separation of powers does not . . . permit the Legislative Branch to execute the law by determining how contracts should be awarded or to adjudicate claims against the Executive Branch. *Id.* (citation omitted). There is no language in *Buckley* or *Chadha* to support such an attack on the important role of the Comptroller General in assuring the sound and lawful administration of the Government's finances.

CONCLUSION

In sum, nothing in the Supreme Court's decisions in *Buckley* or *Chadha* nor in the doctrine of separation of powers appears to forbid the Comptroller General's role in the bid protest system contained in Title VII of the Deficit Reduction Act of 1984, because the Comptroller General is an office of the United States, appointed by the President and confirmed by the Senate. The fact that the Comptroller General also performs numerous distinct functions at the direction of Congress, in aid of the legislative function, does nothing to alter this conclusion.

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 2, 1984.

MEMORANDUM

To: The Honorable Jack Brooks, Chairman, Committee on Government Operations.

From: Steven R. Ross, General Counsel to the Clerk; Charles Tiefer, Assistant General Counsel to the Clerk.

Subject: Constitutionality of the Competition in Contracting Act.

We have been asked to address the constitutionality of the Competition in Contracting Act of 1984 ("the Act") (enacted as Title VII of the Deficit Reduction Act of 1984), and in particular the new 35 U.S.C. §§ 3551-3556 (enacted by section 2741 of the Act). On April 20, 1984, the Department of Justice presented its views on the predecessor bill of the Committee on Government Operations, H.R. 5184.[1] The Department's analy-

[2] *[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint* Ambassadors, other public Mininsters and Consuls, Judges of the Supreme Court, and *all other Offices of the United States*, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments. Art. II, Sec. 2, Cl. 2 (emphasis supplied).

[3] The Comptroller General's status as an officer of the United States is not affected by the existence of statutory restrictions on his removal. 31 U.S.C. § 703(e)(1). Although these limitations have never been tested, *see, e.g., Myers v. United States*, 272 U.S. 52 (1926); *Humphrey's Executor, supra* under the Constitution it is solely the mode of appointment that determines whether an official is "an officer of the United States."

[4] In fact, the Supreme Court explicitly recognized the propriety of the Comptroller General's status in *Buckley*. In that case the Federal Election Commission had attempted to analogize its role to that of the Comptroller General. The Court pointed out the weakness of the analogy: "[I]rrespective of Congress' designation . . . [of the Comptroller General as a legislative officer], the Comptroller General is appointed by the President in conformity with the Appointments Clause." *Buckley, supra*, 424 U.S. at 128 n.165.

Moreover, the Justice Department has previously acknowledged the Comptroller General's status as an officer of the United States. The plaintiff in *The Boeing Co. v. United States*, 680 F.2d 132 (Ct.Cl. 1982), *cert. denied*, 103 S.Ct. 1768 (1983), raised, among many issues, a challenge to the constitutionality under *Buckley* of the appointment of members to a former governmental entity known as the Cost Accounting Standards Board, which was comprised of the Comptroller General and four individuals appointed by him. Construing the Board's functions as advisory, the Department viewed it as a legislative entity. However, the Department agreed with the plaintiff that, irrespective of the characterization, although the appointment of the four other members of the Board might be troublesome under *Buckley*, the participation on the Board of the Comptroller General, an officer of the United States appointed by the President, raised no constitutional problems. *See* Letter of Deputy Assistant Attorney General Stuart E. Schiffer to Senate Legal Counsel Michael Davidson, Nov. 25, 1980, at 4 ("Comptroller General passes muster" under Appointments Clause). The court did not reach the constitutional issue.

[5] The fact that the Comptroller General also performs statutory reporting and investigatory duties in aid of Congress, *See. e.g.*, 31 U.S.C. §§ 712, 717-719, does not alter his status as an officer of the United States. The Supreme Court recognized in *Humphrey's Executor* that the Federal Trade Commission performs both types of statutory duties. 295 U.S. at 628.

[1] Letter to the Honorable Jack Brooks, Chairman, Committee on Government Operations, from Robert A. McConnell, Assistant Attorney General

sis focused on a key provision, section 204(b)(2), which provides for a stay of an agency's award of a contract upon notification of the agency that bid illegalities are being protested. As its conclusion, the Department stated that this provision is unconstitutional as violating the separation of powers. We disagree.

STATUTORY MECHANISM

A review of the statutory mechanism is appropriate, particularly since the Justice Department's analysis centers on its assertion that the statute is a means for the Comptroller General to put a permanent hold on contracting. The Competition in Contract Act of 1984 seeks to deal with endemic agency failures of competitive procurement by insuring proper proceedings for charges of illegalities. It works through an automatic stay and a recommendation by the Comptroller General.[2] Under the Act, an "interested party," meaning an "actual or prospective bidder or offeror," [3] can file a protest concerning alleged violations of procurement statutes or regulations. The agency immediately receives notice of the protest, section 3553(b)(1), and the agency's receipt of notice automatically stays the award of any contract,[4] absent "urgent and compelling circumstances." [5]

While that automatic stay is in effect, the agency and the Comptroller General proceed with the bid protest. Within twenty-five days after notification of the protest (subject to shortening or lengthening for various reasons),[6] the agency submits "a complete report (including all relevant documents) on the protested procurement." Section 3553(b)(2).[7] Then, the Comptroller General decides the protest, by "determin[ing] whether the solicitation, proposed award, or award complies with statute and regulation." Sections 3552, 3553(a), and 3554(b)(1). He must "issue a final decision concerning a protest within 90 working days." Section 3554(a)(1).[8]

If "the Comptroller General determines that the solicitation, proposed award, or award does not comply with a statute or regulation, the Comptroller General shall recommend that the Federal agency" take one of several steps, such as terminating the contract, issuing a new solicitation, or recompeting the contract. Section 3554(b)(1).[9] Also, the Comptroller General has discretion to declare the protester to be entitled to its costs for filing and pursuing the protest and for bid and proposal preparation, to be paid by the agency. Section 3554(c).

In its challenge to this provision, the Justice Department characterizes the provision as providing the GAO with "the power effectively to block Executive Action. . . ." DOJ Letter at 3. The Justice Department letter states that the Act's stay provision "clearly contemplates the possibility that with respect to some contracts, the agency will simply be put on permanent 'hold' until after GAO has announced its 'recommendation.'" Id. One reason for the Justice Department's assertion is apparently that H.R. 5184, which it analyzed, did not set a 90-day time limit (absent particular circumstances) on Comptroller General consideration; the conference committee set that limit on the statute. In any event, the Department likens the Act's stay to a legislative veto or committee approval provision, citing *INS* v. *Chadha*, 103 S. Ct. 2764 (1983).[10]

ANALYSIS

The Justice Department's analysis strains the plain meaning of the statute in attempting to make it appear improper. Congress has tried to clear and simple mechanism for dealing with the endemic problems of wasteful agency procurement violations. The Act provides for an automatic, nondiscretionary stay of a contract award upon notification of a bid protest. Thus, the statute gives bid protesters, whose protests trigger the automatic stay—not the Comptroller General, who makes no decision regarding a stay—the power to invoke the statutory stay. In essence, based on years of investigations of improper procurement awards, Congress decided that it was better to let bid protesters stay allegedly illegal awards before they occurred so that the matter could be looked into immediately, than to leave it to agencies to give out awards and then, maybe, rectify illegalities later. Obviously, the judgment that such a mechanism should be implemented to get agency procurement onto the lawful track could be made rationally by the Committee on Government Operations, which has spent years studying the problems of the procurement system.

In any event, it is the bid protester who invokes the statute staying the award, and the legislative veto cases, involving decisions by one House of Congress to veto agency decisions, have nothing to do with the matter. Rather than acknowledging that bid protests cause the stay, the Justice Department contends that the statute is a means for the GAO to put agencies "on permanent 'hold.'" This Justice Department analysis predated the 90-day limit placed on the Comptroller General in the statute as enacted, rendering the Justice Department letter obsolete. With the 90-day limit in place, the real authority to stay contract awards temporarily conferred by the statute lies with the bid protester, not the Comptroller General.[11]

The real thrust of the Department's argument is its a historical challenge to the very notion of an independent audit and account-settlement officer addressing contract matters—a challenge plainly inconsistent with the Framers' own constitutional understanding. In its key argument, the Justice Department challenges the GAO's authority "to settle the accounts of the Government, 31 U.S.C. § 3702," contending that "there has been considerable discussion over the years questioning whether this settlement authority is properly lodged in a legislative body like GAO." DOJ Letter at 2 n.2. The Justice Department argument appears to be that "the Comptroller General is properly considered to be an officer of the Legislative Branch," DOJ Letter at 1, and thus cannot exercise the authority to settle accounts which gave rise to his contract role.

Of course, the Justice Department makes no reference whatsoever to the history of the comptroller function in the government, for that history squarely refutes the Departments views.[12] The First Congress—the Congress with unparallel understanding of the Constitution, based among other factors on its numbering as Members many of the Framers themselves [13]—specifically addressed the need for independent judgment in resolution of the government's accounts, much like any operation must have an independent auditor. By statute, the First Congress established the office of Comptroller of the Treasury, "the great grandparent of

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for Legislative Affairs, of April 20, 1984 ("DOJ Letter").

[2] Legislative hearings concerning the act were held on March 27 and 29, 1984.

[3] Section 3551 provides definitions.

[4] "[A] contract may not be awarded in any procurement after the Federal agency has received notice of a protest . . . while the protest is pending." Section 3553(b)(2).

[5] An escape clause allows "(t)he head of the procuring activity . . . [to] authorize the award of the contract (notwithstanding a protest . . .) . . . upon a written finding that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision" on the protest. Section 3553(c)(2)(A).

If the contract has been awarded before notice of a protest, performance ceases, section 3553(d)(1), unless the head of the procuring activity makes a similar written finding about "urgent and compelling circumstances." Section 3553(d)(2).

[6] Section 3554(a)(2) provides an express procedure. Section 3554(a)(3) provides for the Comptroller General to dismiss protests which on their face do not state a valid basis.

[7] Interested parties receive that report and relevant unprivileged documents. Section 3553(1).

[8] The Comptroller General can take longer than 90 days if he "determines and states in writing the reasons that the specific circumstances of the protest require a longer period." Section 3554(a)(1).

[9] An agency which does not fully implement those recommendations within 60 days must so report to the Comptroller General, and he, in turn, reports annually on instances of nonimplementation. Section 3554(e).

[10] The Department also assails the provision allowing the Comptroller General to assess costs to a bid protester of an illegal action as unconstitutional under *Buckley* v. *Valeo*, 424 U.S. 1 (1976).

[11] Of course, a provision giving such effect to a private bid protest involves no separation of powers problem since the bid protester is not another Branch of the government. See, *e.g.*, *Currin* v. *Wallace*, 306 U.S. 1 (1939).

The conferees on the bill noted emphatically regarding deadline extensions, including extension of the 90-day limit, that they "regard such extensions as exceptional, however, and to be used in unique circumstances only." H.R. Rep. No. 861 98th Cong., 2d Sess. 1435-36 (1984). If the Justice Department continued to adhere to its view of the statute as a means to make a "permanent 'hold'", that could only be regarded as hyperbole. For occasions in which the Comptroller General takes a longer period than 90 days notwithstanding the conference report language, he must cite "specific circumstances," which would be of importance in any concrete challenge to the statute. To take a likely example, if the Comptroller General's decision takes longer than 90 days only because the agency accused of illegality interposes delays before providing information, or organizes its procurement mechanism to defy swift analysis, then the responsibility for delay may lie with the agency, not the GAO.

[12] The Department's vague assertion that "there has been considerable discussion over the years," with the implication that many believe the Comptroller General's authority to settle accounts to be unconstitutional, appears to be an attempt by the Department to manufacture a historical record in its favor where there has been none. Not one source is cited on this point by the Department. Elsewhere, the Department cites the classic study of the GAO by the eminent W.F. Willoughby, Director of the Institute for Government Research and one of the founders of modern public policy studies. W.F. Willoughby, The Legal Status and Functions of the General Accounting Office of the National Government (1927), cited in DOJ Letter at 1 n.1. However, the Department did not cite that key authority on this point, for good reason. Regarding the position that the law establishing the GAO as the agency that would settle accounts was unconstitutional, Willoughby comments disparagingly: "the position [may] be taken that Congress was without constitutional authority to create any such agency. Through this position may be taken, it is hard to see how it can be maintained." Id. at 14. The reasons set forth by Willoughby are those confirmed by the unanimous Supreme Court decision in *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935).

[13] See *Myers* v. *United States*, 272 U.S. 52 (1926).

the modern Comptroller General,"[14] with the duty to superintend the accounts of the government. James Madison, one of the authors of the Federalist Papers, and Representative who had successfully led the crucial debate that kept Cabinet officers subject to the presidential removal, argued that "there my be strong reasons why an officer of this kind should not hold his office at the pleasure of the Executive branch of the Government."[15]

Madison's sound judgment ultimately prevailed in the evolution of the Comptroller General's role. In 1795 Congress made the Comptroller of the Treasury's judgments "final and conclusive," as of March 3, 1795, ch. 48, § 4, 1 Stat. 441, 442, to put the comptroller's functions outside of political will.[16] By 1809, the Comptroller's ":'independence of status . . . seemed clearly indicated."[17] In 1838, the Supreme Court confirmed the validity of investiture of officers with independent responsibilities: "in such cases, the duty and responsibility grow out of and are subject to the control of the law and not to the direction of the President," *Kendall* v. *United States*, 37 U.S. (12 Pet.) 524 (1838.)[18] Ultimately, the Budget and Accounting Act of 1921 implemented the historically-based necessity for independent supervision of the accounts, by vesting the count-settlement function in the Comptroller General who was not subject to Presidential removal.

The constitutional power of the Congress so to provide was confirmed in *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935), the fundamental authority on this subject, which cited directly to Madison's original observation about the Comptroller, 295 U.S. at 631. Conveniently in citing *Buckley* v. *Valeo*, supra, the Justice Department avoids mentioning that the Supreme Court expressly reconfirmed its *Humphrey's Executor* holding. "[T]he President may not insist that such functions be delegated to an appointee of his removable at will, *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935)." *Buckley* v. *Valeo*, supra, 424 U.S. at 141 (emphasis supplied.[19] Also conveniently, the Justice Department avoids mentioning that the Court expressly distinguished between true officers of the House or Senate, who are chosen by their House, and "the Comptroller General [who] is appointed by the President in conformity with the Appointments Clause." *Buckley* v. *Valeo*, 424 U.S. at 128 n.165. The Comptroller General can hardly be equated with a legislative veto which could be voted at will by Congress, when he is neither appointed by the Congress, nor subject to removal by it (absent enactment of a joint resolution); there is nothing in *Chadha* v. *INS*, supra, regarding legislative vetoes, which undermines the validity of independent officers reconfirmed in *Buckley* v. *Valeo*.

CONCLUSION

Not a shred of historical support has been assembled by the Justice Department for challenging the account-settlement function from which the Comptroller General's contract functions arise. By fundamental American tradition started, and amply justified, by the Framers themselves, the Congress' sound approach to limiting Government waste and fraud has been to stand an independent officer over the government's accounts and contracts. *Buckley* v. *Valeo*, supra, expressly validates that tradition, by confirming the validity of an officer appointed by the President but not subject to his removal for the performance of independent functions. The Competition in Contracting Act of 1984 is well within that tradition, particularly considering that the Comptroller General, an independent officer who can be vested with non-legislative functions, is only empowered to make "recommendations" and that the statute's automatic stay feature vests the real authority to stay awards in the bid protester, not the Comptroller General. This statutory response to endemic procurement problems passes constitutional muster.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, DC, May 8, 1984.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, House of Representatives.

DEAR MR. CHAIRMAN: You ask us to comment on a letter dated April 20, 1984, from the Department of Justice (Department) regarding H.R. 5184, a bill "to revise the procedures for soliciting and evaluating bids and proposals for government contracts using full and open competition, and for other purposes."

The Department states the bill, which would authorize the General Accounting Office (GAO) to take a formal role in the awarding of government contracts, raises substantial constitutional problems and permits an unnecessary and unwise intrusion into executive branch activities. Specifically, the Department points to the provisions that would authorize federal courts to refer bid protests to GAO, would provide for a stay of the award or performance of a contract pending GAO consideration of a protest, and would authorize GAO to grant the costs of pursuing a protest, including attorney fees.

The Department states that these provisions call for the exercise of either executive or judicial authority and that the head of GAO, the Comptroller General, as an officer of the legislative branch of government cannot exercise executive or judicial authority without violating the doctrine of separation of powers. The Department cites *Buckley* v. *Valeo*, 424 U.S. 1, 139 (1976), for this proposition and it cites *INS* v. *Chadha*, 103 S. Ct. 2764 (1983), for the proposition that Congress may not stay the award or performance of a contract pending review by a legislative official.

We point out first that GAO already has a formal role in the awarding of executive branch contracts. GAO has been deciding executive branch contract award protests for about 60 years based on its authority to determine the legality of public expenditures. *See* 31 U.S.C § 3526 (1982). Indeed, GAO has become the principal forum for resolving the protests of disappointed bidders.

Over the years the bid protest process has been an integral part of the government's procurement system. That system is administered under a complex array of laws and regulations designed to achieve beneficial results through fair treatment of those bidding for the government's business. An effective protest process not only assures that the thousands of procurement officials administering this complex system observe the procurement laws and regulations, it also serves to assure bidders that they will be treated fairly.

All concerned with the government's procurement process rely upon bid protest decisions as the definitive body of administrative law governing the award process. GAO decisions are used by the Congress, the courts, and the procurement community, including the executive branch contracting agencies. Executive branch procurement regulations have long recognized GAO's bid protest role.

In fact, the bill would not give GAO any more authority to decide protests than it now exercises. The bill would not authorize GAO to suspend the award or performance of a government contract while a protest is pending or to determine the form of relief that must be provided by agencies once a protest is decided. Although the bill generally calls for agencies to suspend the award or performance of a contract pending a GAO decision, agencies would be authorized to override this general requirement in appropriate cases. GAO would only declare whether awards or proposed awards comply with law and regulation, recommend a form of relief when appropriate, and provide monetary relief where warranted. With the exception of granting attorney fees GAO now makes these determinations under existing procedures with full cooperation of the executive branch and often upon requests for assistance from the judicial branch. We do not view the addition of recognizing payment of attorney fees in appropriate cases as a significant extension of authority in a constitutional sense.

The bill would give specific statutory recognition to GAO as an arbiter of executive branch contract award protests. It appears to be the statutory recognition of the function rather than execution of the function itself which forms the basis of Department's constitutional argument. The Department argues that the Comptroller General is a legislative officer and that the Congress may not constitutionally authorize a legislative officer to decide bid protests.

The Comptroller General's status does not constitutionally prevent him from performing the audit and settlement of accounts functions. As indicated above, the bill would not authorize the Comptroller General to order contracting agencies to take specific actions. He would only, as under present procedures, declare whether particular contract awards comport with law and regulation. We fail to understand why statutory recognition of the current bid protest process leads to a determination of unconstitutionality.

The *Buckley* v. *Valeo* case, *supra*, dealt with a situation where congressionally appointed officers were given executive functions to perform. The Supreme Court held that these officers could not constitutionally perform executive functions since they had not been appointed to office by the

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[14] F. Mosher, The GAO: The Quest for Accountability in American Government 25 (1979).

[15] 2 Annals of Cong. 612 (1789), noted with approval, *Humphrey's Executor* v. *United States*, 295 U.S. 602, 631 (1935).

[16] It may be fairly conjectured that Congress learned a great deal about improper Government procurement, and thus began to understand the necessity for independent auditing judgment, from its very first investigation. That investigation concerned a military disaster largely brought on by faulty procurement. See Chalou, St. Clair's defeat, 1792, in Congress Investigates; 1792-1794 1-18 (A. Schlesinger & R. Bruns eds. 1975).

[17] D. Smith, The General Accounting Office: Its History, Activities and Organization 22 (1927).

[18] For further discussion of the firm historic grounding of such independent officers, see Tiefer * * * Constitutionality of Independent Officers as Checks on Abuses of Executive Power, 63 B. * * * Rev. 59 (1983).

[19] The Justice Department's contention that in contract inquiries directly related to his auditing function, the Comptroller General cannot award costs, something that could be done by any of the independent agencies validated by *Humphrey's Executor*, is without merit.

President. The Court noted that in contrast the Comptroller General is appointed by the President. Id. at 128 n. 165. We do not believe the holding in *Buckley* v. *Valeo* forecloses the Comptroller General's role as provided under H.R. 5184.

The *Chadha* case cited by the Department, simply stated, stands for the proposition that Congress may not overrule executive action outside of the legislative process. Because H.R. 5184 would require an executive agency to hold up the award or performance of its contract pending a decision on a protest by the Comptroller General, the Department argues that the *Chadha* holding would be violated.

The delay would not be for the purpose declared unconstitutional in *Chadha*. It would be for the purpose of providing the Comptroller General's views to the agency while meaningful relief could still be provided. Although procurements are to be delayed pending the outcome of protests at GAO, the bill does provide for override of the requirement for delay where the vital interests of the United States are involved. As we suggested in testimony before your Committee, it would be more appropriate to allow override of the delay requirement on the basis of a less rigid standard such as "the interests of the United States," which in turn would eliminate any question of constitutionality.

The provision in the bill authorizing federal courts to refer bid protests to GAO, merely codifies existing procedure. Since 1971 federal courts have requested advisory opinions from GAO in cases brought before them by disappointed bidders. *See Steinthal* v. *Seamans*, 455 F.2d 1289 (D.C. Cir. 1971); *Wheelabrator* v. *Chafee*, 455 F.2d 1306 (D.C. Cir. 1971). In those cases the courts specifically recognized GAO's bid protest competency and concluded that a judge's request for a nonbinding GAO opinion could provide a "felicitous blending of remedies and mutual reenforcement of forums." *Wheelabrator* v. *Chafee, supra*, at 1316. It is quite common for both the United States Claims Court and for federal district courts to make known their interest in having a GAO decision on a pending matter before rendering judgment on it. *See Drexel Heritage Furnishings, Inc.* v. *U.S.*, 4 Cl. Ct. 162 (1983); *Aero Corp* v. *Department of the Navy*, 558 F. Supp. 404 (D.D.C. 1983). We do not see how this well-established practice constitutes "usurping the judiciary's function" by GAO.

The Department objects to the payment of attorney fees in protest cases as encouraging baseless attacks on agency procurements. Attorney fees would not be allowed except where a protest had merit. In some of these cases, reimbursement of a protester's costs may be the only remedy possible. And it should be recognized that the protest process is a means for assuring the continuing integrity of government procurements. There would not seem to be any sound basis for objecting to the payment of reasonable attorney fees in cases where protesters have served to correct procurement deficiencies.

The Department also objects to permitting any interested party to file a protest, arguing that it would not be in the public interest to allow parties other than bidders to interfere with the procurement of goods and services. The bill reflects current GAO bid protest procedures. GAO determines whether a party is an "interested party"—and thus eligible to protest a procurement—by considering the party's status in relation to the procurement, the nature of the issues involved and whether the circumstances show the existence of a direct or substantial economic interest. This standard is sufficient to prevent those without a legitimate interest from having their protests considered.

Finally, we note that the Department objects to the provision in the bill that would give the General Services Administration Board of Contract Appeals authority to decide protests involving certain types of procurements. We also question this provision as noted in our March 27 testimony on the bill.

We hope our comments are helpful.

Sincerely yours,

SHELTON J. FOWLER,
Acting Comptroller General
of the United States.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, August 8, 1984.

To: Senate Committee on Governmental Affairs: Subcommittee on Oversight and Management. Attn: Jeffrey A. Minsky.
From: American Law Division.
Subject: Constitutionality of Providing a Statutory Base for General Accounting Office Bid Protest System.

Reference is made to your recent inquiry requesting our comments on certain features of the procurement Protest System established by Subtitle D, Deficit Reduction Act of 1984, P.L. 98-369.

In order "to insure that the mandate for ['full and open'] competition is enforced and that vendors wrongfully excluded from competing for government contracts receive equitable relief", Subtitle D of P.L. 98-368 codifies and strengthens "the bid protest function currently in operation at the General Accounting Officer (GAO)." H. (Conference) Rept. 98-861, p. 1435 (1984).) Up to the present time, GAO has been deciding executive branch contract award protests on the basis of its authority to determine the legality of public expenditures. 31 U.S.C. § 3526. See *United States* v. *Stewart*, 234 F. Supp. 94, 99 (D.C.C. 1964), *affd.* 339 F. 2d 753 (D.C. Cir. 1964). The formalized bid protest procedures of the new law, codified at sections 3551-3556 of Title 31, United States Code, become effective with respect to any protest filed after January 14, 1985.

The procedures authorized by the law are set in motion by submission of a protest by an interested party (§ 3553(a)) who alleges that a contract or proposed contract award fails to comply with procurement law or regulations (§ 3552). An interested party is any actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract for the procurement of property or services (§ 3551).

When a protest is filed with GAO, the Comptroller General (CG) must notify the executive agency involved within one working day of receipt of the protest (§ 3553(b)(1)). The executive agency is given 25 working days to respond to the protest (§ 3553(b)(2)(A)); 10 days are allowed for a response if the CG selects the express option procedures authorized by § 3554(a)(2) that apply when a protest is susceptible of earlier resolution (§ 3553(b)(2)(C)).

The CG has 90 working days from receipt of the protest (§ 3554(a)(1)) or 45 calendar days under the express option (§ 3554(a)(2)) to declare whether the award or proposed award of a contract complies with procurement law or regulations (§§ 3552 and 3553). Generally, a contract challenged on these grounds cannot be awarded pending a decision by the CG (§ 3553(c)(1)). Moreover, if a protest is filed within 10 days after the award of the contract, performance on that contract must cease and all related activities that may result in additional obligations being incurred by the United States must be suspended pending a decision by the CG (§ 3553(d)(1)). However, the executive agency involved may go ahead and make the award or continue to perform on an awarded contract when it determines and notifies the CG that compelling circumstances which significantly affect interests of the United States require it (§ 3553(c)(2)). This go ahead authority, however, is available only if the award of the contract is likely to occur within 30 calendar days (§ 3553(c)(3), (d)(2)).

If the CG determines that the solicitation, proposed award or award does not comply with procurement law or regulations, he is required to recommend corrective action to the agency that promotes compliance with legal requirements (§ 3554(b)(1)). The CG additionally may recommend monetary awards and costs, including reasonable attorneys' fees (§ 3554(c)).

The authority granted the CG to decide bid protests is not exclusive. Accordingly, an interested party retains the ability to pursue other administrative or judicial relief for any violation of a procurement law or regulations (§ 3556).

As previously indicated, the law largely formalizes functions presently being performed by GAO in connection with the award of executive branch contracts. Specific authority to recommend attorneys' fees is among the few departures from current practice made by the law.

In brief, when a protest is filed, the CG has to decide whether awards or proposed awards comply with law or regulations, and recommend appropriate relief. For the most part, the law, not the CG, holds up a proposed award or suspends in certain circumstances further performance on an award previously made to enable the CG to decide the issue. Some limited discretion is granted the CG to extend the time which an agency has to respond to a protest (§ 3553(a)(2)(B)) and which he has to decide the merits of the protest (§ 3554(a)(1)). The conference report indicates that the latter authority is to be used sparingly and "in unique circumstances only." H. Rept. 98-861 at 1436.

Constitutional objections have been lodged against the law. At the time of signing the Deficit Reduction Act of 1984, President Reagan charged that the bid protest provisions appear to violate the Constitution's separation of powers doctrine by giving GAO a formal role in the awarding of executive branch contracts. The President's view in this matter reflects the position previously taken by the Department of Justice regarding similar legislation. See April 20, 1984, letter to Representative Jack Brooks, Chairman, Committee on Government Operations, House of Representatives.

Generally speaking, the Department takes the position that the law gives to a legislative officer, i.e., the CG, executive or judicial authority contrary to the doctrine of separation of powers. The Department relies chiefly on *Buckley* v. *Valeo*, 424 U.S. 1, 139 (1976) in support of this conclusion and invokes *INS* v. *Chadha*, 103 S. Ct. 2764 (1983) to assert that Congress and, therefore, the CG as a legislative officer, may not stay the award or performance of a contract pending review by a legislative official.

These constitutional conclusions are based on the assumption that the CG is a purely legislative officer. That assumption is crucial to the Department's constitutional objections stated in the aforementioned April 20, letter to Chairman Jack Brooks.

The Department's April 20 letter, additionally, necessarily assumes that the bid protest functions formally adopted by the law are essentially executive or judicial rather than legislative in nature. If these assumptions are correct, the law's provisions applicable to bid protests would raise the constitutional issues described by the department. That "the legislature cannot engraft executive duties on a [purely] legislative office" consistent with the separation of powers doctrine is virtually beyond question. *Springer* v. *Philippine Islands,* 217 U.S. 189, 202 (1908). Similarly, it is fundamental that the authority to administer and enforce the public laws is an executive function which can only be enforced by "Officers of the United States". *Buckley* v. *Valeo,* 424 U.S. at 139-141.

The congressional power to allocate responsibilities for the execution of laws is a broad power. "To Congress under its legislative power is given the establishment of offices, the determination of their jurisdiction, the prescribing of reasonable and relevant qualifications and rules of eligibility of appointees, and the fixing of the term for which they are appointed and their compensation . . ." *Meyers* v. *United States,* 272 U.S. 52, 129 (1926); *Buckley* v. *Valeo,* 424 U.S. 1, 134 (1976). Also, Congress may devolve upon an executive official already in office additional duties which are germane to that office. *Shoemaker* v. *United States,* 147 U.S. 282, 301 (1893).

In light of the acknowledged power of Congress to establish offices and to reasonably regulate many incidents relating to offices within constraints flowing from the separation of powers doctrine, the propriety of the role given to GAO in awarding government contracts by the law turns on the resolution of two matters: first, the status of the CG as either an executive or legislative officer; second, the nature of the functions to be carried out by the GAO.

Clearly, if the CG is a purely legislative officer, the grant of executive functions to him would pose separation of powers problems. However, if his functions relating to bid protests are such that Congress itself could have discharged them, Congress can delegate similar functions to a subordinate legislative unit, and "there can be no question that the [CG as a legislative officer] may execute them." *Buckley* v. *Valeo,* 424 U.S. at 137. Conversely, if the CG is an "Officer of the United States," the confiding of the functions in question on him would not violate the doctrine of separation of powers.

Although the answer to both these issues is not so conclusive as to be preclusive of contrary argument, evidence supporting the view that the CG is an "Officer of the United States" and that the bid protest functions formalized by the law are executive functions which he can discharge, commands more respect.

Turning to the latter first, it should be noted that but for the curious fashion in which the law for the most part formalizes GAO's current bid protest activities, they would clearly constitute executive functions. In the main, these involve administration and enforcement of procurement law "to ensure that . . . ['full and open'] competition is *enforced* and that vendors wrongfully excluded . . . from government contracts receive equitable *relief.*" H. Rept. No. 98-861 at 1435. (Emphasis added). These functions (i.e., deciding whether an award or prospective award complies with law and regulations, recommending administrative and other relief, including costs and attorneys' fees, issuing regulations, and extending response time and decision-making time) which are to be "exercised free from day-to-day supervision of either Congress or the Executive Branch . . . are of kinds usually performed by independent regulatory agencies or by some department in the Executive Branch under the direction of an Act of Congress . . . These administrative functions may therefore be exercised only by persons who are 'Officers of the United States.'" *Buckley* v. *Valeo,* 424 U.S. at 140-141.

Although the bid protests functions formalized by the law in our view entail essentially executive activities, the law is written in terms that seemingly make the CG an information gatherer and a reviewing and advisory official whose resolution of a bid controversy, while entitled to respect, is for the most part free of compulsion. He is authorized to *decide* the issue of an actual or prospective award's conformance with law or regulations, but he *only recommends* remedial relief. The latter's actual implementation is left to the contracting executive agency involved. Moreover, the latter, as indicated, can override the CG in appropriate circumstances. For the most part, the award of a contract or performance under a contract is suspended for fixed periods by the operation of law, not by action of the CG. See *INS* v. *Chadha,* 103 S. Ct. at 2786, note 19, re the validity of durational limits on authorizations. Finally, the CG's role is expressly made nonexclusive so that existing administrative and judicial avenues of remedial relief remain available to an interested party.

Viewed in this narrow, and in our view, artificial light, the activities to be carried out by the CG under the law could be carried out by Congress itself. "Insofar as the powers confided . . . are essentially of an investigative and informative nature, falling in the same general category as the powers which Congress might delegate to one of its own committees, there can be no question that . . . [a legislative officer] may exercise them." *Buckley* v. *Valeo,* 424 U.S. at 137. In other words, Congress could *informally* give its opinion regarding compliance vel non with law or regulations of a contract award and recommend appropriate relief when there has been a failure of compliance with legal requirements. An *informal* procedure along this line that is devoid of any compulsory effect seems to raise no separation of powers problems. See *City of Alexandria* v. *United States,* Appeal No. 84-713 (June 21, 1984). Accordingly, Congress might delegate their exercise to the CG.

However, it would blink at reality to conclude that the CG's functions in this regard are solely of an investigative and informative nature and that his influence on contracting executive agencies is limited to moral suasion. Cf. *City of Alexander* v. *United States, supra.* In enacting the bid protest procedures, the conferees stated that they "believe[d] that strong *enforcement* is necessary to insure that the mandate for competition is *enforced* . . ." H. Rept. 98-861 at 1435. (Emphasis added) Clearly, Congress did not intend that the CG decide whether awards or proposed awards comply with law or regulations and recommend appropriate administrative relief, including granting attorneys' fees, as an academic or training exercise. Although suspension of an award or performance of a contract pending a GAO decision flows largely by operation of law in the vast majority of cases and can be overridden by the contracting executive agency in appropriate cases, the CG's resolution and recommendations were obviously intended to weigh heavily on agency action. In the words of Judge Holtzoff directly on point: "As a practical matter, no disbursing officer would make any . . . payments in the face of . . . [the CG's contrary] ruling." *United States* v. *Stewart,* 234 F. Supp. at 98.

These speculative matters aside, however, the law in a number of particulars gives the GAO the kind of administrative discretion that is usually performed by independent regulatory agencies or by some department in the Executive Branch under the direction of an Act of Congress. Thus, while the time that an agency has to respond to a bid protest that is triggered by the filing of a protest by an interested party is generally fixed by the law at 25 working days (10 working days under the express option), the CG has discretion to determine a longer period (§ 3553(b)(2)(C)). Similarly, while an award or performance under a contract generally is to be suspended by law for a fixed period of 90 days, the CG is authorized to extend the period if he determines "that the specific circumstances of the protest require a longer period" (3554(a)(1)). The decision in *INS* v. *Chadha,* 103 S. Ct. at 2786 clearly signals that congressional actions at odds with the exercise of statutorily delegated authority to an agency have to take the form of law: "Congress must abide by its delegation of authority until that delegation is legislatively altered or revoked." If Congress is disabled from mandating an extension of time informally and thus preventing the exercise of authority delegated to an agency, a similar result obtains with respect to the CG if he is deemed to be a purely legislative officer. As such, he would stand in no better position than Congress.

Other features of the new law suggest that something more than moral suasion is involved. For example, monetary awards, "including reasonable attorneys' fees," that the CG may recommend *"shall* be paid promptly by the Federal agency concerned out of funds available to or for the use of the Federal agency for the procurement of property and service" (§ 3554(c)(2)). A federal agency which fails to fully implement the CG's recommendations within 60 days has to report it to him and he, inturn, is to include it in an annual report to Congress (§ 3554(e)). The exaction of fees and awards are typically functions exercised by agencies and courts.

Notwithstanding that the law generally relies on the agencies to enforce its provisions under GAO's direction, it does not seem unfair to state that it is instinct with obligation and compulsion imperfectly expressed. However, there is no need to speculate upon these matters since it has been judicially determined that the CG is performing executive functions in "approv[ing] or disapprov[ing] . . . payments made by Government departments and other agencies, as well as . . . [in] settling and adjusting accounts in which the Government is concerned . . . *United States* v. *Stewart,* 234 F. Supp. at 99. As executive functions they could not be exercised by the CG if he were a purely legislative officer.

The Department of Justice rests its assumption that CG is a legislative official

and, therefore, ineligible to discharge executive functions on the statute establishing the GAO as an independent instrumentality and widespread perceptions of the CG as an officer of the Legislative Branch.

Although the department describes the agency's enabling statute, 31 U.S.C. § 702(a), as making the GAO an "instrumentality 'independent of the executive branch' ", the law reads "independent of the executive *departments*." The law on its face, therefore, gives GAO independence vis-a-vis the executive departments, not in express terms from the Executive Branch. At odds with the assertion that he is independent of the Executive Branch are the requirements that the CG report "to the President when requested by the President on the work of the . . . [GAO]," 31 U.S.C. § 719(a), and to "give the President information on expenditures and accounting the President requests" (31 U.S.C. § 719(f)).

Because the GAO which he heads is generally regarded as a congressional support agency, the CG is widely perceived on Capitol Hill as "their man". See, e.g., C.Q. *Guide to Congress* (2d ed.) 485 (1976). However, neither the statutory nor congressional designations preclude the courts from looking behind them and making determinations on the basis of functional activities and other factors. See, e.g., *Glidden Company* v. *Zdanok*, 370 U.S. 530, 552 (1962): ". . . whether a tribunal is to be recognized as one created under Article III depends basically upon whether its establishing legislation complies with the limitations of that article . . ." Likewise, the nature and status of an officer is not controlled by a statutory labels expressed or implied, but by the nature of the functions to be performed by the officer and the manner of his or her appointment. *Buckley* v. *Valeo*, 424 U.S. at 138–139.

Notwithstanding congressional and other assumptions regarding the CG, both the mode of his appointment and the nature of some of his duties make him an "Officer of the United States." He is appointed by the President with the advice and consent of the Senate for a term of 15 years. 31 U.S.C. § 703(a)(1) and (d). That the CG is an "Officer of the United States" is confirmed in *Buckley* v. *Valeo*, where the Supreme Court struck down the Federal Election Commission (FEC), none of whose members were appointed in conformity with Art. II, § 2, cl. 2. Finding that FEC performed significant enforcement authority pursuant to law, principally discretionary power to seek judicial relief, the Court held that such authority could be exercised only by persons who are appointed in conformity with the Constitution's Appointments Clause. In response to Commission's attempts to analogize itself with the CG, the Court observed as follows:

Appellee Commission has relied for analogous support on the existence of the Comptroller General, who as a "legislative officer" has significant duties under the 1971 Act. § 308, 86 Stat. 16. *But irrespective of Congress' designation*, cf. 31 U.S.C. § 65(d), *the Comptroller General is appointed by the President in conformity with the Appointments Clause.* 424 U.S. 128, note 165. (Emphasis added)

Briefly, the CG as an "Officer of the United States" is capable of exercising administrative and enforcement functions which neither Congress itself nor purely legislative officers can perform consistent with separation of powers principles.

As previously noted, the exercise by the CG of executive as well as legislative functions was recognized in *United States* v. *Stewart*, 234 F. Supp. at 99–100. Noting his effective involvement in bid protest matters as an aspect of his statutory authority to settle public accounts and contrasting it with his auditing functions, the court observed as follows:

The Comptroller General is the head of the General Acounting Office, 31 U.S.C. § 41. Unlike heads of most departments and establishments of the Government, he occupies a dual position and performs a two-fold function. First, he makes investigations of matters relating to the receipt, disbursement and application of public funds, and reports the results of his scrutiny to the Congress with approprite recommendations. In addition he pursues investigations that may be ordered by either House of Congress, or by any Committee of either House, in matters relating to revenue, appropriations or expenditures, 31 U.S.C. § 53. In performing these functions the status of the Comptroller General is that of an officer of the legislative branch of the Government. The Congress has comprehensive authority to undertake investigations in aid of legislation, or in connection with the appropriation of funds. Investigations are an aid to legislation and to the making of appropriations and are therefore auxiliary to the basic functions of the Congress. The Congress may conduct investigations either through Committees or through an official such as the Comptroller General.

The Comptroller General has also a second status as the chief accounting officer of the Government. His second principal function is that of approval or disapproval of payments made by Government departments and other agencies, as well as of settling and adjusting accounts in which the Government is concerned, 31 U.S.C. § 71. This is an executive function and in performing it the Comptroller General acts as a member of the Executive branch of the Government. The dual status of General Accounting Office is not anomalous, for many regulatory commissions fulfill in part a legislative function and in part carry out executive duties, *Humphrey's Executor* v. *United States*, 295 U.S. 602 55 S. Ct. 869, 79 L. Ed. 1611. Cf, *Myers* v. *United States*, 272 U.S. 52, 47 S. Ct. 21, 71 L. Ed. 160.

In more recent times, Congress has grafted other executive functions on the CG, conspicuously the power to seek judicial relief. The Congressional Budget and Impoundment Control Act of 1974, 2 U.S.C. §§ 686–687, authorizes the CG to monitor executive spending actions and to bring a civil action in the federal courts to require budget authority to be made available for obligation. Similarly, the General Accounting Office Act of 1980, 31 U.S.C. § 716(b), empowers the CG to bring a civil action to require the production of certain agency records. As stated by the Supreme Court in *Buckley* v. *Valeo*, 424 U.S. at 140: ". . . responsibility for conducting civil litigation in the courts of the United States for vindicating public rights . . . may be discharged only by persons who are 'Officers of the United States' ".

Notwithstanding that the CG is appointed in the manner constitutionally prescribed for the appointment of "Officers of the United States" and that he discharges unquestionally executive functions, it is sometimes contended that since he is not removable at the will of the President, he is a legislative officer. Initially, it may be noted that legislative qualifications on removal in the form of requiring removal for cause do not convert an officer into a purely legislative officer. See *Buckley* v. *Valeo*, 424 U.S. at 135 et seq. where the Court discusses the "trilogy of cases" dealing with the constitutional authority of Congress to circumscribe the President's power to remove officers of the United States. Although qualifications of this kind may not be imposed on purely executive officers, they are permissible in the case of officers who additionally exercise functions which are legislative or judicial in nature. As the CG exercises both legislative and executive functions, *United States* v. *Stewart*, 234 F. Supp. at 99–100, the constitutional authority of Congress to circumscribe the President's power to remove him is consistent with the Court's removal jurisprudence.

Under existing law, 31 U.S.C. § 703(e)(1), the CG "may be" removed by impeachment or by joint resolution for specified reasons including permanent disability, inefficiency, neglect of duty, malfeasance, or a felony or conduct involving moral turpitude. While the law provides that he "may be" removed by impeachment or by law (i.e., a joint resolution), the law on its face does not preclude removal by the President. Compare and contrast "may be" and "shall only be".

Despite some question regarding the propriety of removal by law for the enumerated reasons—a matter which need not concern us now—the alternative means of effecting the CG's removal are instructive. Clearly, if the CG were a purely legislative officer, Congress could remove him without recourse to law or the impeachment process. In providing for removal by a joint resolution which has to be submitted to the President, Congress signaled its appreciation of the fact that the CG was something more than a legislative officer. This signal is reinforced by the alternative removal procedure, namely impeachment, which under Art. II, § 4 is available only in the case of the President, the Vice President and all *civil* officers. Although the availability of impeachment to remove legislative officers who are neither Senators or Representatives is problematical, the Senate in the impeachment trial of Senator William Blount in 1797 effectively ruled that members of Congress cannot be impeached. 3 Hinds' Precedents of the House of Representatives § 2294 et seq. (1907) In brief, the statutory removal provisions applicable to the CG do not derogate from his being an "Officer of the United States" for certain purposes, but are consistent therewith.

In summary, notwithstanding GAO's independence vis-a-vis the executive departments and widespread misconceptions regarding the CG's status, there are good and compelling reasons for concluding that he is an "Officer of the United States" and as such has the capacity to discharge the executive functions of resolving bid protests as formalized by Subtitle D of the Deficit Reduction Act of 1984.

RAYMOND J. CELADA,
Senior Specialist in American public law, American Law Division, August 8, 1984.

Mr. COHEN. On October 26, I wrote to then-Attorney General William French Smith expressing my deep concern over the Justice Department's proposed action. In my letter, I pointed out that, absent a court ruling, the Justice Department recommendation to violate statutory provisions enacted by Congress and signed by the Presi-

dent raises the most serious questions under the doctrine of separation of powers. I emphasized, furthermore, that a unilateral decision by the executive branch to refuse to enforce a statute constitutes a usurpation of the proper role of the judiciary and a failure of the President to meet his constitutional responsibility to enforce the laws.

I ask unanimous consent to have that letter printed in the RECORD.

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

U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT,
Washington, DC, October 26, 1984.

Hon. WILLIAM FRENCH SMITH,
Attorney General,
Department of Justice,
Washington, DC.

DEAR MR. ATTORNEY GENERAL: I am writing to share with you my grave concern over a memorandum that Acting Assistant Attorney General Larry L. Simms provided to you on October 17, 1984, regarding "Implementation of the Bid Protest Provisions of the Competition in Contracting Act," P.L. 98-369, §§ 2741, 2751, 98 Stat. 494, 1199-1203 (1984). Mr. Simms recommends in the memorandum that executive agencies should take no action to implement certain bid protest provisions which the Department of Justice believes to be unconstitutional.

Absent a court ruling, Mr. Simms' recommendation to violate statutory provisions enacted by the Congress and signed into law by the President raises the most serious questions under the doctrine of the separation of powers. A unilateral decision by the Executive Branch to refuse to enforce a statute constitutes a usurpation of the proper role of the judiciary and a failure by the President to meet his constitutional responsibility to "take Care that the Laws be faithfully executed." U.S. Const., Art. II, Sec. 3.

The bid protest provisions in question have been examined by the General Accounting Office, the Congressional Research Service, the Senate Legal Counsel, and the General Counsel to the Clerk of the House of Representatives, all of which concluded that these provisions passed constitutional scrutiny. I can appreciate that the Department sincerely differs from the conclusions these congressional entities have reached. I believe that it is nevertheless incumbent upon the Department to acknowledge that the constitutional issues are complex and important and that other positions are worthy of consideration. Surely such controversial and difficult issues should be decided after the presentation of divergent views in the courts, not within the confines of the Department of Justice.

Mr. Simms' recommendation, moreover, is inconsistent with the Department's historical understanding of the obligation of Executive Branch agencies to enforce those statutes whose consitutionality the Department doubts. The Department has previously recognized its responsibility to enforce statutes, even while disputing their constitutionality in court. Thus, in the controversy over the constitutionality of the legislative veto, for example, the Executive Branch had always respected the exercise of a legislative veto, notwithstanding the view of the Department that legislative vetoes were unconstitutional.

In *Immigration and Naturalization Service* v. *Chadha*, 103 S.Ct. 2764 (1983), the Solicitor General explicitly stated that, "[u]ntil and unless the court of appeals entered a decision holding the statute unconstitutional, INS intended to enforce the law." Reply Brief for Appellant in No. 80-1832, at 11. The Solicitor General explained there that the alternative approach of "ignoring a resolution of disapproval passed by one House of Congress and to cancel deportation proceedings and confer permanent resident status on the alien . . . would be inconsistent with the accepted view that constitutional questions arising in the administration of a statute should, if possible, be resolved by the courts, not by the administrative agency itself." Id. at 14.

The Solicitor General viewed the Department as having been constrained in *Chadha* to act "under the compulsion of [the statute] and [having] adhered to the established practice of many agencies of declining to rule on constitutional challenges to the statute they are charged with administrating, properly leaving such issues to the courts." Brief for the INS at 74. The Solicitor General concluded that the enforcement of the statute by the Executive Branch, despite its refusal to defend the statute once judicial proceedings were initiated, "was not merely permissible under the circumstances, but was a responsible and wholly appropriate response to the situation." Reply Brief at 14.

I am deeply concerned by the Department's contemplated deviation from this established practice for dealing with disputes between the branches over the constitutionality of statutes. Here, no less than in *Chadha*, "because the constitutional question in this case involves a conflict between the Executive and Legislative Branches, it is particularly important that it be resolved by the Judicial Branch." Id. Moreover, this is not an instance in which the Executive Branch's enforcement of the statutes could serve to insulate the constitutionality of the statute from judicial resolution. The context of government procurement disputes obviously provides a setting in which private parties can be anticipated expeditiously to institute litigation concerning the constitutionality of these provisions.

I strongly urge that you reject Mr. Simms' recommendation and instruct the executive agencies to conform to the historical understanding that they are obligated to enforce the laws of the United States unless and until those laws have been found unconstitutional in the courts.

Sincerely,

WILLIAM S. COHEN,
Chairman.

Mr. COHEN. Mr. President, unfortunately, I was not successful in persuading the Attorney General of the administration's legal obligation to follow the law. In his response to me dated November 21, Attorney General Smith wrote that he concurred with the conclusions of the Office of Legal Counsel and that he had determined that the executive branch should refrain from implementing the bid protest provisions of the Competition Act.

To implement the Department of Justice's decision not to enforce the law, the Attorney General turned to the Director of the Office of Management and Budget. And, on December 17, 1984, David Stockman issued Bulletin No. 85-8 which stated, in part, that "Agencies shall take no action including the issuance of regulations, based upon the invalid provisions." Another "Action Requirement" instructed agencies that "[w]ith respect to the 'stay' provision, agencies shall proceed with the procurement process as though no such provisions were contained in the act."

I am not alone in my belief that the executive branch—not the legislative branch—has acted in violation of the Constitution by suspending these provisions of the Competition in Contracting Act. Not only do the General Accounting Office, the American Law Division of the Congressional Research Service, the Senate and House Legal Counsels, the American Bar Association, and several constitutional scholars agree with my position, but, most important, so does a court of law.

In May of this year, a Federal judge ruled that the challenged provisions of the Competition in Contracting Act were constitutional, but that the decision of the executive branch to deliberately disobey the law was not. Judge Harold Ackerman of the Third District Court in New Jersey held in Ameron, Inc. versus U.S. Army Corps of Engineers that:

> Such a position by the Executive branch . . . flatly violates the express instruction of the Constitution that the President shall "take care that the laws be faithfully executed." . . . It has been one of the bedrocks of our system of government that only the Judiciary has the power to say what the law is . . . The rule that no executive official can decide for himself what laws he is bound to obey, but must await decisions of the judiciary and until then obey the laws, has deep roots in our constitutional history.

Judge Ackerman had earlier found the Competition in Contracting Act to be constitutional in a March decision granting Ameron a preliminary injunction. To add insult to arrogance, however, the Attorney General testified before the House Judiciary Committee that the administration would continue to ignore the law—except in the instant case—because the executive branch was waiting for "a court or competent jurisdiction to decide the constitutionality of the issue."

The district court, in its subsequent decision in May confirming the preliminary injunction granted in March, did not take too kindly to the Attorney General's assault on its jurisdiction. Judge Ackerman stated:

> The Executive Branch's position that they can say when a law is constitutional equates the powers of mere executive officials with those of the Judiciary. It flies in the face of the basic tenet laid out so long ago by the United States Supreme Court [that] . . . 'No man in this country is so high that he is above the law. No officer of the law may set that law at defiance, with impunity. All the

officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it.' *United States* v. *Lee*, 106 U.S. 196 (1882).

In support of his decision, Judge Ackerman cited, among several other cases, the Supreme Court's decision almost 150 years ago in *Kendall* v. *United States*, 37 U.S. 524 (1938). In that case, a Cabinet member claimed that because he was subject to the President, who had vast authority under the "faithful execution" clause, he was not bound by certain laws.

The Supreme Court rejected the argument of executive supremacy, holding that—

To contend at the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the Constitution, and is entirely inadmissable.

In rejecting the executive's argument in Kendall, the Court explained that the effect of such power would be like:

. . . vesting in the President a dispensing power, which has not countenance for its support, in any part of the Constitution; asserting a principle, which, if carried out in its results, to all cases falling within it, would be clothing the President with a power entirely to control the legislation of Congress and paralyze the administration of justice.

It is deplorable, in my judgment, that nearly a century and half later, the administration is again making the same fallacious argument rejected by the Court in 1838.

This time the administration's defense rests on what many constitutional experts believe to be, at best, a rather convoluted interpretation of the "faithful execution" clause of the Constitution. Deputy Attorney General Lowell Jensen stated in testimony before the House Government Operations Committee, which held extensive hearings on this issue in February, that—

In the case of a conflict between the Constitution and a statute, the President's duty faithfully to execute the laws requires him not to observe a statute that is in conflict with the Constitution.

The administration's novel reasoning implies that, on the one hand, executive officials have a duty to uphold the Constitution, while on the other hand, they reserve for themselves the power to decide what the Constitution means. This view that the oath to support and defend the Constitution is a license to interpret the Constitution clearly contravenes the Supreme Court's landmark decision in Marbury versus Madison, in which Chief Justice John Marshall held—

That it is, emphatically, the province and duty of the judicial department to say what the law is. 1 Cranch 137 (1803).

As the House Legal Counsel, Charles Tiefer, pointed out in his brief in Ameron submitted to the U.S. Court of Appeals:

For the first time in two centuries, the Executive Branch would provide for *Marbury* v. *Madison* . . . a novel gloss. It would no longer be "emphatically the province and duty of the judicial department to say what the law is." Here, the Executive Branch assumed an inherent power of *deciding*—not just arguing—to strike down Acts of Congress, specifically, the Competition in Contracting Act.

The implications of the executive branch's interpretation of the "faithful execution" clause are chilling. Potentially if his Attorney General will issue a ruling that a law is unconstitutional, the President need not observe it. The executive branch could simply issue its own order not to follow the law prior to any judicial ruling against the statute. And the Attorney General has testified that the administration would not necessarily follow the law even after a district court has upheld it. What does this mean for other laws with which the administration disagrees?

The Constitution does not give the President any power to strike down acts of Congress other than through the exercise of his veto. At the Constitutional Convention, the framers specifically rejected a proposal to allow the Executive to suspend laws. The framers conferred only one specific power on the President with respect to legislation he did not approve: He could veto it.

There is a crucial difference between the Executive offering a view that a statute is unconstitutional, such as by declining to defend the statute in a court challenge, and deciding that a law is unconstitutional, as Judge Ackerman noted in his decision. Only the judiciary has the right to decide the constitutionality of a statute.

The Justice Department has also used as its defense the argument that "judicial resolution would be unlikely if the statute were fully enforced," in effect stating that the law must first be broken before it can be enforced. Again, Orwellian reasoning at best. This is not an instance in which the executive branch's enforcement of the statute would serve to insulate the constitutionality of the statute from judicial resolution. The context of Government procurement disputes obviously provides a setting in which private parties can be anticipated to institute litigation concerning the constitutionality of these provisions. Also, bidders could seek a determination of the bill's constitutionality under the Declaratory Judgment Act.

The Attorney General's November 1984 letter to me suggested that the Executive was disobeying the law in order to set up a test case. Yet, if that were the justification, why did the OMB, at the direction of the Justice Department, issue a Government-wide fiat ordering all agencies to ignore the law? The likelihood of a contractor challenging the law was already fairly strong, and the Department could have intervened in such a case to present its views to the court.

As a final defense, the Attorney General cited Public Law 96-132, which requires the Justice Department to notify Congress when it decides not to defend a statute that it believes to be unconstitutional, as an indication that "Congress has expressly anticipated situations in which the Department declines to enforce or defend the constitutionality of a statute."

Mr. President, the Attorney General is standing the law on its head. The purpose of this notification requirement is to allow Congress, through its legal counsels, to intervene to defend the constitutionality of laws which the Justice Department declines to defend in court. In no way does this law authorize the executive branch to ignore the laws duly enacted by Congress and signed by the President. It is inconceivable that Congress would ever pass a blanket authorization for the Executive to flout the laws it passes.

The administration, had it followed conventional constitutional practice, could have resolved this dispute in one of two ways. First, the President has the right, indeed the obligation, to refuse to sign a law that he believes to be unconstitutional. In testimony before the Senate Judiciary Committee in 1981, Attorney General Benjamin Civiletti stated that:

The Framers gave the President a veto for the purpose, among others, of enabling him to defend his constitutional position. . . . That being so, an argument can be made that the Framers assumed that the President would not be free to ignore, on constitutional grounds or otherwise, an Act of Congress that he had been unwilling to veto or had been enacted over his veto.

The fact that the Competition in Contracting Act, in this case, was enacted as part of a larger measure does not detract from this point. As Mark Tushnet, professor of constitutional law at Georgetown University, testified before the House Government Operations Committee in February:

If the President's constitutional qualms are serious enough, the package should be vetoed.

The Supreme Court affirmed this point in *Youngstown Sheet and Tube* v. *Sawyer*, 343 U.S. 579 (1952):

In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make the laws which the President is to execute.

By deciding to ignore the bid protest provisions of the Competition Act, the administration has assumed for itself a power that the President does not now have: The line-item veto, a back door

line-item veto at that. Representative PETER RODINO, the chairman of the House Judiciary Committee, amplified this point in a recent letter to Attorney General Meese, stating:

> The President cannot . . . approve only that portion of the bill with which he agrees. While it may be his *practical preference* to do so, it is not a *constitutional option.*

Short of exercising the President's veto authority, a second option for the President is to sign the bill, enforce it, but refuse to defend its constitutionality in court. Indeed, this option would have been consistent with the Justice Department's own historical understanding of the obligation of executive branch agencies to enforce those statutes that the Department believes to be unconstitutional. The Department has previously recognized its responsibility to enforce statutes, even while disputing their constitutionality in court.

In the recent controversy over the constitutionality of the legislative veto, for example, the executive branch had always respected the exercise of a legislative veto, notwithstanding the Justice Department's view that legislative vetoes were unconstitutional. In *Immigration and Naturalization Service* v. *Chadha,* 103 S. Ct. 2764 (1983), the Solicitor General explicitly stated that—

> [U]ntil and unless the court of appeals entered a decision holding the statute unconstitutional, INS intended to enforce the law.

The Solicitor General explained that the alternative approach of "ignoring a resolution of disapproval passed by one House of Congress and to cancel deportation proceedings * * * would be inconsistent with the accepted view that constitutional questions arising in the administration of a statute should, if possible, be resolved by the courts, not by the administrative agency itself." The Solicitor General concluded that the enforcement of the statute once judicial proceedings were initiated, "was not merely permissible under the circumstances, but was a responsible and wholly appropriate response to the situation."

This issue, I might add, transcends both House and party lines. Committees in both the House and Senate, Republicans and Democrats, have condemned the administration's action.

Perhaps the most extensive review of this issue was conducted by the House Government Operations Committee, under the able leadership of Representatives JACK BROOKS and FRANK HORTON. The committee received testimony from administration officials, the Comptroller General, several constitutional scholars, a representative of the American Bar Association, and others.

Charles Bowsher, the Comptroller General of the United States, supported the constitutionality of the Competition in Contracting Act and testified that:

> It is the President who has violated the separation of powers doctrine by defying a duly passed act of the Congress through the actions of the Attorney General and the Director of the OMB.

Eugene Gressman, a professor of constitutional law at the University of North Carolina Law School, agreed with Mr. Bowsher's assessment, stating that:

> If the execution of a law is to be faithful, it must be faithful to precisely what Congress has written into the law, no more and no less. But once the Executive oversteps the bounds of faithfulness, either by adding to or subtracting from what Congress has provided, then the separation of powers equilibrium established by our constitutional system tilts dangerously toward the Executive Branch.

Charles Tiefer, Deputy General Counsel to the Clerk of the House, was equally critical of the executive branch's actions in his testimony before the Government Operations Committee:

> There is not a shred of support in the record of the Constitutional Convention * * * to support the Justice Department's argument that the "faithful execution" clause was intended to allow the President to have the power of the Judiciary—to decide for himself whether he considered the laws unconstitutional, and if he felt so, to refuse to obey them. That view of Executive supremacy over the laws runs contrary both to the historic derivation of the "faithful execution" clause, and to the Constitutional Convention's stated decisions.

In fact, all of the witnesses, with the obvious exception of the Deputy Attorney General and the OMB Director, condemned the administration's decision to ignore parts of the Competition Act.

Based on these hearings, the Government Operations Committee recently issued a report, the title of which says it all: "The President's Suspension of the Competition in Contracting Act Is Unconstitutional." This report, which was endorsed by Democratic and Republican committee members alike, concludes that:

> The actions taken by the President, in unilaterally suspending portions of the Competition in Contracting Act, challenge the fundamental concepts under which our Government has operated since its inception.

In additional views, 13 Republican members of the committee emphasized their belief that the executive officials had violated the Constitution in refusing to enforce certain provisions of the Competition in Contracting Act:

> It has been clear since the Supreme Court's decision in *Marbury* v. *Madison* 182 years ago that the Judiciary, not the Executive, is charged with deciding what parts of the statutes are constitutional. The executive branch should now be carrying out all of the Competition Act. If the Attorney General believes that some provisions of that law are unconstitutional, he is free to challenge them in court. Until and unless the courts agree with his argument, however, those provisions are the law of the land. Failure to comply with them is a violation of the law.

The House Judiciary Committee also considered this issue during its April 18 hearing on the Department of Justice authorization bill. Attorney General Meese testified at the hearing and, in response to a question, reaffirmed the administration's policy that "there is a responsibility on the executive branch not to enforce a law or a portion of a law which it feels is unconstitutional." The Judiciary Committee, however, rejected the administration's policy and subsequently adopted an amendment to the fiscal 1986 Department of Justice authorization bill, which strikes all funds for the Office of Attorney General unless and until he instructs all executive officials to comply fully with the provisions of the Competition in Contracting Act. The need for this amendment, according to the report accompanying the authorization bill, results from:

> * * * the serious threat to the integrity of our constitutional system and the bedrock principle of separation of powers posed by the recent action of the Attorney General in unilaterally declaring a duly enacted statute unconstitutional and, on the basis of that declaration, in directing the entire Executive Branch to defy that statute. These actions on the part of the President and his Attorney General are unprecedented.

Finally, the Senate Appropriations Committee has spoken on this critical issue. In its report to accompany the fiscal 1985 supplemental appropriations bill, the committee issued a warning to the administration for failing to enforce provisions of the Competition in Contracting Act, stating:

> The Committee * * * reiterates the position that all provisions of (the Competition Act) should be vigorously enforced by all agencies. The Committee states a warning that agency actions will be monitored and failure to follow that law will encourage more direct and explicit action in appropriations approved by the Committee.

It is incumbent upon the executive branch to follow the law. Even though the Justice Department has been proven wrong in court and the OMB has rescinded its directive, I nonetheless believe there is an important constitutional issue at stake here. Surely such controversial and difficult constitutional issues should be decided after the presentation of divergent views in the courts, not within the confines of the Department of Justice. As PETER RODINO, the chairman of the House Judiciary Committee, wrote in his letter to the Attorney General on this issue,

> Until a judicial determination on the constitutionality of a statute, it is the responsibility of government officials, no less than average citizens, to comply with that statute.

Mr. President, I regret to say that the administration's disregard for the

rule of law is not limited to the Competition in Contracting Act. The executive's action in that case is not unique; it is not an isolated example. Rather, the administration in other areas has tried to place itself above the Judiciary in interpreting the law.

An example with which I am very familiar involves the Social Security Administration's policy of refusing to apply the rulings are circuit courts beyond the individual case in which the decision was rendered. I first learned of the Social Security Administration's so-called nonacquiesence policy during hearings that Senator LEVIN and I held to investigate the Social Security Disability Program.

At our hearings, Social Security Administration officials acknowledged that they are bound by the judgment of Federal courts in specific cases, but maintained that they had no legal obligation to follow a circuit court ruling in subsequent cases within the same circuit.

The Social Security Administration's nonacquiesence policy is set forth in the handbook containing instructions for administrative law judges to follow in deciding cases. It tells the ALJ's that they "should not consider a district or circuit court decision binding on future cases simply because the case is not appealed" when SSA believes that the court's "interpretations of the law, regulations, or rulings are inconsistent with the Secretary's interpretations."

The Social Security Administration has implemented its nonacquiescence policy by two means. In some cases, the SSA has simply ignored a circuit court decision by leaving unchanged those agency regulations which conflict with the decision. In other cases, the agency has issued Social Security rulings which specifically direct agency personnel not to abide by particular circuit court decisions.

The Social Security Administration has chosen to nonacquiescence in seven significant judicial opinions. These cases have involved some major issues, such as whether the agency should have to show medical improvement or error in the initial decision before terminating benefits, which would have significantly altered disability determinations had they been followed.

The administration's nonacquiescence policy has been widely criticized by legal scholars, the courts, Members of Congress, and even the U.S. attorney for the southern district of New York.

Jerry Mashow, a professor of administrative law at Yale University, has written extensively on the Social Security Administration's nonacquiescence policy. I'd like to quote from one of his articles which mirrors my own views on this issue.

> A strong prima facie case can be made that persistent administrative noncompliance with circuit court precedents is nothing less than official lawlessness. It clearly would be unacceptable for a federal district judge to disregard an applicable decision of the court of appeals for the circuit in which he sat, on the grounds that other circuits had a better rule or that the local decision would eventually be overturned by the Supreme Court. It would be outrageous for a policeman or magistrate to ignore a controlling judicial precedent, enforce the law according to his own lights, and invite the aggrieved citizen to "appeal if you don't like it." Many would argue that an administrative agency's refusal to give effect to the rulings of a supervising federal court, at least in cases subject to review by that court and arising within its territorial authority, is a comparable affront to the rule of law.

The effect on disabled workers of the SSA's nonacquiescence policy also is deeply troubling. When the agency issues a ruling of nonacquiescence, it, in effect, forces an identically situated claimant to go to court in order to obtain a favorable ruling and relief. As Professor Mashow has pointed out, administrative disregard of court decisions can be "cruelly unfair" to disability claimants who stand to benefit from unheeded court decisions, "giving them a hard choice between burdensome litigation and the forfeiture of their court-declared rights." According to Professor Mashow:

> The end result is a double standard: One rule, the favorable court-made rule, ultimately comes to be applied to those persevering and resourceful enough to litigate, while another rule, the unfavorable agency rule, determines the fate of those, equally deserving but less determined, who do not go to court.

The consequence of the administration's noncompliance with court precedents is to withhold from citizens the rights to which the courts have held them entitled, the rights that they have earned by paying Social Security taxes, forcing them to pursue costly judicial remedies.

The SSA's nonacquiescence policy has been the subject of virtually universal comdemnation by those courts which have considered its legality. Numerous circuit and district courts—in the second, fourth, sixth, eighth, ninth, and 10 circuits—have either expressly or implicitly rejected the administration's contention that SSA may refuse to follow a Federal circuit court decision in deciding subsequent disability cases within the circuit.

The most recent court decision on the validity of the SSA's nonacquiescence policy was issued on August 19 by Judge Leonard Sand of the U.S. District Court for the Southern District of New York. The Judge's opinion in Stieberger versus Heckler is a thorough, scholarly analysis of the issues raised by nonacquiescence.

At issue in this case was the weight to be accorded the opinion of the claimant's treating physician—as opposed to the SSA-hired consulting physician. Ten different decisions of the second circuit had established that the opinions of treating physicians in disability cases are binding on the Social Security Administration, absent substantial evidence to the contrary. Yet, the court found that the agency's rulings consistently understated the significance of the evidence submitted by the treating doctor.

In support of its finding that the agency was not following the decisions of the circuit, Judge Sand pointed to the sheer volume of cases in the second circuit in which an administrative denial of benefits was overturned due to a failure to properly apply the second circuit's treating physician rule. In the last 2 years alone, no fewer than 26 decisions have been issued by 18 different judges of the Federal district courts of New York in which a disability determination of the Secretary was overturned based upon its inconsistency with the second circuit's treating physician rule.

Judge Sand found that:

> The evidence of agency non-acquiescence in the second circuit's treating physician rule is overwhelming. One or two decisions reversing an ALJ's improper consideration treating physician opinion testimony might be nothing more than the ordinary aberrations of the administrative agency adjudicative process. The striking pattern of consistent disregard for clear, repeatedly articulated standards is evidence of a wholly different character.

Judge Sand's principal finding was that the Social Security Administration's nonacquiescence policy is "inconsistent with the constitutionally required separation of powers and effected an arbitrary and unlawful discrimination among disability claimants."

In reaching this conclusion, Judge Sand relied on many of the same precedents cited by Judge Ackerman in his ruling that the Executive's had no authority to suspend provisions of the Competition in Contracting Act. Both judges cited the landmark decision of Marbury versus Madison in finding that the administration had violated the separation of powers doctrine of the Constitution. Both courts rejected the Executive's attempt to put itself above the judiciary in interpreting the law.

Judge Sand wrote that:

> Only a fundamental reordering of this constitutional balance would permit the SSA to exercise the power to which it claims an entitlement in this case. The fundamental principles of our constitutional scheme . . . establish the authority of federal courts to render decisions which bind all other participants in our constitutional system of government. The judiciary's duty and authority, as first established in *Marbury*, 'to say what the law is' would be rendered a virtual nullity if coordinate branches of government could effectively and unilaterally strip its pronouncements of any precedential force.

Judge Sand, echoing the views expressed by Professor Mashow, also points out that the administration's noncompliance policy is blatantly unfair and discriminatory to disabled workers.

According to SSA statistics, almost half of all disability claimants are without legal representation in their attempt to get benefits. As a consequence, many are unaware of their rights and of the fact that an appeal to Federal court would reserve the agency's negative decision. A different and adverse rule governs the rights of those claimants who lack legal representation or who do not understand their right to appeal the agency's denial decision to Federal court.

Judge Sand's reasoning parallels the observation of the ninth circuit in Lopez versus Heckler, where the court held that:

If such a claimant has the determination and the financial and physical strength and lives long enough to make it through the administrative process, he can turn to the courts and ultimately expect them to apply the law. . . . If exhaustion overtakes him and he falls somewhere along the road leading to such ultimate relief, the non-acquiescence and the resulting termination stand. Particularly with respect to the types of individuals here concerned, whose resources, health and prospective longevity are, by definition, relatively limited, such a dual system of law is prejudicial and unfair.

The SSA justifies its nonacquiescence policy on the grounds that it has to run a national program. The agency emphasizes that following the decisions of different circuits would require the SSA to apply one legal standard in Connecticut but another in California. The court pointed out that greater disuniformity results from nonacquiescence since disabled individuals within the same circuit, the same State, the same town, may be governed by different standards:

We have just as much, if not more, difficulty with a policy whereby one claimant is governed by one legal standard but his neighbor, lacking in either financial resources, litigational persistence, or physical or mental stamina, is governed by another.

In rejecting the uniformity justification, the court noted that conflicting court decisions create a situation ripe for Supreme Court review of the issue and a possible nationwide resolution in favor of the agency. But the administration has not chosen to appeal the circuit court decisions where it has refused to follow the precedent established.

As an alternative to appealing to the Supreme Court, the administration could pursue a legislative remedy to an unfavorable circuit court decision by seeking congressional amendment of the Social Security Act.

In sum, the SSA has constitutional alternatives to its unconstitutional policy of nonacquiescence.

Finally, Mr. President, I would note that the administration's policy of noncompliance with certain court decisions has even been rejected by the U.S. attorney for the southern district of New York, Rudolph Giuliani, who served the Reagan administration as the Associate Attorney General before becoming a U.S. attorney. Mr. Giuliani wrote to the chief judge of the second circuit stating that:

It is our view that this policy, whatever it does permit, surely does not allow the United States Attorney's Office, HHS or any other federal agency to refuse to follow clear rules of law decided by the United States Court of Appeals . . . [T]here has never been any support to my knowledge for the notion that federal agencies within a particular Circuit could disagree with and refuse to follow clear rulings of that Circuit.

Mr. President, the administration's policy of nonacquiescence has been firmly rejected by the courts, sharply criticized by advocates for the disabled, and widely refuted by legal scholars. It is time for the executive branch to acknowledge that it does not have the powers of the judiciary and that it is bound by the rule of law.

I know there is a great reluctance on the part of some of my colleagues to raise such questions to this administration, perhaps because we feel the President is such a genial and gentle man.

The reason I take the floor is to forewarn my colleagues that we are ignoring a silent, but steady drift toward a dangerous imbalance of power under the Constitution.

I recall reading some years ago back in the mid-1970's a book written by George Reedy. It was called "The Twilight of the Presidency."

In that book Mr. Reedy traced the historical precedent for the abuse that had taken place during President Nixon's administration.

What he found was that whenever there is an overconcentration of power in the executive branch, it leads to an isolation from Congress, from the courts certainly, and from the country, and that isolation and unaccountability in turn lead to a sense of arrogance, disdain and contempt, and that arrogance ultimately results in the abuse of the rule of law.

Do not be beguiled by the geniality of a given President; he is only a temporary occupant of that office. The Constitution is equally violated whether the hand that would steal it comes wrapped in a velvet glove or a sheath of mail.

I hope my colleagues will be attentive to the fact that we have time to speak out against what is going on to raise this issue whenever and as often as possible and to seek corrective action.

THE UNPRETENTIOUS ELEGANCE OF E.B. WHITE

Mr. COHEN. Mr. President, I wish to take just a few moments this morning to talk about the passing of an extraordinary individual in our society, and discuss for a few minutes the unpretentious elegance of E.B. White.

When it is over, this century may be recalled chiefly for the overwhelming sense of impermanence it has conveyed, a sense of nervous fragility which has increased, perhaps incongruously, along with our standard of living.

Rarely during these decades of disorienting flux have voices of consistent insight, elegance, and gentle understatement been heard, voices which were not swayed by transitory passions or the myopia of the moment. Such a deft and graceful voice was stilled when E.B. White died at age 86 Tuesday. We are all the worse for his passing.

Maine had the same loving feeling about E.B. White as White had about his adopted State, and all Mainers felt a special sense of loss upon learning of his death. Perhaps no action better exemplified his lack of pretension than his decision in 1937, after 11 successful years at the New Yorker and with the New York literary world at his feet, to move to a farm in North Brooklin, ME, a farm he tended with skill and relish for the rest of his years.

It was, in part, his ability to blend these two disparate worlds which gave his writing a universal appeal. He wrote with equal crispness and tenderness about the tremor of a leaf in the afternoon sun in North Brooklin and the roar of New York City. He wrote with loving incredulity, rather than the weary acquiesence which has become fashionable, about everyday events which he found as amusing as he did fascinating.

He waged a lifelong struggle, tirelessly but utterly without vitriol, against flaccid and inexact writing. As a writer, he prized crisp, clean, deft, controlled writing, and he joined with William Strunk to produce "The Elements of Style," perhaps the most influential book ever published on the craft of writing. The mastery of form and perspective expressed in that book has given pause to all who have sailed in E.B. White's wake.

But his mastery of language was far from abstract and was matched by his creativity and imagination. This talent was seen perhaps most clearly in the characters of Wilbur, the runty pig, and Charlotte, the philosophical spider from "Charlotte's Web," a work which seems destined to endure for as long as American children read books.

Perhaps most notable in an age in which writers bask in the celebrity status which they are regularly accorded was E.B. White's reticence, his

modesty. He routinely declined interviews, honorary awards, and other outward signs of fame. He preferred to live simply within his home and his writing, fearing the obliteration of self which inevitably accompanies the pursuit of recognition.

Russell Wiggins, who used to be the editor of the Washington Post and a former Ambassador to the United Nations, and now the editor and publisher of the highly esteemed Ellsworth American, an award-winning weekly newspaper in Ellsworth, ME, wrote a column in which he said perhaps the best way to commemorate E.B. White would be for each of us to turn off our television set, which we watch so much during the course of the day or evening, and pick up one of White's essays or perhaps one of his letters.

Last evening I opened Mr. White's book of collected letters and in the opening introductory item was a brief autobiographical sketch of Mr. White drawn of himself, and I will only quote the last portion of that. He is talking about his relationship with a young girl. He said:

We didn't talk much, never embraced, we just skated for the ecstasy of skating—a magical glide. After one of these sessions, I would go home and play Liebestraum on the Autola, bathed in the splendor of perfect love and natural fatigue. This brief interlude on ice, in the days of my youth, had a dreamlike quality, a purity, that has stayed with me all my life; and when nowadays I see a winter sky and feel the wind dropping with the sun and the naked trees against a reddening west, I remember what it was like to be in love before any of love's complexities or realities or disturbances had entered in, to dilute its splendor and challenge its perfection.

When E.B. White was asked what he cherished most in life he said:

When my wife's Aunt Caroline was in her nineties, she lived with us. She once remarked: "Remembrance is sufficient of the beauty we have seen." I cherish the remembrance of the beauty I have seen. I cherish the grave, compulsive world.

To that, Mr. President, I would add and it has cherished him.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Russell Wiggins entitled "What E.B. White Had to Say."

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

[From the Washington Post, Oct. 2, 1985]

WHAT E. B. WHITE HAD TO SAY

(By James Russell Wiggins)

ELLSWORTH, ME.—E. B. (Andy) White, who died Tuesday morning at his home in North Brooklin, was a many-sided man who cherished the companionship of neighboring farmers, fishermen, carpenters and craftsmen and that of scholars and statesmen. He was one of America's foremost essayists, the distinguished editor of The New Yorker and author of many books.

Some of the secrets of his writing success can be found in "The Elements of Style," on which he and William Strunk collaborated. The first edition of that book ran to 2 million copies, and there have been many subsequent editions. That single work has made a great contribution to the written word, but it did not disclose the real secret of his great success as a writer. The secret of his writing—whether it was in "Charlotte's Web" or in his commentaries on national and foreign affairs—was that he had something to say, and that he had an urge to say it.

In a conversation in the last few weeks of his life he said, sorrowfully, "I have so much to tell and so little time to tell it."

He left in his published works a veritable monument to his industrious response to the impulse to write. He had something to say—something he felt his fellow man ought to hear, and he was committed to saying it with the utmost care, with precision, with accuracy and so devised as to achieve the exact effect for which he was striving. His conversation like his writing was filled with wisdom, wit and humor. He viewed life seriously but delighted in its lighter side. He loved the association with good friends and old companions. He was curiously shy and retiring, refusing all manner of invitations to public appearances (even, or perhaps especially, those devised to honor him). He shrunk from interviews to which he seldom consented.

A notable aspect of his writing and thinking was in his individuality and originality. He fit no mold. Many American intellectuals have strongly disliked big cities. He wrote about them with great perception and genuine affection. At the same time, he loved rural life, delighting in the behavior of domestic farm animals and wild creatures, intrigued by his bantam chickens, his Wyandotte laying hens, geese, sheep and dogs. He brought his two natures together in the portraits of Brooklin village life he wrote for The New Yorker.

He will be greatly missed by the people of this community, among whom he has lived for many years, and by many in the wider world beyond it about which and for which he has written; but fortunately he has left much of himself in the books, essays, editorials and poems that will continue to delight his readers, young and old, throughout the land.

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

RECOGNITION OF SENATOR GOLDWATER

The PRESIDING OFFICER (Mr. KASTEN). Under the previous order the Senator from Arizona is recognized for not to exceed 15 minutes.

Mr. GOLDWATER. I thank the Chair.

I wish to take this opportunity to thank my friend for the great remarks he has just made about Mr. White in which I concur.

THE JOINT CHIEFS OF STAFF AND THE UNIFIED COMMANDS

Mr. GOLDWATER. Mr. President, today Senator NUNN and I give the third in our series of speeches on problems in the organization of the Department of Defense. Our subject today may be the most important because it deals with the Joint Chiefs of Staff and the unified commands. These are the organizations and the men who help make the decisions to go to war and who will command our military forces in the field if we have to fight again.

I would like to begin with a brief history of the Joint Chiefs and then outline some of the serious problems with the current organization. Senator NUNN will then talk about the unified commands and the significant problems we have in conducting joint operations.

Mr. President, I want to make it perfectly clear at the outset that nothing that I say today cases any reflection upon any member of any Joint Chiefs of Staff we have had. I happen to have known all of the men who served in that capacity since the organization was formed in 1947. I have served with many of them. I hold them in the highest respect. They have devoted their lives to the service of their country. The shortcomings, Mr. President, are not in the men, the shortcomings are in the office.

HISTORY OF THE JCS

Before World War II, a joint board of the Army and the Navy coordinated certain interservice activities. However, it could not direct the Army and the Navy in wartime operations. Instead, it only provided advise. Shortly after the United States entered World War II, President Roosevelt informally created the Joint Chiefs of Staff in order to work with the British Chiefs of Staff in a new supreme military body, the Combined Chiefs of Staff. The military played an extremely important leadership role in the war. They worked very closely with the President and planned and directed U.S. military operations throughout the war. However, there were clear liabilities and problems, some of which we outlined yesterday. Winston Churchill observed about these arrangements:

I am increasingly impressed with the disadvantages of the present system of having Naval, Army and Air Force officers equally represented at all points and on all combined subjects, whether in committees or in commands. This has resulted in a paralysis of the offensive spirit.

NATIONAL SECURITY ACT OF 1947

Two years after the end of World War II and based on many of the "lessons learned," Congress passed the National Security Act of 1947 which remains today the foundation for the U.S. national security establishment. It established the Joint Chiefs of Staff as a permanent body. The members are the Chairman, the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force and the Commandant of the Marine Corps. The staff which supports the JCS numbers about 1,200 military personnel and is drawn in ap-

proximately equal number from each of the military departments.

The act also provides that the Joint Chiefs of Staff, subject to the authority and direction of the President and the Secretary of Defense, shall prepare strategic plans, prepare joint logistical plans, establish unified commands in strategic areas, formulate policies for joint training, and act as the principal military advisers to the President, the National Security Council and the Secretary of Defense.

There are a number of things to point out about the Joint Chiefs.

First, they consist of the individual service chiefs who are daul-hatted as members of the Joint Chiefs. They serve both as heads of their respective services, primarily concerned about that service's personnel, training and equipment, and as the joint advisers on a wide range of military matters. Thus, they are called on to do an almost impossible task: To represent their own service's viewpoint but, simultaneously, to sacrifice that view to the greater common good of joint considerations.

Second, they do not have command over any of the forces in the field. Command in wartime is by the field or unified commanders who, by law, report directly to the Secretary of Defense and the President. The President is, as you know, the Commander in Chief. By regulation, the chain of command runs from the Secretary through the JCS to the unified commanders.

Third, as a joint body they have almost no role in resource allocation. In fact, their role in budgetary matters is to argue for their own service programs as part of the resource allocation process.

All these factors combine to create serious problems that plague us to this day, including:

The inability of the JCS to provide useful and timely military advice; the poor performance in joint operations; the inadequate quality of the staff of the Organization of the Joint Chiefs; the confused command lines, and the lack of adequate advocates for joint interests in budgetary matters.

Many of these problems have their roots in the fact that the services continue to dominate the JCS structure. I regret to conclude after years of observing this process that the system is such that the members of the Joint Chiefs rarely override their individual service allegiances. When the rope from the individual services pulls in one direction and the rope from the Joint Chiefs pulls in the other direction, the individual services invariably win that tug-of-war. The services win the tug-of-war, but the country loses.

POOR ADVICE BY JCS

A number of distinguished Americans who have served in key positions as well as a number of studies have all concluded that the JCS do not provide useful and timely military advice to their civilian superiors. Former Secretary of Defense James Schlesinger has said:

> The central weakness of the existing system lies in the structure of the Joint Chiefs of Staff . . . . the recommendations and the plans of the Chiefs must pass through a screen designed to protect the institutional interests of each of the separate Services. The general rule is that no Service ox may be gored. If on rare occasions disputes do break out that adversely affect the interests of one or more of the Services, the subsequent turmoil within the institution will be such as to make a repetition appear ill-advised.
>
> The unavoidable outcome is a structure in which log-rolling, back-scratching, marriage agreements, and the like flourish. It is important not to rock the boat.
>
> . . . The proferred advice is generally irrelevant, normally unread, and almost always disregarded.

Reports commissioned by the executive branch in 1949, 1960, 1970, 1978, and 1982 reached these same conclusions. I regrettably have also reached the same conclusion: the Joint Chiefs do not provide useful and timely military advice.

There are several examples of this in the Kennedy administration. Early in his administration, President Kennedy relied on the Joint Chiefs of Staff for advice on two major issues: first, was an assessment of the chances of the CIA-trained Cuban guerrillas in the Bay of Pigs invasion; second, was the situation in Laos and whether U.S. forces would be needed to put down a Communist insurgency.

Shortly after he took office, President Kennedy was briefed on the CIA plan for the Bay of Pigs invasion. He asked the Joint Chiefs of Staff to conduct a thorough examination of the plan. According to Arthur Schlesinger, and again I am quoting:

> The Joint Chiefs of Staff . . . pronounced favorably on the chances of initial military success. The JCS evaluation was, however, a peculiar and ambiguous document.

Schlesinger goes on to note that there was "plainly a logical gap" and "inconsistencies" in the JCS analysis of whether or not the CIA operation would succeed. With this muddled advice, is it any wonder that the operation was a dismal failure?

Concerning Laos, Schlesinger says that President Kennedy was "appalled" at the sketchy nature of American military planning for Laos, and I quote—"the lack of detail and the unanswered questions."

In fact, President Kennedy was so dismayed at the advice he was getting from the Joint Chiefs that he said "My God, the bunch of advisers we inherited * * * can you imagine being President and leaving behind someone like all those people?"

One result of the failure to provide useful and timely military advice is that senior civilian officials rely on civilian staffs for counsel that should be provided by professional military officers.

POOR STAFF AND PROCEDURES

The Organization of the Joint Chief of Staff, or OJCS, consists of a number of offices and agencies that have been set up to provide staff assistance to the JCS. They do some of the most important staff work in the Department of Defense. But it is widely accepted in the services that it is not a good career step to serve on the Joint Staff. An officer's prospects for promotion and command are much better if he or she serves on their own service staff. This reaction has its roots in the same problem that leads the service chiefs to see their first duty as protecting their own services. Some services have even acknowledged that in their personnel system, duty on the joint staff is a low priority. For the most part, military officers do not want to be assigned to joint duty where they are pressured or monitored for loyalty by their services. They are not prepared by either education or experience to perform joint duties. As a result, their training must be on-the-job, and then they serve for only a short period of time.

Moreover, the method under which the Joint Chiefs operate leads to complexity and confusion. One of the principal operating assumptions of the Joint Chiefs is that they should reach unanimity in rendering advice. This means that watered-down, compromise positions must be worked out. Thus, the advice is often mushy and poorly presented. For example, retired Gen. Bruce Palmer, a former Army Vice Chief of Staff, has recently written about the Chiefs' performance during the Vietnam war, and I quote:

> Despite the fact that unanimity did not really exist among the Chiefs with respect to the air war, the JCS consistently submitted agreed recommendations to the Secretary of Defense and ultimately to the President.

This desire for unanimity that leads to the lowest common level of assent also greatly limits the range of alternatives offered to the Secretary of Defense.

The staffing procedure in the Joint Staff is enormously elaborate and cumbersome. It is worth describing for a moment. If the Joint Chiefs are asked for their position on, for example, an arms control issue, the Chiefs may ask the Air Force to do the first draft of a position paper. The paper is then circulated to the staffs of all the services and the organization of the Joint Chiefs of Staff where it goes through a series of reviews by increasingly higher ranking officers. If the JCS finally approves the paper, it is then red-striped; that is, typed of white paper with a red stripe around it. This is the position of the Joint

Chiefs. As you can imagine, the paper gets increasingly watered down as it moves through the process.

This cumbersome staffing procedure is another reason that good officers are discouraged from serving on the Joint Staff.

I know one thing, it leads to confusion.

OTHER PROBLEMS

Mr. President, there are a great many other problems with the JCS but I have highlighted only a few of them here this morning. Other problems include inadequate review of contingency plans, insufficient participation in decisions to allocate resources, and inadequate attention by the JCS to strategic planning. For example, retired Gen. John H. Cushman has written that the JCS "have published no how-to-fight doctrine at all. * * * But [only] guidance on organization and command relationships."

Now, Mr. President, interservice rivalry can be a good thing. Indeed, we wish to encourage competing views reaching senior-level decisionmakers. But the JCS process does not encourage independent thought. Previously I mentioned that President Kennedy was unhappy with advice he had gotten from the Joint Chiefs of Staff concerning Laos. As a result, he asked each of the service Chiefs to submit their individual views to him in writing. He was very pleased by the results because he got a much more candid and useful analysis directly from each of the Chiefs than he could get from them operating as a corporate body.

Therefore, any changes that are considered must assure that the Secretary and the President continue to have access to dissenting views by any of the service Chiefs.

But the services have got to understand that they must work together. They must put national interest above service interest. One of my favorite stories is told by Joe Lattin, a former Pentagon spokesman. As he tells it, on one occasion, the Chief of Naval Operations boasted to the Joint Chiefs of Staff about a successful naval operation. "Well, once again the Navy has saved the Nation," he said. Retorted a civilian who was present, "Well, Admiral, now that you have saved the Nation, how about joining it?"

Mr. President, one final point before I yield to Senator NUNN. It is true that there are problems with the Joint Chiefs. But by being critical of the Joint Chiefs, I do not intend to criticize individual service Chiefs or individual Chairmen. It is the system that has created the problems and it is the system that we must fix.

I want to alert my colleagues to the fact that the issues we are dealing with will generate a lot of interest and emotion in the Pentagon. You will hear over and over again the old maxim: "If it ain't broke, don't fix it." Well I say to my colleagues: It is broke and we need to fix it.

It is my pleasure and distinct honor to yield to my good friend from Georgia, Senator NUNN, an outstanding expert in the field that we are discussing.

RECOGNITION OF SENATOR NUNN

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

Mr. NUNN. I thank the Chair.

Mr. President, the distinguished chairman of the Armed Services Committee has addressed the subject of the Joint Chiefs of Staff with the wisdom and experience he has acquired in over 40 years of service to this country. All of us should listen very carefully to what he has said because he speaks with great authority on these matters of such importance.

Chairman GOLDWATER's discussion of the Joint Chiefs of Staff is right on the mark. Gen. David Jones, a former Chairman of the Joint Chiefs as well as a service Chief, has described how the Chiefs spent an entire afternoon arguing over which service should provide the new attaché at our Embassy in Cairo. Now why, Mr. President, do we need five four-star officers sitting around all afternoon arguing about such a minor personnel matter?

I would like however to turn to another problem area, the unified commands. These are the major field or war-fighting commanders of our military.

Many people do not recognize it; but the services in Washington do not lead the war. The commanders in chief in the field are our commanders in wartime.

One of the lessons of World War II was that there should be unified commands in important strategic areas of the world. By unified commands, we mean commands that have forces assigned to them from two or more different services and are responsible for an entire part of the world. Examples are the U.S. European Command which covers NATO, the U.S. Atlantic Command which covers the Atlantic Ocean and the U.S. Pacific Command which covers the Pacific. Each is commanded by a four-star officer. By a tradition that almost amounts to a law, certain commanders always come from the same services. For example, the commanders in chief of the U.S. Atlantic Command and the U.S. Pacific Command are always Navy Admirals and the commanders in chief of the U.S. European Command is always an Army general.

Each of these unified commands have individual service components and each component has its own service commander.

The need for unified commands is well documented in President Eisenhower's 1958 quote in proposing changes to the National Security Act. Senator Goldwater read it yesterday, but it is worth repeating:

> . . . Separate ground, sea, and air warfare is gone forever. If ever again we should be involved in war, we will fight it in all elements, with all services, as one single concentrated effort. Peacetime preparatory and organizational activity must conform to this fact. Strategic and tactical planning must be completely unified, combat forces organized into unified commands, each equipped with the most efficient weapons systems that science can develop, singly led and prepared to fight as one, regardless of service.

That advice is just as sound today, in my view, as it was in 1958. It was not followed in 1958 and it is, regrettably, not followed today.

This principle is stated more succinctly by Napoleon and his quote is worth repeating as well:

> Nothing is so important in war as undivided command.

Well, Mr. President, I regret to report to you today that we have unified commanders but divided commands. In practice, the unified commander somewhat controls his joint staff but the services control the component commands. The unified commander reports to the Secretary of Defense and the President, but his subordinate commander reports directly to his respective service chief as well as to the unified commander.

This situation exists because when the unified commands were established, the services were reluctant to integrate and subordinate their forces into the multiservice unified commands. As a result, they developed the "Service Component Command" as the next level beneath the unified commander. Thus, the U.S. Pacific Command is headed by a Navy admiral who is the commander in chief, but under him are the component commands of the Army, Navy, and Air Force, which are also headed by four-star officers—except the Army commander who has three, but I am sure the Army would love to give him a fourth star. Each of these component commands are a uniservice command. There is essentially no unified command below the level of the commander in chief and his staff.

In answer to questions posed to him by the Defense Authorization Conference Committee in 1984, Adm. William Crowe, then the unified commander in chief of the Pacific, and now Chairman of the Joint Chiefs of Staff, addressed the issue of unity of command. He responded:

> Component commands are independent entities organized and commanded on a day-to-day basis along unilateral service lines . . . In the present elaborate command structure the component commander is in two command lines—one to the unified com-

mander and one to his service chief. There are good and sufficient reasons for this, but the definitional lines between the two are often muddy. In turn, this situation diffuses authority and complicates operational/strategic decisionmaking. In pursuing such differences, the component commander by virtue of his position and future in the general service hierarchy is often placed in the position of being more an advocate for his service than the theater command. To be more effective, the unified commander's authority in strategic and operational matters needs better and broader definition, i.e., to include more voice in influencing service logistics and training decisions which affect his operational/strategic responsibilities.

In addressing the same question, the commander of the Readiness Command, Gen. Wallace Nutting, said:

There is no unification below the unified command echelon. In this circumstance, the degree of operational unification in the Readiness Command and between its components is decidedly insufficient.

Moreover, the individual services retain the responsibilities to train, equip, organize, and station their own service personnel. Therefore, the Army, for example, is responsible for organizing, training, equipping, and stationing all of the Army forces assigned to the U.S. Pacific Command. The commander in chief of the U.S. Pacific Command must fight with what the Army gives him and with where they have been put by the Army. He has very little role in determining what Army forces are assigned to him, how they are equipped, how they are organized, and where they are located. This same situation applies in the other geographic areas as well.

For example, the individual services decide how much and what kind of ammunition to buy and where to store it. One commander in chief recently complained that one of his service component commands had decided to move some ammunition to a new location which was inconsistent with his war plans. The commander in chief had no authority to order the service component commander, who also had four stars, to keep the ammunition where it was. He could only use his persuasive powers and, in the end, had to settle on a compromise result that was not satisfactory to the commander in chief.

Mr. President, this is a sad state of affairs when the man in charge of fighting the war cannot tell his subordinates to store ammunition where the war plan requires. I guess, Mr. President, that we could change the war plans to suit where the individual services want to store their ammunition and hope that the enemy will agree to fight in that location, but that is not the desired course, obviously.

In addressing the issue of whether or not there is an imbalance between their responsibilities as an operational commander and their influence over resource decisions, several of the field commanders answered as follows:

Gen. Bernard Rogers, commander in chief of the European Command:

There is an imbalance between my responsibilities and accountability as a unified operational commander and my influence on resource decisions . . . . There remains in Washington a preeminence of service goals in the program and budget process.

General Nutting of the Readiness Command:

There is an imbalance between my operational responsibilities and influence over resource decisions . . . . The system as it is presently constituted depends inordinately on cooperation and goodwill in order to function—which is to say the present system contains internal contradictions.

Admiral Crowe, as commander in chief of the Pacific Command:

On occasion the results of major service decisions, not previously coordinated with me, have affected my ability to execute [my command's] strategy . . . . In the field of logistics, except for the influence I am able to exercise in the development of service program priorities, I am dependent on my component commanders not only to compete successfully for sustainment resources within their service [plans] but also to represent me in balancing and distributing stocks, ammo, petroleum, etc., in locations and ways that support my theater strategy. Therefore, until the [unified commanders] have a greater input into general logistical matters, the unified command's plans and strategy remain largely dependent upon the degree of service chief support my component commanders and I are able to obtain.

In addition, having independent component commands leads to an enormous layering of bureaucracies. A senior Navy admiral recently observed privately that in the Mediterranean we have one carrier and six staffs whereas it ought be the other way around. The report on the Beirut bombing discussed the problems inherent in the layering of commands. Including the Joint Chiefs, there were eight distinct layers between the marines on the ground and the Secretary of Defense. The fact that we have a proliferation of headquarters and bureaucracies is evident in the following statistics:

On June 30, 1945, there were 12,123,455 men and women on active duty with 17,057 officers at the rank of O–6 and above including 101 three-star generals and admirals. On May 31, 1983, there were 2,127,422 men and women on active duty—roughly 10 million less—with 15,455 officers at the rank of O–6 and above, including 118 three-star generals and admirals, 17 more than in 1945.

I have said somewhat facetiously in the past that apparently it takes more admirals and generals to wage peace than to run a war.

There are reasons for this. It is a complex matter, but generally it is rather obvious that one of the biggest problems here is that there is too much command structure in terms of headquarters and in terms of layering.

This proliferation of bureaucracies and lack of unity can be very costly. Chairman GOLDWATER explained yesterday that when the *Pueblo* was seized in 1978, the command lines in the Pacific between the component commands were so confused that it was not possible to respond in a timely fashion. Today, those very same command lines exist. The only thing that has changed is that we now have improved communications and we have hopefully learned that we must be better prepared to protect ships like the *Pueblo*. However, the fundamental problem of the lack of unification below the level of the unified commander remains.

The power of the component commands, backed up by the individual services in Washington, makes joint planning very, very difficult. Recently, our committee has been looking into the lack of joint planning and coordination by the military services on wartime medical readiness in the Department of Defense. The results are scary, to say the least.

In the aftermath of the bombing of the Marine Corps barracks in Beirut 2 years ago, the Long Commission concluded that the on-scene medical care provided by U.S. personnel was heroic. However, the Long Commission Report also raised serious questions about the adequacy of wartime medical readiness planning in the U.S. European Command. As a result, Secretary Weinberger ordered a thorough review of wartime medical readiness planning in the European and Pacific Commands.

These reviews, Mr. President, were carried out by senior military medical officials, and revealed very serious deficiencies in joint service planning for wartime medical care. The details of these reports are classified, but their basic conclusions are not: There is a serious lack of joint planning by the military services in both the European and Pacific Commands in the area of wartime medical readiness. This problem both exists and is compounded because of the very limited capability for joint command and control of medical planning and medical resources within the theater by the staff of the unified commander.

Let me just mention two illustrations of this problem from the hearings of the Manpower and Personnel Subcommittee. Rear Adm. James A. Zimble, the chairman of the study of wartime medical readiness in Europe, pointed out in the introduction to his study that:

Although no lives were lost that could have been saved, all those who have reviewed the events of October 23 [that is, the bombing of the Marine Corps barracks in Beirut] agree that had the ratio of killed outright-to-wounded been reversed, so that

over 200 casualties had required treatment, rather than fewer than 100, the medical system might well have failed. Such is the measure of our medical readiness today.

Mr. President, this is a very sad and serious commentary by a senior military medical officer on the state of our medical readiness in a part of the world where we could have to treat many hundreds, even thousands, of casualties on a daily basis in the event of war.

He is saying that 200 casualties would have broken down the system. What can we expect if we ever have to really fight a war in that area?

In another example, we learned that the Air Force was planning to evacuate a particular hospital in Europe in the event of war because it believed that the hospital would be destroyed almost immediately. At the same time, the Army was planning to move in and use the same hospital after the Air Force left. Now, Mr. President, who is in charge over there anyway? There is no excuse for this type of situation.

An even more disturbing revelation from the hearings was to learn that the senior civilian leadership of the Pentagon is fully aware of these problems, is trying to address them in a meaningful way, but so far is not having much success due to the resistance of the individual services as well as the JCS.

The two reports on wartime medical readiness planning included a number of specific recommendations: To provide adequate medical planning staffs for the unified commanders; to reconcile inconsistencies in planning and procedures for the control and use of the aeromedical evacuation system in wartime; to establish joint command and control over medical planning and medical resources; and to direct joint utilization of medical resources in wartime.

Dr. William Mayer, the Assistant Secretary of Defense for Health Affairs, told the Manpower and Personnel Subcommittee 2 weeks ago that although a great deal of discussion has taken place about these problems over the last year and a half, "to date few definitive actions have taken place."

Mr. President, Dr. Mayer's testimony is a frank and candid admission that the senior civilian leadership in the Pentagon has so far not been successful in their efforts to direct the type of joint planning and cooperation by the military services that will be essential to providing adequate medical care for our soldiers in time of war. When the civilian leadership of the Defense Department makes this admission, it is time for Congress to do something about this structural problem.

Finally, Mr. President, I would like to comment on the chain of command. There is, unfortunately, confusion over how the chain of command runs from the President to the unified commands. Under the law, the President, through the Secretary of Defense, "shall * * * establish unified combatant commands." The statute also provides that "combatant commands * * * are responsible to the President and to the Secretary for such military missions as may be assigned to them by the Secretary with the approval of the President." Most people read this to mean that the Secretary of Defense is in the chain of command. It should be noted that the Joint Chiefs are not, by law, in the chain.

However, by regulation, the Secretary of Defense has determined that the chain of command runs from the President to the Secretary of Defense and through the Joint Chiefs of Staff to the commanders in chief of the unified commands.

Many commanders in chief of the unified commands have complained that they are not certain whether their boss is the Chairman of the Joint Chiefs or the Secretary of Defense. In a crisis, whom do they talk to? The answer is, it varies from individual to individual. Some commanders in chiefs have dealt directly with the Secretary of Defense, while others have chosen to go to the Chairman. Some have even dealt directly with the President. This ambiguity should be eliminated and the command relationship should be clarified.

Some previous members of the Joint Chiefs have believed they were in the chain of command and have acted as if they were.

As an example Mr. President, of the serious problems this can cause, I would like to close with an incident that occurred during the Cuban missile crisis. Secretary of Defense McNamara wanted to find out exactly how the Navy would implement the blockage which had been ordered by the President. According to Graham P. Allison's book, "Essence of Decision—Explaining the Cuban Missile Crisis"—Secretary McNamara went to the Navy Flag Plot where he put his questins harshly.

Precisely what would the Navy do when the first interception occurred? [The Chief of Naval Operations, Admiral] Anderson replied that he had outlined the procedures in the National Security Council meeting and that there was no need to discuss it further. . . . McNamara returned to the line of detailed questioning. Who would make the first interception? Were Russian-speaking officers on board? How would submarines be dealt with? At one point McNamara asked Anderson what he would do if a Soviet ship's captain refused to answer questions about his cargo. At that point the Navy man picked up the Manual of Naval Regulations and, waving it in McNamara's face, shouted, "It's all in there." To which McNamara replied, "I don't give a damn what John Paul Jones would have done. I want to know what you are going to do now." The encounter ended on Anderson's remark: "Now, Mr. Secretary, if you and your Deputy will go back to your offices, the Navy will run the blockage.

Is this civilian control, Mr. President?

Mr. President, this example illustrates the importance of these issues. In times of crises, the chain of command and the division of responsibilities must be clear. Individual service interests must not prevent effective joint action. Senator GOLDWATER quoted the wise observation of President Eisenhower that separate land, sea, and air operations are gone forever. It is because we still have not learned those lessons, that the Armed Services Committee's Task Force on Defense Organization is looking into the problem. This is a big challenge, Mr. President, but it is one we must meet.

I agree with Chairman GOLDWATER: The system is broke and it must be fixed.

Mr. President, I yield the floor.

TIME EXTENSION

Mr. DOLE. Mr. President, I ask unanimous consent to extend until 12:30 p.m. the time for special orders, plus the time for morning business.

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

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER (Mr. HEINZ). Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

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

WHAT HAPPENED TO THE AMERICAN PASSION TO END THE NUCLEAR ARMS RACE?

Mr. PROXMIRE. What challenge poses the most serious threat to human life today? Answer—easy. What is it? Nuclear war. For 40 years—since the first and only nuclear bombs dropped in wartime on Hiroshima and Nagasaki—no nuclear weapon has killed anyone. Why has no country used this most devastating of all military weapons? Answer: One reason: We have been extraordinarily lucky. The nuclear arms race has speeded on between the two massive superpowers. The nuclear club—those nations which the world knows have nuclear arsenals—halted at just five countries more than 20 years ago. Since then other countries—notably Israel, India, and Pakistan—have been rumored to have developed a relatively modest number of nuclear weapons. But for a series of reasons that few have even speculated about the spread of nuclear weapons, so feared in the 1950's and 1960's, has not occurred.

This year, in July and August—the quiet news months and the 40th anniversary of the first nuclear bomb attacks—the media discussed nuclear weapons in some depths. But people throughout the world have started to live calmly, almost indifferently, with this terrible overhanging nuclear threat. And yet the prospect of nuclear war persists as a grim and permanent fact of life. With each passing year, there seems to be less passion or even concern about policies of this superpower, this United States, that may lead to the last war. In July, Gorbachev, the Russian head of state, announced that from August 5 until the end of 1985 the Soviet Union would forego any nuclear test explosions. Gorbachev invited the United States to join in the moratorium and to suspend nuclear weapons testing while negotiating for an agreement permanently stopping all nuclear weapons tests. In the considered judgment of this Senator, the Reagan administration made a serious mistake, a world class blunder in failing to take Mr. Gorbachev up on his proposal. Why did our President fail to do this? The administration gave a series of reasons: First, the Gorbachev proposal was a grandstand play. Second, said the administration, the Soviet Union had just finished its own series of tests. Gorbachev simply wanted to stop the United States from conducting its tests. Third, said the President, the two superpowers should get on with the on-going arms control negotiations at Geneva. According to the President, both superpowers should agree to reduce the number of nuclear weapons—until nuclear weapons are eliminated and then, President Reagan argued, there would be no need for testing; there would be no nuclear weapons.

Mr. President, the astonishing thing about this exchange between the heads of the two nuclear superpowers was the incredible performance of the American media. The Soviet media always performs in a completely predictable manner. They are supine, serving as a mindless, automatic mouthpiece of their Kremlin masters. But we expect something far different and better from the great independent American press. But did we get it? No way. The American media rolled over on this one like perfectly trained Communist stooges. They accepted the President's feeble alibis for failing to negotiate an end to nuclear testing without a challenge.

Mr. President, this is a serious tragedy. Nuclear weapons testing is the very heart of the arms race. Five minutes of consideration by any person of normal intelligence will convince such a person that the superpowers will not stop or even arrest the arms race by reducing the appalling numbers of nuclear weapons on both sides, even if superpowers agree to cut their arsenals in half or by three-quarters or by 90 percent. Numbers reduction cannot do the job. Why not? Because research in new weapons and the testing that is essential to give that research validity will develop new weapons, more devastating than ever. Breakthroughs with antimatter bombs, for instance, will shoot the nuclear arms race off on a new and more reckless course than ever. That will happen no matter how restrictive an agreement the superpowers work out with respect to their present nuclear arsenal, unless the superpowers agree to stop the crucial testing of new weapons. The American media has ignored this cardinal point. They have also failed to challenge the President to live up to the solemn promise this country has twice made in international treaties to stop nuclear testing. We made this promise in 1963 in the preamble to the Limited Test Ban Treaty. We made it again in 1974 in the body of the treaty that limited the size of underground weapons tests.

Finally, Mr. President, why not stop this testing? Why not? What do we expect these tests to do except to produce even more devastating weapons of death and destruction? What other purpose exists for them? There is none. Yes, indeed, our scientists have been consistently ahead of Soviet scientists. If anyone could win this arms race, the United States would very likely win it. But no one can win it. Everyone will lose in a nuclear war and that includes the United States. All of us should repeat that truth 10 times a day, every day. And we should negotiate arms control agreements on the basis of it. That means we negotiate a total end to nuclear testing now.

MYTH OF THE DAY: ECONOMIC FORECASTS ARE REASONABLY RELIABLE

Mr. PROXMIRE. Mr. President, every day we worry about the deficit and nearly every day we debate what should be done about it. Is it going to be $170 billion, or $200 billion, or even $225 billion? The truth is, aside from knowing that it is too large, no one—not even Nobel Prize winning economists—can tell you.

Every estimate of the size of the deficit is based on a fallible human forecast of what the economy will do. Year after year the forecasts are wrong. We—the administration and the Congress—have come to use these projections almost unthinkingly. Sure, we debate whether to use a higher or lower estimate of how fast the economy will grow. But our debates are based on the assumption that one projection is better—more accurate—than another.

Are our debates based on reason or are we arguing over a myth? Let's look at the record. Since 1970, the major economic forecasters have missed just about everything. It is really a joke at how incredibly incompetent the forecasters have been. The consensus of economists missed the 1973–75 recession, the 1978–79 inflation, the 1980 recovery, the 1981–82 recession, the strength of the 1984 recovery, and the slowdown this year. In other words, economic forecasts made 1 year ago in advance missed nearly every major turn in the economy during the past 15 years. The one sure thing you can bet on is that the forecast will be wrong. When it comes to those economic changes which hurt—high unemployment and inflation—economic forecasts have consistently missed the mark.

Given this record, why do we continue to make fiscal policy based on these forecasts? Well, they satisfy one of the most fundamental yearnings of the human intellect—to foresee the future. From that dim day in prehistory, when a shaman convinced his chief that the omens were favorable for battle the next day, to today, when computers grind away at complicated statistical models, we keep trying. The computer is no better than the shaman. We continue to be disappointed.

A danger lurks behind our use of these forecasts. A good rule of thumb in undertaking any risky endeavor is to prepare for the worst but to hope for the best. All too often, in making economic policy, we do exactly the opposite.

THE PLIGHT OF THE TURKISH MINORITY IN BULGARIA

Mr. PROXMIRE. Mr. President, I recently received a letter from Ali Ferda Sevin who is the first vice president of the Assembly of Turkish American Associations. Mr. Sevin enclosed the following statement, purportedly from a Bulgarian citizen of Turkish origin.

> On January 22, the Bulgarian Army came to our towns with guns, armored trucks and tanks. It seems like we're in a war. The following morning the soldiers were going from door to door and calling everyone to come to the City Hall to have their passports made with their new Bulgarian names, which are given to them by the communist regime, at the same time (they) are forcing them to sign certain forms saying that they are changing their names of their own free will. People who are resisting said orders are being punished, beaten, raped and many of them have been killed.

The Assembly of Turkish American Associations believes that the Bulgarian Government is currently practicing physical and cultural genocide on the people of Turkish origin who live within its borders. The assembly has learned through diplomatic sources from what they consider "reliable

sources" that as many as 200 people have died in this barbaric campaign.

According to Sevin, the Bulgarian Government has made it virtually impossible for the Turkish minority, who comprise 10 percent of Bulgaria's 9 million citizens, to retain their cultural identity. A Bulgarian citizen of Turkish origin cannot be issued a birth certificate or a marriage license unless they have a Bulgarian name. In addition, without a Bulgarian name, they cannot be employed or travel.

The Assembly of Turkish American Associations further believes that Turks in Bulgaria are not allowed to engage in professions of their own choice because the Bulgarian Government restricts them to heavy manual labor. Finally, the assembly has also learned that Turks are not allowed to repair and renovate their homes and mosques, which restricts their rights of dwelling and worship.

The Bulgarian Government recently denied that Moslems were in any way restricted in their right to worship, and it issued a statement signed by Moslem leaders in Bulgaria. However, this statement made no reference at all to the rights of ethnic Turks.

Mr. Sevin asks, as a Turkish-American, that our Government condemn these despicable acts, and that the United States do all that it can to force the Bulgarian Government to cease its attempts to culturally eliminate the peaceful Turkish minority within its borders.

He is absolutely right. We must do everything we can to protect the rights of the ethnic Turkish population in Bulgaria. We should investigate further to determine if the provisions of the Genocide Convention are applicable to this situation. But if we do, the Bulgarians may simply shrug off our questions by saying that, since we are not a party to the Genocide Convention, we have no right to investigate their actions.

Mr. President, we are approaching a vital period for the Genocide Convention. The United States should and must ratify this crucial treaty right now so that we can focus world attention on the plight of the Turks in Bulgaria and of other threatened minorities elsewhere. We cannot afford to delay ratification again. If we do, it may mean the end of the Turkish population in Bulgaria.

ROUTINE MORNING BUSINESS

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

THIRTEENTH ANNIVERSARY OF THE ABM TREATY

Mr. HART. Mr. President, today marks the 13th anniversary of the day when the Anti-Ballistic Missile Treaty between our Nation and the Soviet Union entered into effect. Thirteen years later, that treaty stands as one of the crowning achievements in our efforts to control the competition in nuclear arms and reduce the likelihood of nuclear war.

The ABM Treaty has successfully allowed both nations to stem a destabilizing and costly competition in antiballistic systems. And the treaty has helped demonstrate that mutual, verifiable arms control agreements hold mankind's best hope for securing a lasting peace in this nuclear age.

Unfortuntely, the ABM Treaty is now imperiled. The steady development of defensive technologies by both nations and apparent failures of compliance with the treaty by the Soviets have combined to threaten the treaty's continued relevance. Indeed, if both nations continue their march toward spaced-based and other defensive technologies, the ABM Treaty may be abrogated as early as this next year.

For these reasons, I applaud today's statement in support of the ABM Treaty by six former Secretaries of Defense—Secretary Harold Brown, Secretary Clark M. Clifford, Secretary Melvin R. Laird, Secretary Robert S. McNamara, Secretary Elliot L. Richardson, and Secretary James R. Schlesinger. This eminently distinguished, bipartisan group calls upon both the United States and the Soviet Union to avoid any actions that would undermine the ABM Treaty, and they urge President Reagan and Soviet General Secretary Gorbachev to reach agreements in Geneva to assure the treaty's continued validity. An anxious world can only hope that the current Secretary of Defense—as well as President Reagan, his administration, and the Soviet leadership—will take this recommendation to heart.

I applaud today's statement, recommend it to my colleagues, and ask unanimous consent that the full statement be printed in the RECORD.

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

STATEMENT IN SUPPORT OF THE ABM TREATY

(By former Secretaries of Defense, released by the National Campaign to Save the ABM Treaty on October 3, 1985, the thirteenth anniversary of the Treaty)

On the thirteenth anniversary of the entering into force of the ABM Treaty, we reaffirm our view that this international agreement of unlimited duration makes an important contribution to American security and to reducing the risk of nuclear war. As former Secretaries of Defense, we call upon the American and Soviet governments both to avoid actions that would undermine the ABM Treaty and to bring to an end any prior departures from the terms of the Treaty, such as the Krasnoyarsk radar. We urge President Reagan and General Secretary Gorbachev to reach agreement in Geneva to negotiate new measures which would prevent further erosion of the Treaty and assure its continued viability.

Hon. HAROLD BROWN,
Hon. CLARK M. CLIFFORD,
Hon. MELVIN R. LAIRD,
Hon. ROBERT S. MCNAMARA,
Hon. ELLIOT L. RICHARDSON,
Hon. JAMES R. SCHLESINGER.

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

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

BUDGET ACT WAIVER

Mr. STAFFORD. Mr. President, after conferring with both the majority leader and the minority leader, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 226, the budget waiver to accompany S. 1264, National Foundation on the Arts and the Humanities Amendments of 1985.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 226) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1264.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 226

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1264, a bill to amend the National Foundation on the Arts and Humanities Act of 1965, to extend the authorization of appropriations for that Act, and for other purposes. Such waiver is necessary to permit the authorization of funds for the National Endowment for the Arts, the National Endowment for the Humanities and the Institute of Museum Services.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES AMENDMENTS OF 1985

Mr. STAFFORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 274, S. 1264.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1264) to amend the National Foundation on the Arts and Humanities Act of 1965, to extend the authorization of ap-

propriations for that act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "National Foundation on the Arts and the Humanities Amendments of 1985".

PROJECT DEFINITION; CONSTRUCTION OF FACILITIES

SEC. 2. Section 3(d)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (hereafter in this Act referred to as the "Act") is amended by inserting "for the purposes of section 5(l) only," after "(2)".

APPLICATION APPROVAL OF NATIONAL COUNCIL ON THE ARTS

SEC. 3. The last sentence of section 6(f) of the Act is amended by striking out "$17,500" and inserting in lieu thereof "$30,000".

STATE HUMANITIES COUNCILS

SEC. 4. Section 7(f)(2)(B)(i) of the Act is amended—

(1) by striking out "four" and inserting in lieu thereof "six"; and

(2) by striking out "20 per centum" and inserting in lieu thereof "25 per centum".

PROGRAM FOR THE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION OF THE UNITED STATES AND THE BILL OF RIGHTS

SEC. 5. Section 7 of the Act is amended by adding at the end thereof the following new subsection:

"(i)(1) The Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, shall, in accordance with the provisions of this subsection, carry out a program in the humanities for the commemoration of the bicentennial of the Constitution of the United States and the Bill of Rights.

"(2) To commemorate the bicentennial anniversary of the Constitution of the United States and the Bill of Rights, the Chairman of the National Endowment for the Humanities—

"(A) is authorized to make grants to local educational agencies, private elementary and secondary schools, private organizations, individuals, and State and local public agencies in the United States for the development of instructional materials and programs on the Constitution of the United States and the Bill of Rights which are designed for use by elementary or secondary school students; and

"(B) shall implement an annual national bicentennial Constitution and Bill of Rights competition based upon the programs developed and used by elementary and secondary schools.

"(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Humanities shall have the same authority as is established in section 10.".

NATIONAL COUNCIL ON THE HUMANITIES

SEC. 6. The second sentence of section 8(b) of the Act is amended by inserting after "selected" the following: "from citizens of the United States who are recognized for their knowledge of, expertise in, or commitment to the humanities and".

AUTHORIZATION OF APPROPRIATONS

SEC. 7. (a) EXTENSION OF AUTHORIZATIONS.—(1)(A) The first sentence of section 11(a)(1)(A) of the Act is amended to read as follows: "For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $118,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(B) The first sentence of section 11(a)(1)(B) of the Act is amended to read as follows: "For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(2)(A)(i) The matter preceding clause (i) of section 11(a)(2)(A) of the Act is amended by striking out "1985" and inserting in lieu thereof "1990".

(ii) The exception at the end of section 11(a)(2)(A) of the Act is amended to read as follows:

"except that the amounts so appropriated to the National Endownment for the Arts shall not exceed $8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(B)(i) The matter preceding clause (i) of section 11(a)(2)(B) of the Act is amended by striking out "1985" and inserting in lieu thereof "1990".

(ii) Clause (ii) of section 11(a)(2)(B) of the Act is amended by inserting "and subgrantees" after "grantees" each time it appears in such clause.

(iii) The exception at the end of section 11(a)(2)(B) of the Act is amended re read as follows:

"except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(3)(A)(i) The matter preceding clause (i) of section 11(a)(3)(A) of the Act is amended by striking out "1985" and inserting in lieu thereof "1990".

(ii) The exception at the end of section 11(a)(3)(A) of the Act is amended to read as follows:

"except that the amounts so appropriated to such Endowment shall not exceed $20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(B)(i) The matter preceding clause (i) of section 11(a)(3)(B) of the Act is amended by striking out "1985" and inserting in lieu thereof "1990".

(ii) The exception at the end of section 11(a)(3)(B) of the Act is amended to read as follows:

"except that the amounts so appropriated to such Endowment shall not exceed $19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(b) AUTHORIZATION FOR CONSTITUTION BICENTENNIAL PROGRAM.—Section 11(a) of the Act is amended—

(1) by redesignating paragraph (4) as paragraph (5), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) Of the amounts appropriated for the fiscal year 1987 and for each of the succeeding fiscal years ending prior to October 1, 1990, $5,000,000 shall be available for the purpose of carrying out section 7(i).".

(c) AUTHORIZATION FOR ADMINISTRATION.—(1) Section 11(c)(1) of the Act is amended to read as follows:

"(1) There are authorized to be appropriated to the National Endowment for the Arts $15,582,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Arts is responsible.".

(2) Section 11(c)(2) of the Act is amended to read as follows:

"(2) There are authorized to be appropriated to the National Endowment for the Humanities $13,891,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Humanities is responsible.".

(d) AUTHORIZATION MAXIMUMS.—Section 11 of the Act is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—

"(A) $163,660,000 for fiscal year 1986,

"(B) $170,206,400 for fiscal year 1987, and

"(C) $177,014,656 for fiscal year 1988.

"(2) The total amount of appropriations to carry out the activities for the National Endowment for the Humanities shall not exceed—

"(A) $139,478,000 for fiscal year 1986,

"(B) $145,057,120 for fiscal year 1987, and

"(C) $150,859,405 for fiscal year 1988.".

REPEALERS

SEC. 8. (a) EXECUTED INDEMNITY STUDY REPEALED.—Subsections (d) and (e) of section 9 of the Act are repealed.

(b) EXECUTED PROPERTY STUDY REPEALED.—Subsection (d) of section 10 of the Act is repealed.

MUSEUM SERVICES AUTHORIZATION

SEC. 9. Section 209(a) of the Museum Services Act is amended to read as follows:

"(a) For the purpose of making grants under section 206(a), there are authorized to be appropriated $21,600,000 for fiscal year 1986, $22,464,000 for fiscal year 1987, $23,362,560 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

ARTS AND ARTIFACTS INDEMNITY PROGRAM AMENDMENTS

SEC. 10. (a) FEDERAL COUNCIL MEMBERSHIP.—Section 2(b) of the Arts and Artifacts Indemnity Act is amended—

(1) by inserting "(1) after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) For purposes of this Act, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.".

(b) ELIGIBILITY FOR INDEMNITY.—(1) Section 3(b)(1) of the Arts and Artifacts Indemnity Act is amended by striking out ", or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exhibition be so covered" and inserting in lieu thereof "or eleswhere, preferably when part of an exchange of exhibitions".

(2) The amendment made by paragraph (1) shall apply with respect to any exhibition which is certified under section 3(a) of the Arts and Artifacts Indemnity Act after the date of enactment of this Act.

(c) INDEMNITY AGREEMENT LOSS LIMITATIONS.—(1) Section 5(b) of the Arts and Artifacts Indemnity Act is amended by striking out "$400,000,000" and inserting in lieu thereof "$650,000,000".

(2) Section 5(c) of the Arts and Artifacts Indemnity Act is amended by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000".

STUDY OF ALTERNATIVE FEDERAL FUNDING OF THE ARTS AND THE HUMANITIES

SEC. 11. (a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study to determine the feasibility of supplementing expenditures made from the general fund of the Treasury of the United States for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services through other Federal funding mechanisms. The study required by this section shall consider, but is not limited to, the consideration of the following funding sources:

(A) A revolving fund comprised of payments made to the Federal Government through an extension of the existing Federal copyright period for artistic, dramatic, literary, and musical works.

(B) A revolving fund comprised of payments made to the Federal Government for the right to use or publicly perform artistic, dramatic, literary, and musical works in the public domain.

(2) In carrying out the study required by this section, the Comptroller General shall frequently consult with and seek the advice of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Register of Copyrights, the Chairman of the Labor and Human Resources Committee of the Senate, and the Chairman of the Education and Labor Committee of the House of Representatives, concerning the scope, direction, and focus of the study.

(3) In conducting the study required by this section, the Comptroller General shall consider the impact which the implementation of each supplemental funding mechanism would have on—

(A) any international copyright treaties, commitments, and obligations to which the United States is a party;

(B) public participation in the arts and the humanities;

(C) private, corporate, and foundation support for the arts and the humanities;

(D) the overall quality of arts and the humanities in the United States;

(E) the creative activities of individual authors and artists; and

(F) the activities and operations of private copyrighting organizations.

(b) REPORT.—The Comptroller General shall prepare and submit to the Congress not later than one year after the date of enactment of this Act a report of the study required by this section, together with such recommendations as the Comptroller General deems appropriate.

Mr. STAFFORD. Mr. President, on behalf of the subcommittee on Education, Arts and Humanities, I am pleased to support S. 1264, the bill to reauthorize the National Foundation on the Arts and Humanities Act of 1965. In existence since 1965, this Act authorizes the National Endowment for the Arts, the National Endowment for the Humanities and the Institute of Museum Services. This bill is quite similar to the original bill introduced by our colleague, Senator QUAYLE, on June 7.

Since then, the merits of these programs have been described in hearings and throughout the entire reauthorization process. It has been stressed time and time again, Mr. President, that the combination of these three programs is important not only to our Nation's heritage and cultural developments but also to the educational well-being of all our citizens. Because of the success of the current programs, the bill we have before us is a relatively simple, straightforward reauthorization involving mostly technical changes.

First of all, Mr. President, in keeping with the Congress' concern over budget deficits, the numbers in this proposal stay within the limits contained in the first concurrent budget resolution.

This bill also reauthorizes the institute of Museum Services which, albeit small, is an important program for the operation of many of our Nation's museums. The administration has tried to eliminate the Institute repeatedly again, but we, the Congress, have just as consistently given our full support.

Furthermore, the bill amends the Arts and Artifacts Indemnity Act, the program which insures art works and thereby increases artistic and cultural opportunities in the United States. By increasing the aggregate level of insurance available at any one time to $650 million and the level of individual exhibits to $75,000 we take into consideration the inflationary impact on art works.

CBO estimates no cost increase to the Federal Government from this change as there has been only one claim submitted since enactment of this program in 1975. Furthermore, Mr. President, the amendment also modifies the exchange requirement in the Arts and Artifacts Indemnity Program to make it possible for coverage for a U.S.-owned work to go abroad. It is my belief that this change will allow for the consideration of unique exhibits which benefit the American taxpayer by fostering better worldwide understanding of American culture and heritage.

As I said earlier Mr. President, this bill is straightforward and includes mostly technical language to clarify congressional intent. I am very pleased with the bipartisan support that went into this reauthorization and am especially grateful to all the members of the subcommittee and, especially, their staff members. I commend this bill to my colleagues.

Mr. PELL. Mr. President, as the chief Senate sponsor of the original National Foundation on the Arts and Humanities Act of 1965, I am especially pleased to join with my colleague Senator STAFFORD in supporting the extension of the vital programs that assist the arts and humanities and provide critically needed aid to our Nation's museums.

With Senator STAFFORD's supportive leadership as chairman of the Subcommittee on Education, Arts and Humanities, we have developed what I believe is a sound and realistic bill that will reauthorize the component parts of the Foundation for 5 years. The current legislation expires as of October 1, 1985 and we propose to extend it through fiscal year 1990.

S. 1264 reflects the subcommittee's general satisfaction with the operation of the two Endowments and the Institute of Museum Services. The Arts and Humanities Endowments are coincidentally observing their 20th anniversary this year and it is a tremendous personal satisfaction to see the growth that has occurred over these two decades. The skepticism and distrust that met our original proposal has long since faded and these agencies are now the very cornerstone of American cultural activity. Endowment grants are now viewed as marks of distinction and achievement and they have had a profound impact on the development and appreciation of the arts and humanities in the United States.

It has also been personally rewarding to note how bipartisan support for these agencies has increased and strengthened over the years. It marks a reaffirmation that our Federal Government does indeed have an important role to play in the support of culture in this country. This role has always been that of the junior partner in any project so as to avoid a dominant Government role in dictating our cultural environment. A fundamental concept of the 1965 legislation holds true today—that private initiative should continue to be the principal and primary source for the support

and encouragement of the arts and humanities in this country.

One major area which has been of particular concern to me over the past two decades has been the humanities programs in the States. I regret that these organizations were not mandated to be official agencies of the States when the legislation was first enacted in 1965. Arts councils have been official State organizations for this entire period and one cannot help but note how successful they have become in attracting State funds for their respective programs.

I believe that the humanities councils would benefit in the long run if they had similar status as official agencies of the States. However, since the first councils were established in the early 1970's, many of them have established very positive and fruitful relationships with their State governments and I commend them for this. In the 1980 reauthorization I asked that four members of each council be appointed by the Governor in each State to broaden the membership and reinforce the linkage between council and State.

The legislation before us today will increase the Governor's appointees to six. As most councils have between 20 and 25 members, 6 gubernatorial appointees is a reasonable and appropriate number and should serve to enhance relations with the States even further.

Many of the administration's own proposals for reauthorization have been incorporated into this bill—changes that are noncontroversial, reasonably and timely. In the Arts and Artifacts Indemnification Program, for example, the aggregate amount of insurance available for exhibitions is raised from $400 to $650 million. This is a sensible change which reflects the increased value of works of art as well as the greater demand by museums for indemnification of exhibitions. This program has made it possible for the American public to view an enormous variety of arts and artifacts while saving museums over $11 million in insurance premiums. The level of indemnity for individual exhibitions is also raised from $50 to $75 million in the first increase per exhibition in the history of the program.

The Institute of Museum Services was established in 1976 in the Department of Health, Education, and Welfare and in 1984 was moved by action of the congressional authorizing committees to its current place alongside the Endowments as the third independent cultural agency under the National Foundation on the Arts and Humanities. The Institute operates a unique grant program which provides urgently needed general operating support to our Nation's museums. It also has recently developed a highly useful program of conservation support which has greatly assisted museums in caring properly for their collections.

This year 449 American museums from every geographical area of the country received GOS awards which totaled $16,723,000. Funds are provided for basic services such as security, maintenance, education and outreach programs—areas that have traditionally been the most difficult to raise private funds for.

It is absolutely critical that these institutions which preserve our national heritage and make it accessible to the public be healthy and secure both fiscally and physically. The American museum-going public and their future generations deserve no less. The Institute of Museum Services makes an important contribution toward insuring the vitality and permanence of all our museums. I am pleased to support the extension of these important Federal cultural programs and I urge my colleagues to do the same.

Mr. HATCH. Mr. President, it is fitting that on the 20th anniversary of the creation of the Arts and Humanities Foundation we in Congress both reauthorize and remember this important program. The National Endowment for the Humanities, the National Endowment on the Arts, and the Institute of Museum Services have contributed significantly to the enrichment of our Nation's cultural life. Today we have the opportunity to reaffirm the importance of these programs.

Wide public support for and appreciation of the arts and humanities is critical to any society which wants to be a civilization. Science and technology have made our lives not only more meaningful but more safe and healthful as well. However, our society must also give equal emphasis to culture and beauty. In truth, the disciplines of the arts and the humanities are much the same as the disciplines of the sciences. They all seek to understand our world and are simply different methods for making our lives more satisfying and more meaningful.

It is important that we in Congress, as well as all Americans, continue to support these disciplines and the museums that protect and display our cultural heritage. The creative impulse that generates new ideas and new solutions to society's problems should be encouraged. Today, with the passage of this reauthorization bill, Congress signals to the rest of the Nation that these programs should continue to be a high priority for public and private support.

(By request of Mr. BYRD, the following statement was ordered printed in the RECORD:)

● Mr. KENNEDY. Mr. President, I am pleased to be a cosponsor of the legislation before us now, S. 1264, to reauthorize the activities of the National Foundation of the Arts and Humanities. The National Endowment for the Arts, the National Endowment for the Humanities and the Institute of Museum Services are programs which enjoy strong bipartisan support.

The hearings held by the Subcommittee on Education, Arts and Humanities reaffirmed our enthusiastic commitment to a Federal policy in support of the arts.

Over the period of the last 20 years, the Endowments have fully realized the expectation of their enabling legislation. They have helped enormously to bring quality arts programming to more Americans. They have helped increase awareness of the arts and have been a strong impetus for fundraising for private and local sources.

A provision which I strongly support provides important new improvements in the indemnity program so that it will have wider availability and application without a loss of focus.

I attended a press conference last week when the challenge grants for 1986 were announced. For five institutions in my State of Massachusetts, the new awards will mean major capital improvement and fundraising support. The national impact of the Challenge Program is extraordinary. The program has been an exceptional one, utilizing in a very positive way, the principles of public and private partnership. For these reasons, I believe it is one of the most effective programs sponsored by the Endowment.

I would like to commend Subcommittee Chairman STAFFORD and Senator PELL for their painstaking efforts to ensure a bill that strengthens these already sound agencies.

In these days of severe budget crisis, it would be easy to overlook the arts and humanities. This bill reaffirms congressional commitment to the program that ensures that our country is as proud of its artistic achievements as it is of its scientific and technical accomplishments. It is this vision for a more complete Nation which is at the center of this bill.

This week we celebrate the 20th anniversary of the Endowments and it is entirely appropriate that the Senate mark the occasion with its endorsement of this legislation to underscore our commitment not to a Federal arts policy, but to a Federal policy in support of the arts.

I read with great interest a recent article in the New York Times which discusses the traditional American support for the arts. It echoes much of our discussion today in the Senate Chamber and I ask unanimous consent that it be printed in the RECORD.

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

THE ARTS' KEY ROLE IN OUR SOCIETY

(By Arthur Schlesinger, Jr.)

This is a year curiously dotted by anniversaries; and one must hope that, as we salute the bitter memories of war, a less dramatic anniversary will not slip by unnoticed.

Twenty years ago this week, the Congress passed the National Foundation of the Arts and Humanities Act. The act's preamble declared that support of the arts and humanities, "while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government." In enacting this law, which led to the establishment of the National Endowments for the Arts and for the Humanities, Congress affirmed a conviction that the arts and humanities are vital to the health and glory of the Republic.

This was not a novel idea. In his first annual message, President George Washington told Congress he was "persuaded that you will agree with me in opinion that there is nothing which can better deserve your patronage than the promotion of science and literature." A third of a century later, President John Quincy Adams called for laws promoting "the cultivation and encouragement of the mechanic and of the elegant arts, the advancement of literature, and the progress of the sciences." In the third year of the Civil War, President Abraham Lincoln ordered that construction of the Capitol dome be completed. When critics objected to the diversion of labor and money from the prosecution of the war, President Lincoln said, "If people see the Capitol going on, it is a sign that we intend this Union shall go on."

President Franklin D. Roosevelt recalled this story in 1941 when, in a world ablaze with war, he dedicated the National Gallery of Art in Washington. And President John F. Kennedy recalled both these stories when he urged public support for the arts in 1962. Both Lincoln and Roosevelt, Kennedy said, "understood that the life of the arts, far from being an interruption, a distraction, in the life of a nation, is very close to the center of a nation's purpose—and is a test of the quality of a nation's civilization."

The policy of Federal support is an expression of the value the Republic places on the arts, a symbol of the role assigned to the arts in our national life. And Congress today remains steadfast in its belief in the centrality of arts to a civilized society. It has shown no disposition to repeal the act of 1965 and has steadily resisted Presidential attempts to cut National Endowments budgets.

Yet the idea of public support, and with it the idea that the state of the arts is a matter of national concern, are under increasing challenge—ironically not from Congress but from renegade parts of the intellectual community itself. We live in a decade that likes to disparage government and to exalt the market. We are told that, if a cultural institution cannot pay its way, then it has not economic justification and, if no economic justification, no social justification. Art, we are given to understand, must stand or fall by the box-office test, and the devil take the hindmost.

To deny the arts a public role is the real *trahison des clercs*. For painters, composers, writers, film-makers, sculptors, architects, orchestras, museums, libraries, concert halls, opera houses contribute indispensably to the pride and glory of the nation. They are crucial to the forming of national traditions and to the preservation of civic cohesion. George Washington wrote: "The Arts and Sciences essential to the prosperity of the State and to the ornament and happiness of human life have a primary claim to the encouragement of every lover of his Country and mankind." The arts and humanities serve us all. They are surely as worthy as banks, corporations and other agencies of private profit to be objects of Federal concern, subsidy and even bail-out.

If history tells us anything, it tells us that the United States, like all other nations, will be measured in the eyes of posterity less by the size of its gross national product and the menace of its military arsenal than by its character and achievement as a civilization. Government cannot create civilization. Its action can at best be marginal to the adventure and mystery of art. But public support reinvigorates the understanding of art as a common participation, a common possession.

"Great-nations," said John Ruskin, "Write their autobiographies in three manuscripts—the book of their deeds, the book of their words and the book of their art. Not one of these books can be understood unless we read the two others; but of the three the only quite trustworthy one is the last. The acts of a nation may be triumphant by its good fortune; and its words mighty by the genius of a few of its children; but its art only by the general gifts and common sympathies of the race."●

Mr. SIMON. Mr. President, I am pleased to support the reauthorization of the National Foundation on the Arts and Humanities Act before us today.

It is fitting that we consider a 5-year extension of the National Endowment for the Arts and the National Endowment for the Humanities on the 20th anniversary of their creation by Congress. Their sister agency, the Institute of Museum Services, is a newer addition to the Foundation and likewise makes a vital contribution to this Nation's cultural life.

Each of us has had an opportunity to benefit from the work of the two Endowments and the IMS. When we enjoy and learn from an afternoon at one of our Nation's museums or a local historical society, chances are that operations or exhibits have received support from the Endowments or the IMS. When a magnificent international touring exhibition such as the King Tut or Picasso shows comes to our country, we have the programs authorized under the Foundation Act to thank. Community outreach and touring programs by performing companies like the Eglevsky Ballet are largely the product of Foundation agency support. This year's publication of the first volumes of the Dictionary of American Dialects could not have happened without support from Foundation agencies. Many fine public broadcasting presentations, works of visual and performing artists and scholars, and local cultural agencies exist today because of the impetus they have received from small Federal grants.

These benefits come from a very small investment. Our 65 cents per capita investment in the arts and humanities can be compared to the $75 invested per capita by the Austrian Government. While Federal money is important, and the modest increases in the reauthorization bill recognize this, Foundation agencies have been very successful in generating private interest in arts and humanities program support. The Endowments leverage private support requirements of matching grants, and the substantial increase in private, foundation, and corporate giving over the past two decades is solid proof that the Endowments do spur private support.

This private/public cooperation has yielded great results. I am pleased to say that the achievements of past support for the arts and humanities can be seen in my home State of Illinois. The Newberry Library, the Art Institute of Chicago, the Field Museum, the Museum of Science and Technology, the Illinois Historical Society and individual scholars at the University of Chicago, Loyola, Northwestern, and many of our smaller private colleges and fine public institutions all receive Foundation or Foundation-generated support and provide a return on this investment that is enjoyed the world over. The Lyric Opera, the Chicago Symphony Orchestra, and experimental theater groups such as Steppenwolf and Widsom Bridge only begin to name the outstanding Illinois artists who have won the recognition and support of the Foundation agencies. I applaud the last two decades of achievement of the Endowments, and urge my colleagues to support this reauthorization bill to continue their excellent programs through fiscal year 1990. We will benefit as a people if we continue to support that which is best in creativity and scholarship.

Our Nation's continued support for the arts and humanities is possible within the constraints of fiscal responsibility. This bill before us falls within the budget limits set by the 1985 budget resolution yet provides modest increases for Arts, Humanities, and IMS. This funding will generate many times greater private support and cement the public/private partnership which was so carefully nurtured under the chairmanships of Roger Stevens, Nancy Hanks, Livingston Biddle, and Frank Hodsell at the Arts Endowment and of Barnaby Keeney, Ronald Berman, Joe Duffey, and Bill Bennett at the Humanities Endowment. Our firm support will continue their good work.

I am a strong supporter of the Foundation because it gives us all so much—from the third grader in Vermont who writes his first poem because of the artists-in-the-schools program, to the ghetto teenagers in Pittsburgh who hear their first opera through a community outreach program, to the folk artist in southern Illinois whose quiltmaking is recognized

for its artistry and history, to the scholars who produce a collected edition of Colonial papers and make them available to both the academic community and the public. Individuals, institutions and indeed our Nation benefit from our support for the arts and humanities. The committment we make today will help insure that we will have a vital culture, and wide access to that culture, for generations to come.

AMENDMENT NO. 728

(Purpose: To authorize the Commission on the Bicentennial of the Constitution of the United States to carry out an education program for the commemoration of the Bicentennial of the Constitution of the United States and the Bill of Rights and to provide for the position of Poet Laureate Consultant in Poetry in the Library of Congress)

Mr. STAFFORD. Mr. President, I send to the desk an amendment to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD] proposes an amendment numbered 728.

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

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

The amendment is as follows:

On page 9, beginning with line 5, strike out through line 10 on page 10.

On page 10, line 12, strike out "Sec. 6" and insert in lieu thereof "Sec. 5".

On page 10, line 18, strike out "Sec. 7" and insert in lieu thereof "Sec. 6".

On page 13, strike out lines 1 through 10.

On page 13, line 11, strike out "(c)" and insert in lieu thereof "(b)".

On page 14, line 6, strike out "(d)" and insert in lieu thereof "(c)".

On page 15, line 2, strike out "Sec. 8" and insert in lieu thereof "Sec. 7".

On page 15, line 8, strike out "Sec. 9" and insert in lieu thereof "Sec. 8".

On page 15, line 17, strike out "Sec. 10" and insert in lieu thereof "Sec. 9".

On page 16, line 9, strike out the comma.

On page 16, line 23, strike out "Sec. 11" and insert in lieu thereof "Sec. 10".

On page 18, between lines 20 and 21 insert the following:

EDUCATION PROGRAM FOR THE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION OF THE UNITED STATES AND THE BILL OF RIGHTS

SEC. 11. (a) GENERAL AUTHORITY.—(1) The Commission on the Bicentennial of the United States Constitution shall, in accordance with the provisions of this section, carry out an education program for the commemoration of the bicentennial of the Constitution of the United States and the Bill of Rights.

(2) To commemorate the bicentennial anniversary of the Constitution of the United States and the Bill of Rights, the Commission—

(A) is authorized to make grants to local educational agencies, private elementary and secondary schools, private organizations, individuals, and State and local public agencies in the United States for the development of instructional materials and programs on the Constitution of the United States and the Bill of Rights which are designed for use by elementary or secondary school students; and

(B) shall implement an annual national bicentennial Constitution and Bill of Rights competition based upon the programs developed and used by elementary and secondary schools.

(3) In carrying out the program authorized by this section, the Chairman of the Commission shall have the same authority as is established in section 10 of the National Foundation on the Arts and the Humanities Act of 1965.

(b) DEFINITION.—For the purpose of this section, the term "Commission" means the Commission on the Bicentennial of the United States Constitution.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, 1989, 1990 and 1991 to carry out the provisions of this section.

(2) Amounts appropriated pursuant to paragraph (1) may be used for necessary administrative expenses, including staff.

POET LAUREATE CONSULTANT IN POETRY

SEC. 12. (a) RECOGNITION OF THE CONSULTANT IN POETRY.—The Congress recognizes that the Consultant in Poetry to the Library of Congress has for some time occupied a position of prominence in the literary life of the Nation, has spoken effectively for literary causes, and has occasionally performed duties and functions sometimes associated with the position of poet laureate in other nations and societies. Individuals are appointed to the position of Consultant in Poetry by the Librarian of Congress for one- or two-year terms solely on the basis of literary merit, and are compensated from endowment funds administered by the Library of Congress Trust Fund Board. The Congress further recognizes this position is equivalent to that of Poet Laureate of the United States

(b) POET LAUREATE CONSULTANT IN POETRY ESTABLISHED.—(1) There is established in the Library of Congress the position of Poet Laureate Consultant in Poetry. The Poet Laureate Consultant in Poetry shall be appointed by the Librarian of Congress pursuant to the same procedures of appointment as established on the date of enactment of this section for the Consultant in Poetry to the Library of Congress.

(2) Each department and office of the Federal Government is encouraged to make use of the services of the Poet Laureate Consultant in Poetry for ceremonial and other occasions of celebration under such procedures as the Librarian of Congress shall approve designed to assure that participation under this paragraph does not impair the continuation of the work of the individual chosen to fill the position of Poet Laureate Consultant in Poetry.

(c) POETRY PROGRAM.—(1) The Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, shall annually sponsor a program at which the Poet Laureate Consultant in Poetry will present a major work or the work of other distinguished poets.

(2) There are authorized to be appropriated to the National Endowment for the Arts $10,000 for the fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990, for the purpose of carrying out this subsection.

Mr. MATSUNAGA. Mr. President, on behalf of myself and the Senator from Maine [Mr. COHEN], I rise in support of the committee amendment which would create the Office of poet laureate/consultant in poetry of the United States.

This amendment is based on the provisions of my bill, S. 313, which was introduced in January of this year. S. 313 provided for the appointment of a poet laureate of the United States by the President of the United States. During consideration of this measure in connection with the reauthorization of the National Foundation for the Arts and the Humanities Act, however, I was asked to consider combining the proposed poet laureate of the United States with the existing Office of Poetry Consultant in the Library of Congress, and this I agreed to do. My amendment provides that the poet laureate/consultant in poetry will be appointed and compensated by the Librarian of Congress pursuant to the same procedures in effect when this measure is enacted.

My amendment further encourages other departments and agencies of the Federal Government to use the services of the poet laureate/consultant in poetry for ceremonial occasions, as long as the work of the poet laureate/consultant in poetry is not impaired, and it provides for an annual program, sponsored by the National Endowment for the Arts, at which the poet laureate/consultant in poetry would present a major work or the work of other distinguished poets. Funds in the amount of $10,000 per year are authorized for this program under the provisions of my amendment.

Mr. President, my amendment recognizes the contributions made by the Library of Congress, which has appointed poetry consultants for nearly 50 years now. The Library's consultant in poetry is well-known among poets and writers and has occasionally performed functions associated with poet laureates in other countries. Nonetheless, the poetry consultant has remained all but invisible publicly. By upgrading this position, by making the poetry consultant a poet laureate, and by giving the poet laureate a public platform, I hope to foster increased recognition and appreciation of poetry in the United States. Our country is one of only a few advanced nations which has failed to give adequate recognition to its great poets. England, from which we inherited many of our cherished democratic ideals, officially created the position of poet laureate in the 17th century, but the unofficial origin of the position dates back to the reign of King Henry III in the 13th century. In this country, poets such as Carl Sandburg, Walt Whitman, Robert Frost, Henry Wadsworth Longfellow, Archibald MacLeish, Robert Penn

Warren, Phyllis McGinley and James Dickey have captured the American spirit in a unique and timeless way. Had they been recognized as poet laureates in their time, Americans in learning institutions would no doubt have been inspired to pursue poetry as a means of creative expression.

It is my hope that the work of the future poet laureate/consultant in poetry will also reflect our Nation's great diversity—its multiethnic, multicultural, multiracial heritage, its strength and compassion, and its democratic idealism. I anticipate that this more visible, more prestigious position will inspire younger, less well-known American poets and give them a goal to which they might aspire. In this spirit, I am looking forward to the installation of our Nation's first poet laureate/consultant in poetry. I strongly urge favorable consideration of my amendment by the Senate.

Mr. BRADLEY. Mr. President, when the word "Bicentennial" is mentioned, most Americans conjur up very fond memories of tall ships, fireworks, celebrations and festivities. In 1976, we held a celebration of national scale on the 200th anniversary of the signing of the Declaration of Independence, and Americans showed their pride in our 200 years of freedom.

Why do we as a people like to celebrate the signing of the Declaration of Independence? One hundred and twenty seven years ago, Abraham Lincoln said:

> We hold this annual celebration to remind ourselves of all the good done in this process of time, of how it was done and who did it, and how we are historically connected with it; and we go from these meetings in better humor with ourselves—we feel more attached the one to the other, and more firmly bound to the country we inhabit.

The Bicentennial of the Declaration of Independence gave Americans a chance to pause for a moment and reflect on the importance of the actions in 1776 and the shared values on which this Nation is based.

Mr. President, a new bicentennial will soon be upon us—the 200th anniversary of our Constitution and Bill of Rights. This bicentennial will give Americans another opportunity to celebrate that which binds us together as a people.

We should celebrate this monumental work. And in our celebration, it is my hope that Americans—young and old—will pause to consider the central principles of the Constitution—separation of powers, checks and balances, federalism, civil liberties, and republican government. Our Constitution—200 years young—is still the model for the world.

Mark Cannon, the Executive Director of the Commission on the Bicentennial of the Constitution, recently stated that:

> Very few projects in 1976 were intended primarily to educate. But the end result was, in varying degrees, education—not only of schoolchildren, but of all Americans. However successful the Declaration Bicentennial was, several things can and should be done differently from 1987 to 1989. The Constitution Bicentennial celebration should be more than tall ships and medallions. It should be a "celebration" with greater emphasis on civic education.

I fully agree with Mark Cannon's statement. The Bicentennial of the Constitution presents us with an opportunity to educate Americans—and the peoples of the world—about our Constitution and Bill of Rights. We need to take advantage of this opportunity.

It is to this end, Mr. President, that I am pleased to cosponsor an amendment with my colleague from Vermont [Mr. STAFFORD] to establish under the jurisdiction of the Commission on the Bicentennial of the Constitution a National Competition on the Constitution and the Bill of Rights.

The competition is aimed at awakening young Americans' interest in Government and the writings of the Constitution. The competition will involve classes in hundreds of school districts throughout the Nation in local, intermediate, and State level competitions. In addition, a national competition would be held in Washington, DC, for winning classes from each State participating in the program.

Mr. President, the Commission on the Bicentennial of the Constitution will be developing many programs to involve Americans in a greater understanding of the Constitution. This program deserves to be under their jurisdiction. I urge support of this measure.

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

The amendment (No. 728) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute as amended.

The committee substitute, as amended, was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the committee substitute, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

Mrs. HAWKINS. Mr. President, the Arts and Artifacts Indemnities Act is one of the most important steps ever taken to facilitate the international exchange of works of art. It has been of major benefit to American art lovers by bringing international art exhibitions to this country. The bill before us, S. 1264, would alter the eligibility requirements a bit for indemnification. Would the distinguished chairman of the subcommittee with jurisdiction of this bill, the Senator from Vermont, explain the nature of the proposed change in eligibility?

Mr. Stafford. I would be happy to.

The thrust of the current program is to bring international art to the United States. Statistics bear out this orientation: since its inception, indemnification has been approved for 164 foreign exhibits coming to the United States, and only 9 American exhibits going abroad. Under the present statutory requirements, an American exhibit going abroad can receive indemnification only if it is part of an exchange of exhibits. The committee feels that this exchange requirement is in some instances too restrictive. Occasionally there will be an American exhibit or program which warrants indemnification, but which is not part of an exchange of exhibits. The committee amendment would eliminate the present requirement for an exchange, and substitute a preference. This is not intended to encourage a major shift in emphasis in the program. Instead, this will give the Federal Council for the Arts and Humanities, the Government body with the final approval of indemnity applications, the flexibility to provide coverage for exceptional American exhibitions of national or international importance which are not part of an exchange of exhibits.

Mrs. HAWKINS. Is the chairman aware of the planned program of the Rauschenberg Overseas Culture Interchange [ROCI]? America's Bicentennial artist, Robert Rauschenberg, is in the process of creating 10 original works of art reflecting the culture of each of 22 nations. Exhibits of these works, eventually numbering over 200, will tour the 22 nations, and the interchange will conclude with an exhibition of all the works at the National Gallery in Washington late in this decade. One work from each of the nations will be donated to the National Gallery, a collection of very significant value.

Mr. Rauschenberg has not sought direct Government funding for the program, but has applied for indemnification. But ROCI is not part of an exchange of exhibits, so at present it cannot qualify.

Mr. STAFFORD. I am certainly aware of the Rauschenberg Overseas Culture Interchange. This is the sort of program which in my view qualified under the committee report language as an exceptional exhibition of national or international importance. Should the Senate provision become law, I

hope the Federal Council will give careful consideration to indemnification for ROCI.

Mrs. HAWKINS. I thank the Senator, and join him in supporting ROCI.

Mr. STAFFORD. Mr. President, I know of no other speakers on this side with respect to the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1264), as amended was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Foundation on the Arts and the Humanities Amendments of 1985".

PROJECT DEFINITION; CONSTRUCTION OF FACILITIES

SEC. 2. Section 3(d)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (hereafter in this Act referred to as the "Act") is amended by inserting "for the purposes of section 5(l) only," after "(2)".

APPLICATION APPROVAL OF NATIONAL COUNCIL ON THE ARTS

SEC. 3. The last sentence of section 6(f) of the Act is amended by striking out "$17,500" and inserting in lieu thereof "$30,000".

STATE HUMANITIES COUNCILS

SEC. 4. Section 7(f)(2)(B)(i) of the Act is amended—

(1) by striking out "four" and inserting in lieu thereof "six"; and

(2) by striking out "20 per centum" and inserting in lieu thereof "25 per centum".

NATIONAL COUNCIL ON THE HUMANITIES

SEC. 5. The second sentence of section 8(b) of the Act is amended by inserting after "selected" the following: "from citizens of the United States who are recognized for their knowledge of, expertise in, or commitment to the humanities and".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. (a) EXTENSION OF AUTHORIZATIONS.—(1)(A) The first sentence of section 11(a)(1)(A) of the Act is amended to read as follows: "For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $118,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(B) The first sentence of section 11(a)(1)(B) of the Act is amended to read as follows: "For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(2)(A)(i) The matter preceding clause (i) of section 11(a)(2)(A) of the Act is amended by striking out "1985" and inserting in lieu thereof "1990".

(ii) The exception at the end of section 11(a)(2)(A) of the Act is amended to read as follows:

"except that the amounts so appropriated to the National Endowment for the Arts shall not exceed $8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(B)(i) The matter preceding clause (i) of section 11(a)(2)(B) of the Act is amended by striking out "1985" and inserting in lieu thereof "1990".

(ii) Clause (ii) of section 11(a)(2)(B) of the Act is amended by inserting "and subgrantees" after "grantees" each time it appears in such clause.

(iii) The exception at the end of section 11(a)(2)(B) of the Act is amended to read as follows:

"except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(3)(A)(i) The matter preceding clause (i) of section 11(a)(3)(A) of the Act is amended by striking out "1985" and inserting in lieu thereof "1990".

(ii) The exception at the end of section 11(a)(3)(A) of the Act is amended to read as follows:

"except that the amounts so appropriated to such Endowment shall not exceed $20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(B)(i) The matter preceding clause (i) of section 11(a)(3)(B) of the Act is amended by striking out "1985" and inserting in lieu thereof "1990".

(ii) The exception at the end of section 11(a)(3)(B) of the Act is amended to read as follows:

"except that the amounts so appropriated to such Endowment shall not exceed $19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(b) AUTHORIZATION FOR ADMINISTRATION.—(1) Section 11(c)(1) of the Act is amended to read as follows:

"(1) There are authorized to be appropriated to the National Endowment for the Arts $15,582,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Arts is responsible.".

(2) Section 11(c)(2) of the Act is amended to read as follows:

"(2) There are authorized to be appropriated to the National Endowment for the Humanities $13,891,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Humanities is responsible.".

(c) AUTHORIZATION MAXIMUMS.—Section 11 of the Act is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—

"(A) $163,660,000 for fiscal year 1986,

"(B) $170,206,400 for fiscal year 1987, and

"(C) $177,014,656 for fiscal year 1988.

"(2) The total amount of appropriations to carry out the activities for the National Endowment for the Humanities shall not exceed—

"(A) $139,478,000 for fiscal year 1986,

"(B) $145,057,120 for fiscal year 1987, and

"(C) $150,859,405 for fiscal year 1988.".

REPEALERS

SEC. 7. (a) EXECUTED INDEMNITY STUDY REPEALED.—Subsections (d) and (e) of section 9 of the Act are repealed.

(b) EXECUTED PROPERTY STUDY REPEALED.—Subsection (d) of section 10 of the Act is repealed.

MUSEUM SERVICES AUTHORIZATION

SEC. 8. Section 209(a) of the Museum Services Act is amended to read as follows:

"(a) For the purpose of making grants under section 206(a), there are authorized to be appropriated $21,600,000 for fiscal year 1986, $22,464,000 for fiscal year 1987, $23,362,560 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

ARTS AND ARTIFACTS INDEMNITY PROGRAM AMENDMENTS

SEC. 9. (a) FEDERAL COUNCIL MEMBERSHIP.—Section 2(b) of the Arts and Artifacts Indemnity Act is amended—

(1) by inserting "(1) after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) For purposes of this Act, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.".

(b) ELIGIBILITY FOR INDEMNITY.—(1) Section 3(b)(1) of the Arts and Artifacts Indemnity Act is amended by striking out ", or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exhibition be so covered" and inserting in lieu thereof "or elsewhere preferably when part of an exchange of exhibitions".

(2) The amendment made by paragraph (1) shall apply with respect to any exhibition which is certified under section 3(a) of the Arts and Artifacts Indemnity Act after the date of enactment of this Act.

(c) INDEMNITY AGREEMENT LOSS LIMITATIONS.—(1) Section 5(b) of the Arts and Artifacts Indemnity Act is amended by striking out "$400,000,000" and inserting in lieu thereof "$650,000,000".

(2) Section 5(c) of the Arts and Artifacts Indemnity Act is amended by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000".

STUDY OF ALTERNATIVE FEDERAL FUNDING OF THE ARTS AND THE HUMANITIES

SEC. 10. (a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study to determine the feasibility of supplementing expenditures made from the general fund of the Treasury of the United States for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services through other Federal

funding mechanisms. The study required by this section shall consider, but is not limited to, the consideration of the following funding sources:

(A) A revolving fund comprised of payments made to the Federal Government through an extension of the existing Federal copyright period for artistic, dramatic, literary, and musical works.

(B) A revolving fund comprised of payments made to the Federal Government for the right to use or publicly perform artistic, dramatic, literary, and musical works in the public domain.

(2) In carrying out the study required by this section, the Comptroller General shall frequently consult with and seek the advice of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Register of Copyrights, the Chairman of the Labor and Human Resources Committee of the Senate, and the Chairman of the Education and Labor Committee of the House of Representatives, concerning the scope, direction, and focus of the study.

(3) In conducting the study required by this section, the Comptroller General shall consider the impact which the implementation of each supplemental funding mechanism would have on—

(A) any international copyright treaties, commitments, and obligations to which the United States is a party;

(B) public participation in the arts and the humanities;

(C) private, corporate, and foundation support for the arts and the humanities;

(D) the overall quality of arts and the humanities in the United States;

(E) the creative activities of individual authors and artists; and

(F) the activities and operations of private copyrighting organizations.

(b) REPORT.—The Comptroller General shall prepare and submit to the Congress not later than one year after the date of enactment of this Act a report of the study required by this section, together with such recommendations as the Comptroller General deems appropriate.

EDUCATION PROGRAM FOR THE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION OF THE UNITED STATES AND THE BILL OF RIGHTS

SEC. 11. (a) GENERAL AUTHORITY.—(1) The Commission on the Bicentennial of the United States Constitution shall, in accordance with the provisions of this section, carry out an education program for the commemoration of the bicentennial of the Constitution of the United States and the Bill of Rights.

(2) To commemorate the bicentennial anniversary of the Constitution of the United States and the Bill of Rights, the Commission—

(A) is authorized to make grants to local educational agencies, private elementary and secondary schools, private organizations, individuals, and State and local public agencies in the United States for the development of instructional materials and programs on the Constitution of the United States and the Bill of Rights which are designed for use by elementary or secondary school students; and

(B) shall implement an annual national bicentennial Constitution and Bill of Rights competition based upon the programs developed and used by elementary and secondary schools.

(3) In carrying out the program authorized by this section, the Chairman of the Commission shall have the same authority as is established in section 10 of the National Foundation on the Arts and the Humanities Act of 1965.

(b) DEFINITION.—For the purpose of this section, the term "Commission" means the Commission on the Bicentennial of the United States Constitution.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of this section.

(2) Amounts appropriated pursuant to paragraph (1) may be used for necessary administrative expenses, including staff.

POET LAUREATE CONSULTANT IN POETRY

SEC. 12. (a) RECOGNITION OF THE CONSULTANT IN POETRY.—The Congress recognizes that the Consultant in Poetry to the Library of Congress has for some time occupied a position of prominence in the literary life of the Nation, has spoken effectively for literary causes, and has occasionally performed duties and functions sometimes associated with the position of poet laureate in other nations and societies. Individuals are appointed to the position of Consultant in Poetry by the Librarian of Congress for one- or two-year terms solely on the basis of literary merit, and are compensated from endowment funds administered by the Library of Congress Trust Fund Board. The Congress further recognizes this position is equivalent to that of Poet Laureate of the United States.

(b) POET LAUREATE CONSULTANT IN POETRY ESTABLISHED.—(1) There is established in the Library of Congress the position of Poet Laureate Consultant in Poetry. The Poet Laureate Consultant in Poetry shall be appointed by the Librarian of Congress pursuant to the same procedures of appointment as established on the date of enactment of this section for the Consultant in Poetry to the Library of Congress.

(2) Each department and office of the Federal Government is encouraged to make use of the services of the Poet Laureate Consultant in Poetry for ceremonial and other occasions of celebration under such procedures as the Librarian of Congress shall approve designed to assure that participation under this paragraph does not impair the continuation of the work of the individual chosen to fill the position of Poet Laureate Consultant in Poetry.

(c) POETRY PROGRAM.—(1) The Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, shall annually sponsor a program at which the Poet Laureate Consultant in Poetry will present a major work or the work of other distinguished poets.

(2) There are authorized to be appropriated to the National Endowment for the Arts $10,000 for the fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990, for the purpose of carrying out this subsection.

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

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

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to amend the National Foundation on the Arts and Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act, to extend the authorization of appropriations for such acts, and for other purposes.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended until 1 p.m., with statements therein limited to 5 minutes each.

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

CHILD HEALTH DAY

Mr. KASTEN. Mr. President, October 7 will mark the observance of Child Health Day, which has been celebrated on the first Monday of every October since 1928.

In 1983, President Reagan announced a new effort to ensure that no child in need of medical care is denied access to the care that he or she needs, and he enlisted the support of the American people—parents, volunteers, health professionals, and educators—in this effort.

The health care needs of our Nation's children are great, but in the last few years we have seen the overwhelming and agonizing needs of children around the world, who face death by starvation, by malnutrition, or by one of a myriad of accompanying diseases. Each year nearly 14 million children in developing countries die from malnutrition and disease.

This year the drought-driven epidemic of starvation and infant mortality affected 34 sub-Saharan African countries and prompted the creation of USA for Africa and the March 7 release of the multisuperstar recording of "We Are the World." In 9 weeks, the citizens of the United States contributed $45 million to the rescue effort. This was followed by the worldwide benefit concert by LiveAid. Tremendous support has been given not only by our own citizens but from many countries around the world to the people, and especially to the children, suffering in famine-scarred and poverty-stricken developing countries particularly in Africa, but also in the Americas, and the Near and Far East.

The world's governments increasingly are coming to the aid of those in terrible suffering, and progress is being made to save the children.

For instance, with the additional funds for health and nutrition appropriated by Congress in fiscal year 1985 for child survival, more than 50 projects and grants designed to have direct impact on the lives of developing countries' children have been obligated. The Agency for International Development [AID] is working with private voluntary organizations, and more than a third of the programs

supported by the additional funds from Congress will be carried out jointly by the United States and developing country private voluntary organizations. A few other highlights of this program:

In Bangladesh, the initiation of a nationwide program to distribute oral rehydration salts packets [ORS] through more than 8,000 outlets is beginning. Oral rehydration solution is a low-cost, extremely effective mixture of salt, sugar, and water, a simple method of eliminating death by dehydration through diarrhea, which kills 4 million children a year.

Ecuador is planning their first national immunization day in late October.

AID will be supporting vitamin A activities in five countries. A study in Indonesia which distributed vitamin A suggested that moderate vitamin A deficiency results in increased sickness and death in children.

In December, AID will sponsor a second conference to discuss the challenges and achievements that 700 of the world's scientists, physicians, and health representatives have experienced in 72 countries around the world in their efforts to promote the use of oral rehydration therapy. The conference is being held in cooperation with the International Center for Diarrhoeal Disease Research/Bangladesh, the U.N. Children's Fund [UNICEF], the UN Development Program, The World Bank, and the World Health Organization. It will directly benefit program managers who are in the front line of child survival activities and is a further step to achieve near-universal availability of this life-saving therapy within 10 years.

We are making progress in saving the lives of children and we must continue to work vigorously toward future gains. Health aid has long been recognized as one of the most valuable forms of foreign assistance. It is not only humanitarian, in that it saves the lives of children, but clearly of high importance in improving the health and the productivity of developing countries, so that they may become self-sustaining. What we do in health for these children today may go far to establishing peace, cooperation, and economic well-being in future years for all of us.

MURDER OF BENIGNO AQUINO

Mr. MURKOWSKI. Mr. President, the trial of 27 persons accused of involvement in the murder of Philippine political leader Benigno Aquino on August 21, 1983, is currently underway in Manila, Republic of the Philippines. The Congress has on several occasions spoken out with regard to the need to bring to justice those responsible for this crime, most recently in the foreign assistance authorization bill, signed by the President in August of this year.

Mr. President, I wish to enter in the RECORD the text of an announcement made by the U.S. Department of State on September 16, 1985. The Department released the texts of affidavits from six U.S. Air Force officers who were on duty at two airbases in the Philippines on August 21, 1983. The affidavits were provided to Philippine prosecutors in the ongoing trial on August 30, 1985. On September 30, 1985, it was announced in Manila that the prosecutors do not intend to use the USAF affidavits and consider the matter closed.

I believe that the Department of State's comment on this matter speaks for itself.

I also enter into the RECORD, Mr. President, copies of the six affidavits in question. Five of these affidavits were executed in the presence of and notarized by the Assistant Legal Advisor of the Department of State, Mr. Patrick M. Norton, and authenticated by the Deputy Secretary of State, Mr. John C. Whitehead. The sixth affidavit was accomplished in Manila.

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

PHILIPPINES: AQUINO ASSASSINATION TRIAL—RELEASE OF USAF AFFADAVITS

It has been the consistent position of the United States since the 1983 murder of Benigno Aquino that the investigation of that crime be thorough and impartial, and that those responsible, no matter who they may be, be brought to justice and punished to the fullest extent of the law. The United States therefore believes it important that the outcome of the current Aquino assassination trial in Manila be seen by the Filipino people as based on a thorough, complete consideration of all pertinent information.

In mid-July, newspaper accounts reported that on August 21, 1983, the day of Senator Aquino's assassination in Manila, unusual levels of activity by the Philippine Air Force were witnessed at two airbases in the Philippines (Wallace Air Station and Villamor Air Force Base) by United States Air Force personnel. So far as we have been able to ascertain, no one in the Department of State, or the U.S. Embassy in Manila, or the Defense Department other than USAF personnel in the Philippines were aware of the reported activities until the July newspaper accounts.

On August 7, the Philippine Ministry of Foreign Affairs requested through the United States Embassy in Manila that the United States provide to the Philippine Government any information in its possession relating to events on August 21, 1983 as reported in the July newspaper accounts. In a discussion between the United States Ambassador in Manila and Acting Foreign Minister Castro on August 8, it was agreed that the United States would prepare sworn affidavits from the USAF personnel on duty on August 21, 1983 at the two airbases in question. It was further agreed that these affidavits would be transmitted to the prosecutors, through the Ministry of Foreign Affairs, in a sealed envelope.

In mid-August, the U.S. Air Force prepared affidavits from six USAF personnel who were on duty at Wallace Air Station or Villamor Air Base on August 21, 1983. The affidavits were sworn before a notary public. The affidavits were then "authenticated" by the Department of State and the U.S. Embassy in Manila before being presented on August 30, as had been previously agreed, in a sealed envelope to the Ministry of Foreign Affairs for transmittal to the prosecutors.

On September 13, the Chief Prosecutor (Tanodbayan), Bernardo Fernandez, announced that the prosecutors do not intend to use the USAF affidavits and consider this matter closed. We indicated to the Philippine authorities from the outset that we expected the affidavits to become public at an appropriate moment. We also indicated that we were prepared to consider any further Philippine requests for assistance in this matter. Since the Tanodbayan has stated that it will not examine this matter further, it appears to us appropriate to release the affidavits now.

Mr. Fernandez also suggested in his statement of September 13 that the affidavits had not been properly authenticated and this alleged infirmity was somehow related to the Prosecutors' decision not to use them. We do not understand the basis for this assertion. Authentication is a technical legal procedure by which the authenticity of documents is protected. There is no question of the authenticity of the affidavits. Nor is there any basis for challenging the procedures by which they were authenticated. Authentication is simply a series of attestations of the authenticity of the documents as they pass from hand-to-hand. There are several ways of doing this. In this case, the State Department verified under seal that the affidavits had been properly notarized, the U.S. Ambassador in Manila verified that the Department seal had been properly affixed. This was in accord with normal judicial procedures.

An alternative procedure would have been to involve the Philippine Consulate in Washington in the chain of authentications. We considered and rejected this alternative when the Consulate refused to make the authentications without copying the documents—a condition we considered inconsistent with the arrangements of August 8 with the Acting Foreign Minister to have the documents transmitted in a sealed envelope to the prosecutors. When it became clear that the United States would not agree to permit the Consulate to copy the affidavits, the Philippine Embassy in Washington specifically suggested precisely the procedure that we in fact followed. Under these circumstances, we cannot explain the Tanodbayan's criticism of the authentication process that was followed. The statements of Tanodbayan Fernandez on September 13 that the affidavits were somehow defective is, in our view, wholly without foundation.

The affidavits in question represent the best recollections of six different individuals as to events that occurred two years earlier. As one would expect, there are minor discrepancies in their recollections.

The one unambiguous conclusion to which the affidavits point is that there was, in fact, a highly unusual degree of activity by the Philippine Air Force on August 21, 1983 (a Sunday), and that two Philippine Air Force fighters were scrambled on that day. The affidavits include all we know about those events.

We cannot of course substitute our judgment for that of the Philippine judicial processes concerning the weight or probity of the information in the affidavits. We had

hoped, however, that a rigorous examination of that information would have occurred within the judicial processes themselves.

AFFIDAVIT

I, Michael B. Etzler, being duly sworn, depose and say:

1. I am 29 years old and a First Lieutenant in the United States Air Force (USAF). I have been in the Air Force for ten and a half years and was commissioned in September 1982. I subsequently received training as a Weapons Controller and was later assigned to Wallace Air Station in the Philippines for my first commissioned duty assignment in March 1983. I departed the Philippines in March 1984.

2. Wallace Air Station is one of four Air Defense Direction Center (ADDC) in the Philippines. The other three are manned exclusively by Philippine Air Force (PAF) personnel. Wallace has about 14 radar scopes in what is known as the "dark room." These radar scopes are sometimes used by Philippine Air Force personnel. On weekdays the Wallace ADDC is manned by about 15-20 USAF and one or two PAF personnel. On weekends ordinarily only one PAF enlisted man is present and a reduced crew of from five to seven USAF personnel are on duty.

3. Air Defense instructions are issued from the Philippine Air Defense Control Center (PADCC) at Villamor (code named Arrow) and the Air Defense Centers support Air Defense by maintaining surveillance of their assigned area within the Philippine Air Defense Identification Zone (PADIZ). It was our function at Wallace to track and monitor aircraft in our area and for training purposes to control USAF aircraft and occasionally PAF aircraft. Additionally, we were responsible for controlling USAF aircraft intercepts of unidentified or unknown aircraft.

4. It was a routine matter for Philippine Air Force personnel to use one or more of our scopes. This could happen two to three times a week while the PAF was running training missions of PAF aircraft in the area.

5. On 21 August 1983, the crew I was on reported for duty about 7 AM as usual. Other USAF personnel on duty that day were Captain Black, the Senior Director, and T/Sgt Wendell Austin. It was a slow weekend. The USAF aircraft were not training on that Sunday. Our primary responsibility was to be ready to respond should our support or assistance be required.

6. About 1100 local time that morning, Major Farolan, the Philippine Air Force Commander at Wallace, Captain Bandong, the PAF Director of Operations, Captain Bibon, A PAF Air Controller and three or four other Philippine Air Force personnel came to the dark room and asked permission to use two of our scopes and at least two frequencies, possibly more. I was playing cards with some of the other crew members at the time and said "sure" hardly bothering to look up. When I did look up and see the number of PAF personnel who were there, I became concerned that something very unusual was going on, especially since Major Farolan was present. All of the PAF personnel were in uniform which was unusual for a weekend at Wallace. Except for exercises we never saw that many PAF personnel in the dark room and certainly never on a Sunday.

7. I sent someone to fetch Captain Black who was in the break room at the time. He appeared immediately and told the PAF personnel who were already setting up their equipment to stand by. Captain Black was attempting to find out what was going on but apparently without success. Someone placed a call to the PADCC at Villamor in an attempt to find out what was going on. He did not have any luck either.

8. At about this time Major Townsend appeared. On that day Major Townsend was our Director of Operations but not on duty in the facility; rather he was on call with a protable radio. I believe that Major Townsend and Captain Black discussed the situation with Major Farolan and perhaps some of the other PAF officers. I did not hear their conversation.

9. At about this time a US airman operating the surveillance radar and another airman manning the plotting board began to plot an incoming aircraft which appeared to be at the place and time sought by the PAF. This action was at our initiative and was not requested by or coordinated with the PAF. At about the same time apparently the PAF aircraft were launched to intercept the targeted aircraft. A short time later the USAF airman stopped plotting the course of the detected aircraft. I do not know if it was because it was lost on the screen or at the direction of Major Townsend on the basis that we did not really know what was going on and the PAF had requested no assistance. It was still possible for the PAF personnel manning the radar scopes to track the aircraft on their scopes. The PAF also had its own plotter but my memory is he was never asked to make any entries on the plotting board.

10. I heard bits and pieces of conversation of the Philippine Air Force personnel on duty that day. These conversations led me to believe that they were looking for a private, non-commercial aircraft. I also heard one of the Philippine officers, possibly Captain Bibon although I cannot be sure, say that the aircraft must land at Basa whether it wanted to or not and that in no circumstances could it be allowed to land in Manila. The Filipino's seemed unusually serious throughout this situation. They were uncharacteristically uncommunicative.

11. I have examined a copy of the Wallace log for 21 August 1983, and I am told that the entry at 0340Z contains the word "(Aquino)" written in a green felt pen. This is highly unusual as our standard operating procedure required that all entries be made in black ink. I do not recall ever seeing the entry before. Had it been in the log during my tour of duty at Wallace I am reasonably certain that I would have noticed it.

AFFIDAVIT

I, David B. Hampton, being duly sworn, depose and say:

1. I am a Staff Sergeant in the United States Air Force, currently stationed with the 3400th Technical Training Group at Keesler Air Force Base, Mississippi. I have served in the United States Air Force since September 15, 1971.

2. I have served three tours of duty in the Republic of the Philippines. In 1972-73, I was stationed for thirteen months at Wallace Air Station. In 1975-76, I was again stationed for approximately one year at Wallace. From December 1978 until May 1980 I was again stationed at Wallace. From May 1980 until May 1984, I was stationed with Detachment 1, 13th Air Force, Villamor Air Base, serving as advisor to the 1st Air Division of the Philippine Air Force.

3. The Philippine Air Defense Control Center is located at Villamor Air Base. It consists of one, two-story building, comprised primarily of offices. Below ground level is located an Air Defense Control Center, sometimes known as the "operations room." In the operations room is located a larger plotting board, consisting of a plexiglass map of the territory of the Philippines and surrounding areas.

4. The Philippine Air Defense Control Center is the central controlling operational center for all Philippine Air Defense functions. It has no radar capability of its own. It is, however, directly connected with several radar sites. including Wallace Air Station.

5. Eight United States Air Force personnel are normally assigned to Villamor, including two officers and six enlisted men. Four of the enlisted men serve as Senior Control Technicians, working twelve hour shifts seven days a week. The two officers and two of the enlisted men normally work regular office hours during the week. On a normal weekend or at night, there will be one Senior Control Technician on duty.

6. I do not know the number of Philippine Air Force personnel at Villamor officially on duty at any given time. It appeared to me that approximately ten to fifteen Philippine Air Force personnel were normally on duty during the day and a lesser number in the evenings and on weekends.

7. On Sunday, August 21, 1983, I was the Senior Control Technician on duty at Villamor from 0600 until 1800 (Local Time). At approximately 0900-0930, I received a telephone call from Captain Marion Black who was the Senior Director at Wallace Air Station that day. Captain Black asked me what was going on at Villamor. I asked him what he was talking about, and he informed me that the Philippine Air Force at Wallace was requesting the use of United States Air Force radar scopes there and would not tell him why.

8. Immediately after Captain Black's phone call, I went downstairs into the "operations room." I saw there at least four Philippine Air Force officers, including Colonel Kapawan, the Chief of the Air Defense Control Center. I asked Colonel Kapawan what was going on. He informed me that it was an "internal affair." Because I knew from the Manila newspaper that Senator Aquino was expected to arrive that day, I asked Colonel Kapawan if it had to do with Senator Aquino. He repeated that it was an "internal affair." I observed that the Philippine Air Force personnel were in position to plot aircraft routes on the plotting board in the operations room. I then returned to my office, called Captain Black at Wallace and informed him of what I had been told by Colonel Kapawan.

9. Some time later in the morning, I received a further telephone call from Wallace, this time from Major Paul Townsend. I do not recall the specific content of that conversation, but I believe I informed him that I knew nothing further than I had related to Captain Black in the previous conversations.

10. Somewhat later in the day, perhaps around noon, Colonel Kapawan came into my office. I asked him again if the activity in the operations room was related to Senator Aquino. He said yes, and advised me that the Philippine Air Force had wanted to divert Senator Aquino's flight to Basa Air Base. Colonel Kapawan told me they were looking for a China Airlines flight coming from Hong Kong. Colonel Kapawan told me

that they had failed to intercept the aircraft.

AFFIDAVIT

I, Wendell A. Austin, being duly sworn, depose and say:

1. I am a Technical Sergeant in the United States Air Force, currently stationed at Buckley Air National Guard Base in Aurora, Colorado. I have served in the United States Air Force since July 1967.

2. From March 1, 1983, until March 1, 1984, I was stationed at Wallace Air Station in the Republic of the Philippines. My principal duty there was to serve as Senior Director Technician and Combat Crew Supervisor. I was the senior enlisted person on duty and administratively supervised all other enlisted personnal on duty. Under the supervision and command of the Senior Director (normally a United States Air Force Captain), I also operationally supervised all other United States Air Force personnel.

3. Operations at Wallace Air Station take place in a single building comprised of various administrative offices and an operations room more commonly known as the "dark room." In the Wallace "dark room" were located approximately a dozen radar scopes. These radar scopes were turned on at all times. During normal work days, the majority of these scopes would be manned by United States Air Force personnel. At nights and on weekends, only a small number of the radar scopes would actually be manned.

4. During normal week day operations, there were approximately 15-20 United States Air Force personnel on duty at Wallace. At night and on weekends, there were normally about eight personnel, officers and enlisted men. On week days, there were normally two Philippine Air Force enlisted men on duty. At night and on weekends, there was ordinarily only one.

5. Among my duties as Senior Director Technician was the maintenance of the United States Air Force log book at Wallace. I have reviewed the attached xeroxed copy of the log entry for 21 August 1983 and recognize it as being in my own handwriting. The time entries in the log book are in so-called "ZULU Time," that is Greenwich Mean Time. The actual local time in the Philippines was eight hours later.

6. In the fifth line for the entry at 0340 on 21 August 1983 in the log book, there is a notation "(Aquino)". I have been informed that entry is made with a green felt pen. I did not make that entry and do not know who did. The United States Air Force used a strict color coding for log book entries at Wallace. Green entries were not authorized under this system.

7. On August 21, 1983, I reported to duty at 0730 and went off duty at 1530. When I entered on duty, the only Philippine Air Force personnel present was the enlisted man normally present on Sundays. Sometime during the course of the morning, two Philippine Air Force officers and two additional enlisted men entered the "dark room." The Philippine Senior Controller—a Captain whose name I do not recall—asked the United States Air Force Senior Director, Captain Marion Black, for the use of two radar scopes and four UHF radio frequencies to run a mission. Captain Black initially assigned the Philippine Senior Controller two scopes and four UHF frequencies.

7. At this point I asked the Philippine Senior Controller for information on their mission. He said that the mission was an intercept and gave me the call signs of two F-5 aircraft. Because it was highly unusual in my experience for the Philippine Air Force to fly on Sunday, I asked the Senior Controller for additional information. He told me that the intercept had been directed by the Philippine Air Defense Control Center at Villamor Air Base, known as "Arrow," and that was all he could or would tell me. I advised Captain Black that we should not permit the use of the radar scopes until we had more information. Captain Black immediately revoked his previous permission to use the radar scopes and frequencies.

8. I then contacted the Director of Operations at Wallace, Major Paul Townsend. Major Townsend was not on duty that day. I do not recall whether I contacted him by telephone or radio. Major Townsend was, however, on base and reported promptly to the operations room.

9. Major Townsend asked the Philippine Senior Controller to explain the nature of their mission. The Philippine Senior Controller, before answering, called Arrow and conducted a conversation in Tagolog. At the end of that conversation, he informed Major Townsend that the Philippine Air Force had orders to intercept a civilian aircraft and to force it to land at a Philippine Air Force Base, whether it wanted to or not.

10. Major Townsend then called the United States Air Force Senior Director at Arrow. Major Townsend indicated that the United States Air Force Senior Director at Arrow had been unable to determine from the Philippine Air Force there what was going on. Major Townsend indicated that, after the discussion with the United States Air Force Senior Director at Arrow, they had decided to allow the Philippine Air Force to use the radar scopes and frequencies at Wallace. He further indicated that the United States Air Force would disavow any involvement or responsibility for the intercept.

11. The Philippine Air Force Controllers then assumed their positions at the two radar scopes. They were there for approximately one to two hours. During that time, two Philippine Air Force F-5 aircraft were scrambled and placed on combat air patrol somewhere over the South China Sea just northwest of the Island of Luzon. This was unusual because it was only the second time, during my one year tour, that I had seen the PAF scramble alert aircraft other than during an exercise.

12. I was told by one of the Philippine Air Force weapons controllers (a Captain of the Philippine Air Force whose name I do not recall) that the flight they were attempting to intercept was enroute from Hong Kong to Manila. He told me at the time the flight number and name of the airlines and expected time of intercept. I do not remember this information except that it was not an American flag carrier involved.

13. Somewhat later in the day, the Philippine Air Force personnel at Wallace were informed that the airliner they had been looking for had landed in Manila and that their fighters could return to base. The Philippine Air Force Controller told me that they had never seen the target airliner on the radar scopes. I had no further discussions on this subject with anyone in the Philippine Air Force.

AFFIDAVIT

I, Marion Allen Black, having been duly sworn upon oath depose and say:

1. My name is Marion Allen Black. I am 29 year old, a Captain, and have been in the Air Force almost eight years. I trained in weapons control at Tyndall Air Force Base in Florida and have served in weapons control related duties at Tampa, Florida, Okinawa, Japan, and Wallace Air Station, Republic of the Philippines. I was assigned to a one year tour at Wallace Air Station in December 1982. I was the Senior Director of an Air Defense control crew consisting of approximately 20 people.

2. Wallace is an Air Defense Direction Center. It has about 14 radar scopes. These scopes are used by both the Philippine Air Force (PAF) and the United States Air Force (USAF). Air Defense instructions are issued from the Philippine Air Defense Control Center (PADCC) at Villamor (formerly Nichols Air Base). There are four Air Defense Direction Centers (ADDC) in the Philippines. The other three are manned exclusively by PAF personnel.

3. The mission of the ADDCs is to support air defense systems by maintaining surveillance of the assigned area within the Philippine Air Defense Identification Zone (PADIZ). Thus, it was our duty to track and monitor aircraft in our area and, for training purposes, to control USAF and occasionally PAF aircraft particularly with respect to flights originating or terminating at Clark Air Base. It was also our mission to control USAF intercepts of unidentified or unknown aircraft when directed by 13th Air Force.

4. On week days the Wallace ADDC is manned by about 15-20 USAF personnel and one or two PAF personnel. Most of the time the PAF personnel stayed in the administrative area and not in the "dark room" where the radar scopes and plotting boards are located. Several times a week when the Philippine Air Force was training, the PAF personnel would request permission to use the scopes and be assigned frequencies. Such requests were routinely granted. On weekends there would ordinarily be from five to seven USAF personnel and usually one Philippine Air Force enlisted person.

5. On 21 August 1983 my crew began duty at 0700. On duty with me were T/Sgt Wendell Austin, Lt. Michael Etzler and Sgt. Mike Adams plus several others whose names I cannot recall. The Director of Operations that day was Major Paul Townsend. He was not in the building but was on call.

6. Based on the entries in the log that day and my memory, about 1030 or 1100 AM local time, Major Farolan, the Wallace PAF Site Commander, Captain Bandong, the PAF Director of Operations, and four or five other PAF personnel came to the "dark room." They asked permission to use two scopes and be assigned four frequencies for radio communications.

7. This struck us all as very unusual because we rarely saw any PAF personnel on weekends and never in such numbers (full battle staff size) except during exercises. We USAF personnel became curious and discussed the unusual situation among ourselves. I asked Major Farolan what was happening and was told in effect that I need not worry about it, it was internal Philippine Air Force business. This also struck us as unusual because Major Farolan was ordinarily a very affable, communicative person.

8. At about this time, although I can no longer remember the exact sequence, we attempted to find out what was happening by calling Sgt. Hampton at Villamor who made inquiry there and was similarly rebuffed.

9. Major Townsend arrived in response to our call and discussed the matter with Major Farolan. Before Major Townsend arrived I had told the PAF to stand by on their operation until he arrived. After discussing the matter out of my hearing Major Townsend, Major Farolan and Captain Bandong seemed to come to some meeting of the minds on the issue. Major Farolan, Captain Bandong, Major Townsend and I went into an adjoining area where Major Farolan explained that the Philippine Air Force was going to launch two F-5's to intercept a civilian aircraft and either turn it back to its origin or escort it to Basa Air Base for landing. Major Townsend then authorized the PAF to use two radar scopes and four UHF frequencies, as they had requested, but Major Townsend stated that this activity was PAF affair, in which the USAF would not take part.

10. My impression throughout these events was that the PAF was looking for a commercial airliner. I do not know on what basis I formed that impression. I also recall being told by either Major Farolan or Captain Bandong that the Philippine Government felt that it was unsafe for the aircraft to land in Manila because of threats made against a passenger's life. As I remember it, the passenger was later identified as Senator Aquino.

11. The PAF personnel approached their duties with unusual seriousness and maintained surveillance until shortly after the F-5s returned to Basa about 1220 local time.

12. Regarding the log entries for August 21, 1983, in particular the one of 0340Z time, I am told that the word "(Aquino)" appears on the original log written with a green felt pen. To the best of my knowledge that entry was not there in the log when I left Wallace in December 1983. The log entries were made in black ink only. Sometimes, red ink was used to underline. Green was never used. As far as I can determine no intercept was ever made nor do I have any other reason to suspect that it was successful. I do not know the names of any other PAF personnel who may have been in the "dark room" that day.

AFFIDAVIT

I, James H. Keys, being duly sworn, depose and say:

1. My name is James H. Keys. I am 41 years old and a Lieutenant Colonel in the United States Air Force in which I have served for almost eighteen years. I was assigned as the United States Facilities Commander at Wallace Air Station in August 1983 and served there until August 1984. I was also the Commander of the 848th Aircraft Control and Warning Squadron. As Commander of the facility, my primary concern was with managing the entire facility and seeing that the 848th accomplished its mission successfully. I delegated most of the operational duties to my Director of Operations Major Paul Townsend, who served very capably.

2. On 21 August 1983, I was called by Major Townsend who requested me to come to the operations room. No further details were discussed in the call. When I arrived in the operations room, I observed three or four Philippine Air Force (PAF) personnel who appeared to be looking for an aircraft on the radar scopes they were using. As best I can remember it was Major Townsend who told me that was what they were doing. The activity was unusual in that PAF Controllers rarely came in on a weekend.

3. I exchanged a brief greeting with Major Farolan, the Phillippine Commander, who appeared to be hesitant to discuss his current mission but he may merely have been too busy to chat very much. I do not recall if any PAF aircraft had been launched on that day. What was clear to me was that the PAF personnel were running an operation in which the United States Air Force (USAF) was not involved. I do not recall making a connection between the activity at Wallace and Senator Aquino's arrival in the Philippines. I do not remember any plans or intentions to divert an aircraft to Basa Air Base.

[ORIGINAL PREPARED IN MANILA, AUGUST 30, 1985]

I, Jesse Moultry, having been duly sworn, upon oath, depose and say:

1. My name is Jesse Moultry, I enlisted in the United States Air Force on August 6, 1971. I received an Air Force Commission April 15, 1979. I became an Air Weapons Controller after completing the basic weapons controller school at Tyndall Air Force Base, FL, on June 21, 1979.

2. My first assignment as an Air Weapons Controller was at McChord Air Force Base in the Semi-Automated Ground Environment (SAGE) Air Defense System. I spent approximately three years in this system qualifying in a number of air defense related duties before being transferred to my present assignment, Detachment 1, 13th Air Force numbered Air Force Combat Operations Staff (NAFCOS).

3. DET 1 is a 13AF air defense unit which provides air component command interface to the Philippine Air Defense System (PADS). It is a small geographically separated unit composed of two USAF officers and six enlisted personnel. We are located on the first floor of Headquarters First Air Division, home to the Philippine Air Defense Control Center (PADCC). Our mission is to represent the 13AF Commander at the PADCC regarding all air defense matters involving U.S. resources operating in or committed to the air defense of the Philippines.

4. I am the unit's Operations Officer and one of two mission ready Senior Controllers. My duties as a Senior Controller are what I'll address here. As a USAF Senior Controller, I serve as the 13AF Commander's representative to the PADCC during day to day operations. I provide liaison between Philippine Air Force (PAF) and 13AF in a joint allied environment. I assume overall responsibility as well as provide for the continuity of USAF operations at the PADCC. I exercise control and accept responsibility for the duty performance and personal conduct of all operations personnel under my control.

5. On the morning of August 21, 1983, I was not on duty at the PADCC, but I was on call. Since there were only two USAF Officers in the unit, we had to inform on-duty personnel of our whereabouts in case of an emergency or actual contingency. I was at the United States Employees Association (USEA) Compound on Roxas Blvd. I telephoned my office from there to advise them of my location. I do not recall the exact time I placed this call, but I think it was somewhere between 0900 and 1100 local. Staff Sergeant Dave Hampton, the on-duty Senior Controller Technician (SCT) answered the phone. He informed me that the PAF were out in unusual numbers, that they had scrambled fighters and when he asked what was up, he said he was basically told by PAF personnel that it was none of his business. He also informed me that Lt. Col. Keys, the 848 ACWS Commander had called looking for Lt. Col. Mason, the Detachment Commander, to get his (Mason's) opinion as to whether he (Keys) should relinquish radar scopes to the PAF who would not inform him as to what was going on. Lt. Col. Mason could not be reached so I instructed Sgt. Hampton to refer Lt. Col. Keys' call to the 13AF Command Center.

6. Upon receiving this information from S.Sgt. Hampton, I did not feel an urgency to go to the office to monitor the situation. Sgt. Hampton had said the PAF informed him it was an internal matter and nothing that would concern the USAF.

7. Within a short time after my phone conversation with Sgt. Hampton, a special news bulletin appeared on the television set in USEA's cocktail lounge announcing the death of Senator Benigno Aquino, Jr. The report said Senator Aquino had been shot by an unidentified gunman who has also been killed by AVSECOM security personnel. I did not make any connection between this and the information I had received from Sgt. Hampton.

SOVIET BOMBER AND NAVAL ACTIVITY OFF THE COAST OF ALASKA

Mr. MURKOWSKI. Mr. President, on several occasions in the past I have sought to draw the attention of my colleagues to the increasing level of Soviet Bear bomber activity off the coast of Alaska, as well as Soviet harassment of U.S. scientific research vessels and oil drilling operations in the Bering Sea.

I have made these statements in order to point out the need for improved early warning systems, such as the North Warning System and the Over-the-Horizon Backscatter [OTH-B], and command and control AWAC's aircraft in Alaska. Moreover, I have urged the Department of State to protest those Soviet actions that recklessly and needlessly threaten American lives.

To give some flavor of the activity to which I am referring I would simply point out that between September 12-19 the Alaskan Air Command made four separate intercepts of eight Soviet Bear bombers exercising off the coast of Alaska. These included Bear-H aircraft capable of carrying long-range AS-15 cruise missiles. Soviet bombers were intercepted by F-15 fighter aircraft, assisted by E-3A AWAC's, off the north and northwest coast of Alaska, 60 miles north of Point Barrow, as well as further south off the Aleutian Chain. I believe that we can expect to see more of this kind of bomber activity in the future, and I can assure my colleagues and my constituents that I will support those modernization programs needed to address the Soviet bomber threat to North America.

Mr. President, a fascinating personal account of America's continuing boundary dispute with the Soviets on the high seas is contained in an arti-

cle, "Seized by the Russians," by Tabb Thomas in the September 1985 Alaska magazine. Mr. Thomas served as the commander of the *Frieda-K*, a 120-foot landing craft providing support to a Houston-based company making a seismic survey of the Chukchi Sea off the northwest coast of Alaska, when it was seized by the Soviets on September 11, 1984. This is a chilling, real-life account that brings home the human dimension and stark reality of dealing with the Soviet Union.

Mr. President, I commend this article to the attention of my colleagues and ask that it be printed in the RECORD, along with those articles from the Anchorage Times and Washington Post that detail the recent activity of Soviet Bear bombers.

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

[From the Washington Post, Sept. 23, 1985]

U.S. FIGHTERS TRACK SOVIET BOMBERS

ANCHORAGE, Sept. 22.—U.S. Air Force jet fighters scrambled four times in eight days this month to intercept Soviet bombers flying near Alaska, a military spokesman said.

"This is an unusual level of activity from what we have seen in the recent past," said Maj. Darrell C. Hayes, chief of public affairs for the 21st Tactical Fighter Wing at Elmendorf Air Force Base.

"But it has not increased the level of tensions," he said.

The interceptions by F15 Eagle fighters occurred between Sept. 12 and Sept. 19, he said. None of the Soviet planes, Bear A and Bear H models, carried visible armaments, Hayes said.

None of the bombers entered Alaskan airspace.

[From the Anchorage Times, Sept. 22, 1985]

F-15 Jet Fighters Intercept Soviet Bombers Near Alaska

(By Karen Robin)

F-15 jet fighters scrambled four times over an eight-day period ending last week to intercept and escort eight Soviet bombers flying near Alaska, an Elmendorf Air Force Base spokesman said Friday.

Military officials said the interceptions represented an "unusual" amount of activity by Soviet aircraft.

U.S. Air Force F-15 Eagles intercepted the big bombers between Sept. 12 and Sept. 19, said Maj. Darrell C. Hayes, chief of public affairs at the 21st Tactical Fighter Wing headquartered at Elmendorf.

None of the aircraft, Bear A and Bear H models, intercepted off the coast of the state, carried visible armaments, he said.

On Sept. 12, fighters on alert at Galena Airport intercepted two new Bear H bombers flying off the northern coast of Alaska.

Directed by controllers from the 11th Tactical Control Group in the NORAD Region Operations Control Center at Elmendorf and by an E-3 Ariborne Warning and Control System (AWACS) aircraft, the fighters located the bombers off the northern coast of Alaska and escorted them across the Arctic Sea for about an hour.

A KC-135 aerial tanker from the Alaskan Tanker Task Force at Eielson Air Force Base refueled the fighters during the mission to extend their flying range.

On Tuesday, Sept. 17, the same team of Air Force aircraft and controllers made contact with two pairs of Soviet Bear H and Bear A bombers flying off the Aleutian chain.

And Thursday, two F-15s, one from Elmendorf, found two more Soviet bombers crusing off the state's northwest coast.

The Air Force videotaped the Thursday encounter and released the tape to television stations Friday.

"This is an unusual level of activity from what we have seen in the recent past," Hayes said.

"But it has not increased the level of tensions" between the U.S. and the U.S.S.R., he added.

The bombers did not enter Alaska airspace, Hayes said.

The AWACS, temporarily assigned to Alaska, helped the F-15 fighters locate the Russian bombers after NORAD, or North American Aerospace Defense Command, radar screens revealed them approaching United States airspace.

The Bear A is the first model of the long-range bomber line, which was designed in the 1950s and modified through the years, but still employs propeller engines.

[From the Alaska Magazine, September 1985]

SEIZED BY THE RUSSIANS

(By Tabb Thoms)

The gray ship ahead of us in the Bering Sea appeared at first to be a fishing vessel, but it was bow-on and we couldn't be sure. We were unfamiliar with the Diomede area and dependent upon the book, *U.S. Coast Pilot*, and our marine charts for navigation. Having very little information regarding the channel between the Diomede Islands, we decided to ask the gray ship for local sailing information.

I slowed the *Frieda-K* as we neared the still bow-on ship. An officer on deck motioned, and I interpreted this to mean we should tie up. So we pulled alongside and threw our lines across. Suddenly about 30 soldiers swiftly leaped from the gray ship onto the *Frieda-K*. They wore camouflage uniforms and carried machine guns, knives and pistols.

They pointed their guns at my crew on the stern. Several guards and an officer came into the wheelhouse where I stood, bewildered, and pointed guns at me. One of the soldiers swiftly disconnected all of our radio communication equipment, pulling switches and plugs and disconnecting antennas.

They ordered us to shut down the main engines, and the *Frieda-K* sat silently, overrun with armed soldiers who spoke no English. They made their desires known by nudging us with machine guns and motioning what they wanted us to do. Another 30 or so armed soldiers stood waiting at the rail of the Russian ship.

We had been seized by a Russian Frontier Guard ship.

It was Tuesday, September 11, 1984, and our 120-foot landing craft, based in Homer, Alaska, and owned by Kemp Palucci Seafoods of Duluth, Minnesota, was under contract to Digicon Geophysical, a Houston-based company making a seismic survey of the Chukchi Sea off the northwest coast of Alaska.

Our job was hauling fuel, fresh water, parts and food supplies from Nome to the seismic vessels in the Arctic, returning with seismic tapes and other goods.

The four-man crew included my brother Tate, 19, engineer; Mark Halpin, 20, first mate; Tony Miller, 25, assistant engineer; and Charley Burrall, 29, cook. I was 25 and the ship's captain. I left school at the age of 15 to work on the *Frieda-K* as a deckhand, finishing my schooling by correspondence. I passed the master's seaman license examination when I was 18, but the Coast Guard withheld the license at the time because, by law, I was too young to hold such a license.

All of us who worked on the *Frieda-K* live in Homer, a small town at the southern tip of the Kenai Peninsula, and all of us belong to the Christian Community Church there.

We had just delivered 40,000 gallons of diesel fuel and 10,000 gallons of fresh water to the seismic vessels in the Arctic and had picked up a shipment of seismic recording tapes to take back to Nome. We were about 20 hours ahead of schedule and were interested in seeing the village on American-owned Little Diomede. As we neared the Diomede Islands on that beautiful calm day, there wasn't a cloud in the sky and the sea was like glass.

We decided to divert a few miles to look at and perhaps visit the Eskimo village on Little Diomede Island. It lies on the west side of the Island and faces Russian-owned Big Diomede Island across a two-mile wide channel. When we saw the gray ship north of the islands, it seemed logical to ask if they had local knowledge that could help us get to the village.

Soon after the soldiers boarded us, a twin-engined Russian aircraft circled overhead, as did a Russian helicopter. Around us were several small power boats, apparently launched from the Frontier Guard ship.

We gathered to pray on the stern deck. The situation was clearly out of our control. While we were praying, the guards grabbed me, ripped me away from the huddle and took me to the pilot house. My crew, in shirtsleeves, was held outside on the stern deck. The Russians wouldn't allow them to move. It appeared to us that they were waiting for something.

In two hours a Russian destroyer arrived. It stopped a good distance away, and a small boat brought a load of officers and an interpreter to the *Frieda-K*.

In the meantime I assumed that all was well, for we had done nothing wrong. I was sure that the Russians would realize they had made a mistake. The Loran-C radio navigation equipment of the *Frieda-K*, as well as our marine charts, showed us to be in U.S. waters.

Later, through their interpreter, the Russian officers told me that the *Frieda-K* was inside Russian waters. I maintained that we were on the U.S. side.

Right from the start the Russians told us nothing. They asked the questions.

"You have broken the law, and in our country you have no rights," I was told.

Later the tune changed. Another interpreter told me I could ask any questions I wanted, but when I asked questions, they ususally changed the subject.

Soon after the interpreter was brought aboard, an officer questioned me. Mainly he asked, "Why have you deliberately violated the Russian boundary?" He also asked when we had last talked with any one by radio, and he wanted to know if anyone knew where we were.

I denied crossing the Russian boundary, but he refused to accept that. The interpreter was taken to the destroyer. He

brought back an official-looking paper and said, "You are located here," pointing to the latitude and longitude that had been written down, "and you must sign."

I refused.

Obviously our position was different from that of the destroyer. If, in fact, the Soviet boundary had been crossed, I was unaware. If I had signed, it would have been a lie. I also would have given the Russians an excuse to do anything they wanted with us. They would have my signature to prove to U.S. officials that we had intentionally violated the Russian boundary.

After a standoff they made Tate start the main engines and, with armed soldiers on each side of me, directed that I run the *Frieda-K* to the Russian destroyer. The main engines of the *Frieda-K* were then shut down, and the destroyer took us in tow with a soft line.

Several soldiers were ordered to take me down to my quarters. My crew, chilled from the cold, was still being held outside on the stern deck. It seemed pretty clear by this time that we were being taken to Russia.

"We need to turn things upside down," I said to Tate and Mark, as I walked by them on the stern.

Once we were under tow, the Russians relaxed a bit. Not a shot had been fired, and it was apparent that we weren't going to resist. Guards were posted on the bow, on the stern and along the decks. We weren't allowed near any exits or near the rails, apparently for fear that we might leap overboard, nor were we allowed to throw anything overboard. Whenever one of us got close to the rail a soldier would stop him with a machine gun pointed at his belly.

While under tow Tony Miller tripped the engine room alarm, which makes an extremely loud, almost frightening sound. The guards rushed about excitedly. In the confusion Tate and Mark did as I had told them to—they "turned things upside down."

They climbed atop the pilot house, pulled our emergency locator beacon from its holder and flipped it upside down, activating it.

It was our only chance of sending a distress signal, sort of like putting a message in a bottle and throwing it overboard.

The signal from the emergency locator is received by satellite. It must have been detected by a Russian satellite because after about two hours the destroyer stopped, a crew came aboard and found and dismantled it.

We were towed a little more than 24 hours. We were restricted to our quarters. I was not permitted to communicate with the crew. As we were being towed, they questioned us intensely, as they would throughout our entire captivity. They made each of us write everything we could remember about all of our family members, where they lived and what they did. They wanted to know why the *Frieda-K* was in the Bering Sea, and they wanted us to sign what we had written—but we refused to sign anything. While under tow they extensively searched the ship. They found everything we had and examined just about all of it.

The seismic tapes from the Digicon operation that we were delivering to Nome were kept in a storage van on the stern deck. The 40 sealed boxes were distinctively marked with fluorescent orange, "Do Not X-ray," and, in fluorescent green, "Digicon" was printed on each one. The Russians opened the van, looked inside, then closed it. The tapes were probably worth millions of dollars. It was as though they never saw them. Our prayers were being answered.

It was dark when we arrived in the bay of a Siberian port. The lights of a town across the bay were visible to our left. We had to start the main engines to tie up to an old sunken ship that served as a dock. Then more officials searched the ship again. We were told to display all literature on our bunks. They searched everything. They looked under mattresses, searched the engine room, pawed through the logs—even opened hundreds of boxes of filters in the engine room.

I don't know how many times they searched and re-searched the boat. After they were through, the usually neat ship appeared to be a total disaster with paper and objects strewn everywhere.

They wanted me to shut off the auxiliary power—the generator that keeps the heating system going, charges batteries, and runs the food freezers. It was cold, and I told the Russians that shutting down the power would damage the vessel. Water would freeze in the pipes, batteries would discharge, bilge pumps would be inoperative. They allowed us to leave the generator running. We were told to bring a change of clothing and one or two valuables to a place of confinement.

"For how long?" I asked. They refused to say.

All five of us wanted to take our Bibles. This they would not know. When Charley and I requested our Bibles as one of our valuables they answered, "You do it our way. Here, there is no God."

They escorted us to a covered paddy wagon, and I didn't know if we would ever see the *Frieda-K* again.

It was a 15-minute drive along a rough trail—not really a road, for we bounced and had to hang on—before we arrived at an old, run-down military barracks. The floors were rotting, and the doors wouldn't close properly. The "toilet" was a hole in the floor. There was a sink with running water. A single light bulb hung from the ceiling of each room.

We were given a simple physical by a doctor before being taken to the rooms assigned us. Then we were searched again. They took away the Bibles Charley and I had brought. Charley and I were put in one room, and the other three crew members in another. Our room was 7½ feet by 15 feet, and the windows were covered with paper. The room was cold. We had military bunks and several blankets.

More officers arrived, and they interrogated us all night for the second straight night. Question after question. We had to again write the same things over and over. I wrote my family history numerous times.

"We come to you with open hearts and friendship," was a common opening gambit. And then they'd get down to business.

Mainly they asked. "Why have you violated the Soviet boundary? Just write down you reason for violating the Soviet boundary and sign it," they repeated over an over.

None of us signed.

At times they screamed and yelled. All questions and answers had to pass through the interpreter. The officials spoke to us only in Russian. They asked about our business and our personal life. They wanted to know names of ships we had seen, including Russian ships. Except for the seismic vessels and the gray Russian ship, we had not seen any others.

The first three days were the worst. They wouldn't let us sleep. They would leave us briefly, we would lie down to rest, and then they'd come slamming back into the room, perhaps with a fresh interpreter and a new officer or two, and start the questioning all over again. The same questions repeatedly. They would not accept our explanation.

It became apparent from their questions that they had gone through our mail and literature. I said, "I want to talk to an attorney, the American Embassy, or someone in our company." They didn't respond when I made these requests.

We didn't know whether anyone in the United States knew where we were, for there had been no communications after we had been siezed.

They tried the good-guy, bad-guy approach. Two officers would question us. One would say, "let's take care of them right now." The other would say, "No, let's try to be friends" and he would be sympathetic to us. Then the first would insist. "No, let's do it right now."

They took away our watches. They did everything they could to demean us. We were met with hostility during times of interrogation. After a time the persistent interrogation began to wear on our nerves. But we determined not to sign anything that wasn't true.

The guards acted like they were in an old war movie. We could see their shadows on the windows at night, and guards were always outside the door. None would talk. They didn't even talk with each other. You would expect them to be more verbal, at least at the change of the watch. We'd hear footsteps when the fresh guard arrived, but not one word. Then the other guard would leave.

I asked one of the interpreters, "What would have happened if we had turned our ship around and tried to run."

"Korean jet 707 tried to escape," he answered, referring to the airliner shot down by the Russians in 1983. Then, mimicking an explosion with his hands, he said, "Boom! Five Americans. No problem."

At one point they told me they were going to blow up the *Frieda-K.*

They said that our barracks were luxurious compared to where they planned to take us. They threatened to put us in solitary confinement—cells with no heat, no blankets, bars and no windows. They led us to believe this is where we'd be kept—a cold, damp cell with no light. We accepted this as a very real possibility.

"How long can you hold us?" I asked.

I was told that minimum was between 5 and 10 years, but they intimated that if we didn't cooperate, sign their papers and answer their questions, it could be much longer.

By about the second day in the barracks, Tate, Mark and Tony, who had been isolated from Charley and myself, were not sure if I was still alive. They refused to eat until they had seen me.

It wasn't hard to refuse to eat the food. We could eat the bread, but the rest was pretty rugged. We were given cold, sliced, raw herring and some other kind of raw fish. There were things that looked like cubes of cheese, only weren't cheese: They were raw fat. I once stuck a spoon into some soup and when I pulled it out, it was covered with grease—like dipping a candle. It wasn't just a film of fat on top—it was a heavy layer of grease. We were thankful just to be alive.

When the others wouldn't eat, a solider came in and took me by the shoulder and led me into their room so they could see that I was still alive. Then he yanked me back into the room with Charley.

On the sixth day of our captivity at 9:15 p.m., when the officers and interpreter were gone, a solider came into the room and motioned me to follow him, pointing to me and holding his hand to his ear to indicate a telephone call.

Startled, I followed him to a room where there was an ancient telephone that looked to be about one model later than the hand-cranked style. I picked it up and heard, faintly, words in Russian.

"Hello, hello." I said, speaking and alternately listening for about a minute. Then I heard someone speaking English. It turned out to be Susan Arnold, calling from the U.S. Embassy in Moscow! People knew where we were. It was a tremendous relief.

Later the next morning, we received a telephone call from Alaska's Sen. Ted Stevens, calling from Washington, D.C. The connection (or the telephone equipment) was poor, but I understood that Senator Stevens wanted to know if any of us were hurt and what we were charged with. He told me that he had the State Department in Moscow working for our release.

"If you are being held on a technical violation, they should release you soon," he told me.

I told him that the Russians had tried to get me to sign many papers that said we had intentionally violated the Soviet boundary.

"Don't admit to anything you didn't do," he warned.

"We aren't going to sign anything," I told him.

"Is there anything you want me to tell your parents?"

"Everybody's fine."

I was taken back to my room, and minutes later the interpreter and an officer arrived. The telephone call had been a miracle. How they even found the number was incredible, let alone the timing. It was obvious the officers knew nothing about it. I think the guard who led me to the phone got into trouble over it, for we never saw him again after it was learned that I received a call.

The call came at a good time, for we were feeling low, having gone days without more than a few catnaps and without proper food. The stress was building, and we were wondering if we were going to get out. But now that our government knew we were here, we were encouraged.

After I had been questioned again, with the same questions over and over, the officer and the intepreter left. Later, when the officer learned about the phone calls, he was so angry he screamed. It didn't help his humor any when Charley and I refused to talk, answer or do anything he requested. I told him through the interpreter. "We've answered your questions numerous times. Enough is enough."

Then a lieutenant colonel arrived. We understood he was in charge of "Eastern Affairs." He was the highest military man we encountered, and the other officials were all very respectful to him. He was very friendly to us at first.

But that changed abruptly when Charley, a true missionary at heart, wrote out a plan of salvation and gave it to one of the guards who had been less unfriendly than the others. Charley figured that some day the Russian guard would get the letter translated. But he figured wrong; the guard gave the letter to his superior, and shortly thereafter the lieutenant colonel stomped into the room, slamming the door. All five of the crew of the *Frieda-K* were present. All Russians there stood to their feet. We did too, not knowing what was happening. The Colonel then spoke angrily in a loud voice for a long time—so long the interpreter couldn't keep up. It didn't matter: we understood he was steamed about something.

"What did he say?" we asked the interpreter when the Colonel stopped for breath.

The interpreter saluted and said, "He called it war propaganda and as Chief of Eastern Affairs, he denounces you and declares your actions as unfriendly to the Soviet Union."

It took awhile to shake it all out, but it turned out that he was burned up about the letter that Charley gave to the guard. War propaganda is punishable by imprisonment. From their solemn behavior, we figured we were in serious trouble. The Colonel stalked out and slammed the door behind him. We thought we were history.

I had several more phone calls, and as luck would have it, none of the officers was present when the calls came in.

About the seventh day the Russians mellowed. A whole six hours went by without them coming into our room. They allowed me to see the rest of my crew, and I filled them in on everything I knew.

At different times Tate and I were taken back to the *Frieda-K* to see that everything was all right. I was blindfolded when they took me to the boat. We brought back with us bread, cereal, peanut butter, jelly and a few other edibles.

On the eighth day of captivity the Russians entered our rooms, turned on the lights, searched us for everything we had written and confiscated what they found. Then they took us to the boat. None of the Russians was smiling.

At the dock a couple of their paddy wagons arrived loaded with all the stuff they had taken from the *Frieda-K*—all our papers, books, personal items—everything—and piled it on board. Some of the papers were left in plastic bags. Other bags were emptied on deck. They had even gone through our garbage. It was a complete disaster.

I got orders to fire up the main engines and to follow the *Aisberg*, a Russian icebreaker, as it departed the harbor. It was snowing, and there were many guards on board the *Frieda-K*.

"Where are we going? What is going on?" I repeatedly asked.

They wouldn't answer.

After running seven hours it was daylight and I spotted the U.S. Coast Guard Cutter *Sherman* ahead—a beautiful sight. It was only then that I began to think we were going to be released—with the *Frieda-K*.

They told me to stop, and we drifted. The *Aisberg* kept between us and the *Sherman* at all times. Capt. James Billingham from the *Sherman* came aboard with the lieutenant colonel who had earlier denounced us. They met without me being present, and the Colonel tried to talk Captain Billingham into signing a release that the *Frieda-K* had intentionally crossed into Russian waters.

Captain Billingham refused to sign anything until he could talk with me.

Nevertheless, he accepted the Russian's assertion that we had been in Russian waters, but not intentionally.

He signed a receipt stating that we and the *Frieda-K* were in good health. She was still a mess from the ransacking, but she was, of course, sound.

The Russians kept all of our personal film, a logbook, some marine charts and our video tapes. They did not touch the valuable seismic tapes, although they had repeatedly opened and peered into the storage van.

During the entire ordeal, none of us was physically harmed. Heading back to Alaska, escorted by the U.S. Coast Guard Cutter *Sherman*, the crew of the *Frieda-K* had a lot to think about. And so did the Russians.

FREE BALYS GAJAUSKAS CAMPAIGN

Mr. TRIBLE. Mr. President, it's a pleasure to announce to my colleagues the beginning of the "Free Balys Gajauskas Campaign," an effort by Americans in public and private life to free one of the many Christians imprisoned in the Soviet Union.

For years, CREED—the Christian rescue effort for the emancipation of dissidents—has labored to apprise the world of the plight of Christians in the U.S.S.R., and to ease the plight of individual believers. At a conference on Capitol Hill yesterday, CREED turned its attention to Balys Gajauskas, a Christian and former Helsinki monitor now serving his 33d year in a Soviet prison.

Balys' life has been one of continuous persecution. He was first imprisoned by the Nazi regime during its occupation of Lithuania. He escaped that regime, only to be jailed by the Soviets, who had since invaded the Baltic States.

Balys served the entire 25-year sentence he had received for anti-Soviet activities, an all-encompassing charge that the Soviets frequently employ against religious believers. He was released in 1973.

For 4 years following his release, Balys was harassed constantly by Soviet officials. The Soviets arrested him again, on his intended wedding day, and sentenced him to 10 years hard labor and 5 years internal exile.

One year later, Balys and his fiance were permitted to marry in the labor camp where he was being held. Their request that a Roman Catholic priest perform the ceremony was refused, and, today, his wife is not even permitted to visit him. The Soviets have refused this and other privileges because Balys has repeatedly protested the camp's interference in the religious activities of its inmates.

Throughout these tortuous years, Balys' faith and courage have remained steadfast. But for the past several years, his health has deteriorated rapidly. CREED's latest prisoner update indicates that his eyesight is failing badly, and his other health problems are worsening.

For this reason, CREED has begun a concerted effort to win Balys' freedom, to reunite him with his wife, and, hopefully, to gain for them and their daughter the right to emigrate. I am honored to serve on the advisory council to the "Free Balys Gajauskas Campaign," and I urge my colleagues to join me in contacting administration and Soviet officials in Balys' behalf.

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But I also want to emphasize that Balys' case is not an isolated one. Throughout the Soviet Union today, Christians languish in prisons, labor camps, and psychiatric hospitals, for the simple reason that they have remained true to their faith.

Like Jews in the Soviet Union, Christians are the target of official Soviet repression. Those Christians who disobey state laws requiring churches to register and to limit their activities, are harassed and persecuted. As we have seen in the case of Balys Gajauskas, they are also imprisoned at length.

The "Free Balys Gajauskas Campaign" is a valuable effort to free one brave man from Soviet repression. But is it also part of a larger effort to combat the Soviets' ongoing persecution of all Christians and Jews, and to ensure for believers in the U.S.S.R. the fundamental right of religious freedom.

NATIONAL EMPLOY THE HANDICAPPED WEEK

Mr. ANDREWS. Mr. President, I rise today with pride to speak on behalf of National Employ the Handicapped Week, which is occurring this week. Last year at this time, in Fargo, ND, I spoke about our responsibility to the handicapped as a society. Now, as then, I firmly believe that a civilized society can be judged by how it treats its senior citizens and handicapped individuals. For not only do we risk denying the right of self-fulfillment to some of our citizens if we do not open the doors to a productive life, but we also risk failing as a society—failing to both complete our potential and to preserving the fundamental personal rights upon which this great Nation was built.

Today, I can boastfully speak of a young man from that very same town that I spoke of earlier, Fargo, ND, who has demonstrated to us all how much every individual, handicapped or otherwise, has to offer. Mr. Keith A. Bjornson, loan specialist, Fargo, ND, of the Small Business Administration stands tall among the citizens of my home State and this Nation. Mr. Bjornson will be honored on October 10, 1985, as one of the 10 outstanding handicapped Federal employees of America. Keith is a disaster loan officer who exemplifies, as a quadraplegic, the concept of a man undaunted by both the adversities of his own handicap and the prejudices and misconceptions of his fellow man as well.

Mr. President, we salute Keith Bjornson for his accomplishments, but it would be unfair to him to stop there. There are an estimated 21 million Americans who are in someway limited in their ability to work—that is approximately 17 percent of the working-age adults of this country. This is why we use this week to further the employer's knowledge of the handicapped individuals worth, and that is why we must continue to pursue these objectives here in the Senate.

There are some key measures that I have cosponsored that are needed to continue our momentum—the momentum demonstrated by a doubling in the handicapped undergraduate population in our Nation from 1978 to 1983. For example, just recently the Senate passed S. 415, the Handicapped Children's Protection Act of 1985. This legislation guarantees reasonable attorney's fees for parents prevailing in lawsuits designed to obtain fair and equal educational opportunities for handicapped children. As with all children, we must first ensure the educational future of our handicapped children if we wish to open the avenues of employment.

Similarly, while I want to reduce the Federal deficit, I do not want it done on the backs of any one group, particularly the handicapped. That is why I have joined Senator DOLE in his efforts, on behalf of S. 887, to amend the Internal Revenue Code of 1954 to extend the deduction of expenses incurred in the removal of architectural transportation barriers. Both in rural areas and urban ones, the struggle for some individuals to get to work can be insurmountable. This is truly a tragedy and must be changed.

Unwarranted discrimination against anyone's human worth, whether with intent or by insensitivity to structurally inherent barriers, is a waste of the individual's, and society's, resources. We cannot afford to turn our backs on any section of our population for both economic reasons and moral ones. Let us all join together to lower the high rate of unemployment among the handicapped and return to them the dignity that goes with feeling useful again.

COX CABLE COMMENDED

Mr. TRIBLE. Mr. President, I would like to commend Cox Cable of Tidewater VA, for their outstanding achievements in serving their community and all of Virginia.

Cox Cable has set high standards of public service programming, providing the Tidewater VA, area with informative public affairs programming on economic, consumer, environmental and social issues.

Cox's consumer guideposts program represents the most indepth commitment to consumer awareness by any cable system in the United States. This program was recently recognized by Virginia Knauer, special assistant to the President for Consumer Affairs.

Cox Cable has devoted thousands of hours in providing their viewers with outstanding and important programs. I commend them for setting high standards in this important area of cablecasting.

THIRTEENTH ANNIVERSARY OF THE ANTIBALLISTIC MISSILE TREATY

Mr. CHAFEE. Mr. President, today marks a significant event in the history of arms control. Thirteen years ago today the Antiballistic Missile [ABM] Treaty, entered into force.

The ABM Treaty is the cornerstone of arms control efforts to limit the wasteful and destabilizing nuclear arms race, and I would like to take this opportunity to reiterate my own support for the treaty. With others, I join in the hope that President Reagan and Soviet General Secretary Gorbachev will take steps at the November summit meeting to bolster the ABM Treaty.

This treaty has prevented a dangerous arms race in antiballistic missiles. If that were its only accomplishment, the treaty would have made a valuable contribution to stability in the superpower relationship. This treaty has done much more than that. Defensive weapons, particularly in the nuclear age, are inextricably linked to offensive weapons. The ABM Treaty's major limitations on strategic defensive weapons was essential to the SALT I and SALT II limits on offensive weapons, and is equally essential to any future agreements limiting offensive weapons.

In addition the treaty embodies the assumption that nuclar war is not survivable. This self-evident proposition, stated by President Reagan on several occasions, is crucial to the maintenance of nuclear deterrence and thus our survival as a country and as a world.

Because of its central importance, the ABM Treaty will, I believe, be a major topic of discussion at the summit. Whatever else is done at this historical meeting, the ABM Treaty should emerge from it strengthened. Due to its underlying importance, I urge my colleagues to evaluate the critical defense issues before us—such as the SDI funding and antisatellite testing—in light of their potential impact on the ABM Treaty.

To commemorate today's anniversary former Secretaries of Defense Harold Brown, Clark M. Clifford, Melvin Laird, Robert S. McNamara, Elliot L. Richardson, and James R. Schlesinger, have released a statement in support of the ABM Treaty. I believe we all can fully appreciate the breadth of experience which lies behind this statement. I ask unanimous consent that their statement be printed in the RECORD at this point.

On the 13th anniversary of the entering into force of the ABM Treaty, we reaffirm our view that this international agreement of unlimited duration makes an important

contribution to American security and to reducing the risk of nuclear war. As former Secretaries of Defense, we call upon the American and Soviet governments both to avoid actions that would undermine the ABM Treaty and to bring to an end any prior departures from the terms of the treaty, such as the Kranoyarsk radar. We urge President Reagan and General Secretary Gorbachev to reach agreement in Geneva to negotiate new measures which would prevent further erosion of the treaty and assure its continued viability.

RECOGNITION OF DISTINGUISHED SERVICE

Mr. CHAFEE. Mr. President, on October 13, 1985, three members of the 102d Tactical Control Squadron, Rhode Island Air National Guard will be honored, in Rhode Island, on the occasion of their retirement.

These being honored include: First Sergeant, Chief M. Sgt. Norman W. St. John; maintenance superintendent, Chief M. Sgt. Robert N. Falardeau; and maintenance control supervisor, Senior M. Sgt. Frank A. Romano. These men have provided the State of Rhode Island and the Nation with a total of 104 years of distinguished service both at home and abroad.

They have been valued members of the 102d Tactical Air Squadron. The 102d, has been in existence since 1948 with a mission for the air traffic control of fighters and refuelers in time of emergency.

As a former Governor of Rhode Island, I have true respect for the men of the 102d—for I know what a key role they play in the safety of the people of our State.

Individually, I wish to congratulate Chief St. John for 41 years of service. Chief St. John served in World War II in the Pacific, in the Korean conflict in Tripoli and in the Berlin crisis in Germany. Chief Falardeau served for 34 years. Chief Falardeau served in Germany in World War II from November 1943 to June 1946 and again during the Berlin crisis from October 1962 to September 1962. Sergeant Romano served for 29 years with an overseas rotation in Germany during the Berlin crisis in Germany in 1961 and 1962.

I would also like to take this opportunity to mention their wives: Ruth St. John, Gabrielle Falardeau, and Patricia Romano.

I join today with all Rhode Islanders in expressing my thanks to these three highly decorated men for their years of dedicated service and in wishing them continued good health and happiness in the years ahead.

WHY ARE U.S. TAXPAYERS BANKROLLING ANGOLAN MARXISM?

Mr. SYMMS. Mr. President, yesterday's Washington Post, under the headline "U.S. Banks Help Set Up Angola Oil Field Funds," reported that American banks have played a major role in arranging over $350 million in new loans and credits for development of a major oil field in Marxist Angola, based on remarks from the visiting Angolan Minister of Foreign Trade. The same story reports that this official's visit comes amid a major Cuban and Soviet-backed offensive by Angola against anti-Marxist opposition in southern Angola led by Jonas Savimbi.

It is incredible to me and surely to the freedom-loving American people that the United States State Department has been encouraging economic support for the Soviet puppet government of Angola, and ironically, or cynically, was pushing through this fat export-import loan at the same time Congress was shifting policy by repealing the Clark amendment. While State promotes investment in Communist Angola, they strongly oppose any United States investment in Namibia—southwest Africa. Namibia is the vast territory, for my colleagues who are unfamilliar with it, to the south of Angola. Namibia was administered under a 1920 League of Nations mandate until June 17, 1985, when the South African Government turned over to the people of Namibia all administrative powers of local self-government.

Namibia has the largest uranium mine in the world, vast reserves of strategic mineral resources for which United States industry is 100 percent import-dependent. And, it is the gateway to military, economic, and political control of such other vital minerals as chromium and platinum. The only place in the free world where these minerals are found is in southern Africa.

For nearly 20 years, the Soviets have provided equipment, financial help, and the back-up of upward of 40,000 Cuban soldiers to support the efforts of the Soviet-surrogate terrorists of Swapo in their campaign to seize control of Namibia and drag it behind the Soviet Iron Curtain.

The Swapo terrorists operate from bases in the southern part of Angola. To the extent United States banks help finance economic development in Angola, they are subsidizing the Marxist government of Angola which finances Soviet combat troops, Cuban forces, and Swapo terrorists in Angola.

The 1984 Republican platform stated that—

> The Reagan-Bush administration will continue its vigorous efforts to achieve Namibian independence and the explulsion of Cubans from occupied Angola.

It is obvious that the big loan and credit package, which Bankers Trust of New York syndicated, and in which the United States Export-Import Bank participated, undermines President Reagan's policy of constructive engagement in the southern Africa region.

I therefore strongly urge the United States State Department to take cognizance of the Namibian Transitional Government of National Unity [TGNU] which now governs Namibia and exercises all powers of local self-government.

The TGNU has abolished apartheid under criminal penalties. Its 8 member Cabinet and 62 member Legislative Assembly is made up of all ethnic groups and political parties in Namibia—black, white, and colored. There has been a peaceful transition from colonial status to commonwealth status.

The United States Government should be encouraging the Transitional Government of National Unity in Namibia by helping it develop an economic infrastructure to support independence.

At present, the South African Government provides some $600 million annually to Namibia, which is over 60 percent of the Namibia budget. Without United States investment and development of Namibia's natural resources, Namibia can neither achieve complete political independence nor the economic independence necessary to support and provide its public services.

On April 25 of this year, the South African Minister of Foreign Affairs stated to the Parliament in Capetown that natural resources in Namibian territorial waters belong to Namibia and that South Africa would not try to take a cent from it. Namibia's Government corporation Swacor subsequently completed a seismological survey of the Kudu gas field, discovered in the Atlantic Ocean off the Namibian coast more than a decade ago. It was then recognized as probably the biggest source of natural gas in the world. However, nothing was done to develop it pending clarification of the Namibian independence process.

Details of the Namibian Government survey have not been published, but informed sources report that the survey has confirmed the most optimistic estimates about the Kudu field. Apparently, the Kudu gas resource is the biggest on Earth, far overshadowing the North Sea field.

Namibia is now seeking international partners to develop the Kudu field, which will take several years and probably cost in excess of $35 million. The United States Government should take the blinders off its eyes and face the reality that the people of Namibia are now in control of their own destiny. We should extend a helping hand to Namibia's Transitional Government of National Unity. If we fail to take these positive, supportive steps, the United States will lose investment opportunities, tax-generating job opportunities, and a chance to participate in

the economic development of Namibia. Unfailingly, British, French, West German, and other western countries will fill the vacuum.

At a time when the United States Government was busy promoting economic sanctions against South Africa and preventing the United States Ambassador from returning to his residence, the British and West Germans held firm and refused to either support sanctions or withdraw their Ambassadors. The diplomatic bureaucrats in the State Department, no matter how well intentioned, have managed to stick their thumbs in their own eyes one more time by following the same misguided approach with has led to Soviet empire expansionism throughout the world and a gradual diminution of United States influence. Unless the United States Government wakes up before it is too late, we will be shut out of Africa, as we have been shut out of Southeast Asia, and are being shut out of Central America while the Marxist-Leninist philosophy expands and flourishes in what were formerlly free countries of the Earth.

I encourage the State Department to take a new look at policy toward Angola and at policy toward Namibia. We have the opportunity to make great improvements in America's image in Africa, and we can do that by promoting democratic government, any by promoting investment in countries friendly to us and friendly to our system of government. We are only doing a disservice to ourselves and to the African people by bankrolling our enemies, and failing to support and invest in countries which believe us to be their friends.

Mr. President, I ask unanimous consent to have printed in the RECORD the aforementioned Washington Post article, an article by Edward Neilan from the Washington Times, entitled "Buildup by Soviets Targets South Africa"; and a piece by Rowland Evans and Robert Novak, "False Victory Claim by Angola Marxists," which appeared in the New York Post.

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

U.S. BANKS HELP SET UP ANGOLA OIL FIELD FUNDS

(By David B. Ottaway)

U.S. banks have played a major role in arranging more than $350 million in new loans and credits for development of a major oil field in Marxist Angola, according to Angolan officials and banking sources.

Ismael Gaspar Martins, Angola's minister of foreign trade, told Washington Post editors and reporters Monday that Angola warmly welcomes the large investment and participation of U.S. companies in developing his war-ravaged country's depressed economy. He said he hopes others would follow the lead of U.S. oil companies.

"We are sure it can help Angola strengthen its economy," the American-educated Martins said.

The big loan and credit package, which Bankers Trust of New York syndicated and in which the U.S. Export-Import Bank participated, was signed July 26 in Paris and involved five U.S. and 10 European banks. It is believed to be one of the largest such deals for a sub-Saharan African country in many years.

Martins is visiting here as head of a five-person delegation seeking to attract more U.S. investment and promote better relations between the United States and Angola. The two have no diplomatic relations a decade after Angolan independence from Portuguese rule, but U.S. oil companies, led by Gulf, have become increasingly involved there.

His visit comes amid a major Cuban- and Soviet-backed offensive by Angola against anti-Marxist opposition in southern Angola led by Jonas Savimbi. The offensive has stirred concern among American conservatives about the fate of Savimbi's National Union for the Total Independence of Angola (UNITA).

Martins, educated on a Methodist scholarship at the University of Pennsylvania, said his government is "keeping its fingers crossed" that the United States will not provide open aid to UNITA. The 1976 Clark amendment barring clandestine aid to the anti-communist movement was repealed in July.

Martins also stressed that Angola hopes for revival of U.S.-led negotiations seeking independence of South African-administered Namibia and withdrawal of Cuban troops from Angola. The talks broke down last spring.

"We want, and are still willing to see the United States play an active role in solving regional problems." he said, stressing that Angola considers the negotiations "suspended" and does not want to abandon them.

The loan and credit package is for expansion of Angola's Takula field offshore at Cabinda in the far north. The field's "rated capacity" of production is 160,000 barrels a day compared with Angola's current level of about 220,500 barrels, a Bankers Trust official said.

The package involves $91 million in two loans for the Angolan state oil company Sonangol and the Cabinda Gulf Oil Co., a $130 million line of credit from the Export-Import Bank for equipment, a $115 million line of credit from the French state financing institution Coface and $17.2 million in other loans from commercial banks.

Martins said the total cost of developing the Takula field is $450 million but did not explain how the remaining financing would be acquired.

BUILDUP BY SOVIETS TARGETS SOUTH AFRICA

(By Edward Neilan)

The Soviet Union's stepped-up military role in Angola against the forces of anti-Marxist guerrilla leader Jonas Savimbi was dramatized on Sept. 3.

On that date, Soviet First Lt. K. Kirov Vioroshilov, instructor of the Angolan Army's 8th Motorized Brigade, was killed during an attack on Kunyamba, Cuando-Cubango Province, in southeastern Angola.

Five other Soviet officers were wounded and two armored vehicles were destroyed in the accident, according to Portuguese news agency reports.

The accelerated Soviet involvement was detailed last Wednesday in a Washington Times dispatch from Johannesburg. Quoting intelligence sources, the report by correspondent Michael Sullivan said that for the first time in Angola's civil war, Soviet officers had taken direct control of the fighting at the battalion level and and were coordinating armor, air, artillery, and ground troops against Mr. Savimbi's National Union for the Total Independence of Angola (UNITA).

"The tactics being used," wrote Mr. Sullivan, "while not new to Warsaw Pact countries, are new to the Angolan bush."

Commenting on the Times dispatch the following day, State Department spokesman Charles E. Redman said Soviet activities in Angola are "a matter of concern to the United States. It is important that the Soviet Union understand that such actions could have an effect on our relationship."

Mr. Redman, who declined to comment on the specifics of the Soviet activities, criticized Moscow's decade-long involvement in the conflict: "The Soviet role in Angola stands in sharp contrast to the role the United States is playing. We are seeking a peaceful negotiated settlement which would end the conflict in the region, the militarization of Angola's countryside and the presence of foreign troops in Angola. The Soviets are fueling that conflict."

The present Soviet-directed offensive against Mr. Savimbi's troops appears to have several goals. One is to keep the conflict going and reduce any inclination which factions in the Luanda government may have toward negotiating with Mr. Savimbi, whose movement is extremely popular with Angolans. Another is to apply pressure on the UNITA headquarters at Jamba and possibly force Mr. Savimbi's forces to flee. Such is the urgency the Soviets attach to blunting the military power of UNITA that they have introduced the HIND helicopter, MiG-23s, SU-22s and T62 tanks.

A further goal is to increase pressure on the South African government in every way possible. It is evident that in the past several months Moscow has increased its South Africa-watching and subversion capabilities in all the countries of southern Africa.

The most recent link in the Soviet surveillance chain is the newly-appointed Soviet ambassador to tiny Lesotho. South African intelligence sources point out that the appointment of Vladimir Ivanovich Gavryuskin plus a staff of 27 is out of all proportion, since Lesotho has no Soviet residents, very little trade and no other links with the Soviet Union. The new ambassador arrived recently along with several crates of sophisticated electronic monitoring equipment.

Previously, the Soviet ambassador to Mozambique, Yuri Sepellov, served concurrently as Moscow's envoy in Lesotho's capital of Maseru.

Mr. Gavryuskin, 61, studied economics at Moscow University and is said to speak English well. His first overseas posting was from 1962 to 1968 to the Soviet Embassy in London, where he served as second secretary in the economic section. In 1968 he was one of 40 Soviet officials ordered out of the country by the British Foreign Office. Mr. Gavryuskin subsequently was posted to the Soviet Embassy in Ottawa and then became consul general in Montreal. He was expelled from Canada in 1982, along with 17 other Soviet diplomats, on espionage charges.

Every Soviet embassy in Southern Africa has been beefed-up in the last six months. In the Angolan capital of Luanda, Soviet Ambassador Anatoly Kalinin heads a staff of 45. The entire Soviet intelligence operation for southern Africa is controlled by the KGB and GRU from Luanda.

The Soviet Embassy staff in Harare, Zimbabwe, was recently increased from 17 to 65, and in Gaborone, Botswana, from 21 to 60. Ambassador Sepeliov, who was kicked out of Britain in 1971 for spying, heads a staff of 100 in Maputo, Mozambique. Until a few months ago, the staff there numbered only 35.

In Lusaka, Zambia, Ambassador V. Cherendik has a staff of 130 with a Red Army general as military attache. Mr. Cherendik has been identified by South African political commentator Stephan Terblanche as "a general in the KGB who has been expelled from three African countries."

Destabilization of South Africa's political and economic structure is a known aim of the Soviet Union, and Moscow is obviously increasing its manpower in the region to accomplish that mission.

FALSE VICTORY CLAIM BY ANGOLA MARXISTS

(By Rowland Evans and Robert Novak)

JAMBA, ANGOLA.—We had just departed the place called Jamba in south-eastern Angola where Dr. Jonas Savimbi has his rear headquarters when the Marxist propaganda machine in Luanda announced that Savimbi had "abandoned" his guerrilla stronghold.

A surprising claim. Indeed, since the Jamba we had left 36 hours earlier was entirely peaceful with not even a distant gun booming, its alleged fall to the forces of Luanda's Marxist regime was a claim so astonishing that it may accurately be labelled a lie.

Reason enough exists for issuing such a lie. The regime has been trying to terminate Savimbi's courageous resistance for 10 years. Arrayed against the strongly pro Western, anti-Marxist Savimbi have been the entire armed forces of, Angola, an increasing contingent of Soviet fighter-advisers and, of course, those 25,000 or more Cuban mercenaries.

We left Jamba at 2 a.m. on Thursday, Sept. 26. A rooster had started to crow and a full moon cast a glow over the soft bush country. Not one sentry stopped our two-truck caravan, headlights glaring, as we started down the rutted track on our two-hour journey to the nearest air strip, a gravel runway smoothed out of the bush.

On Sept. 28, the correspondent of the Washington Post, Allister Sparks, wrote the following dispatch: "The Angolan government's news agency reported today that rebel leader Jonas Savimbi had abandoned his base in the southern part of the country and withdrawn into neighboring Namibia following "an important military victory by the Angolan Army."

In Savimbi's camp at Jamba, there had been quiet singing for two hours after our simple supper in a spacious, grass-thatched meeting hall where we earlier had our two-hour interview with Savimbi.

It is conceivable that the singers gathered somewhere out of sight in the darkness of late evening, were cradling loaded AK-47s in their laps with the safety catches off while they sang, waiting for the attack. Conceivable, but not likely. The soft sound of the singers helped put us to sleep in our small thatched hut.

The government's claim of overrunning Jamba is on a par with its claim several days earlier that South African troops were even then "defending" Jamba from capture. There were no South African troops here.

Yet, there propaganda claims were published around the world with the intent of building invincibility into the Communist camp. In the end, they may backfire. As surely as our eyes saw what they saw at Jamba last Thursday, the word will spread that Jamba has not fallen, seems not about to fall and may never fall.

DEBT LIMIT EXTENSION

Mr. DOLE. Mr. President, it will be my intention to proceed to the consideration of the debt limit extension. Right now, some negotiations are going on, and we hope to propose to the distinguished minority leader a limit on the number of amendments.

I know the minority leader is in the process of checking with Members on his side; we are in the process of checking with Members on our side.

It would seem to me, though, before we bring up the debt limit extension, jump right into some amendment, we might be better served to sort of find out where we are before we take off.

So I asked that the period for routine morning business be extended to 1 p.m. and that could even be extended beyond 1 p.m., but I want my colleagues to know that we are making an effort to condense the time it will take for consideration of the debt limit extension.

I am hopeful that Members who have planned on being absent tomorrow would be able to change their schedules because there is a hope that we might be able to complete action tomorrow. I say that because I am again advised by Treasury that Monday is a very, very important day and that if we intend to go conference with the House of Representatives, if we do not take final action until Monday or Tuesday, it could jeopardize, as I understand, some whose checks are in the mail.

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.

RECESS UNTIL 2 P.M.

Mr. DOLE. Mr. President, I understand they are still in the drafting stage on a couple of amendments which will be offered, I assume rather quickly when the debt ceiling legislation is called up.

While we are in the process of completing that drafting, I ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate, at 1 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HELMS).

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent to proceed as if in routine morning business for not to extend beyond the hour of 2:30 with statements limited there in to 5 minutes each.

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

Mr. DENTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

NUCLEAR POWER PLANT SECURITY AND ANTI-TERRORISM ACT OF 1985

Mr. DENTON. Mr. President, I ask unanimous consent that the Senate now turn to Calendar No. 321, S. 274, dealing with certain Federal criminal history records.

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

The bill will be stated by title.

The bill clerk read as follows:

A bill (S. 274) to provide for the national security by allowing access to certain Federal criminal history records.

There being no objection, the Senate proceeded to consider the bill (S. 274), which had been reported from the Committee on the Judiciary, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the **[**"Anti-nuclear Terrorism**]** *"Nuclear Power Plant Security and Anti-terrorism* Act of 1985".

FINDINGS

SEC. 2. The Congress finds that—

(1) the presence of nuclear power facilities, fuel cycle facilities, and nuclear materials in our society represents a potential and grave threat to our national security should terrorists gain access;

(2) the increasing threat of terrorism directed against the United States is greatly enhanced by insider access to nuclear power facilities and nuclear material; and

(3) the **[**Federal Bureau of Investigation**]** *Department of Justice* should assist in screening persons who have access to nuclear facilities and **[**material.**]** *material, by providing criminal history record checks.*

NATIONAL SECURITY ACCESS

SEC. 3. (a) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding after section 148 the following new section:

"SEC. 149. FINGERPRINTING FOR SECURITY CLEARANCE.—

"a. Every person in the process of being licensed or licensed pursuant to section 103 or 104b to operate a utilization facility shall require that each individual allowed unescorted access to the facility be fingerprinted. All fingerprints obtained by a licensee as required in the preceding sentence shall be submitted to the Attorney General of the

United States through a person or persons designated by the Commission in consultation with the Attorney General for identification and [appropriate processing] *a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee.* Notwithstanding any other provision of law, the [applicant for or holder of the license may receive the results of such search from the Attorney General.] *Attorney General may provide all the results of the search to such person or persons as designated by the Commission in consultation with the Attorney General.*

"b. The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its responsibilities to promote the common defense and security and to protect the health and safety of the public. [The Commission may also prescribe regulations to establish the conditions for use of information received from the Attorney General or to limit its redissemination.".]

"c. For purposes of administering this section, the Commission shall prescribe regulations to—

"(1) implement procedures for the taking of fingerprints;

"(2) establish the conditions for use of information received from the Attorney General in order to—

"(A) limit the redissemination of such information; and

"(B) assure that such information is used solely for the purposes provided in this section; and

"(3) provide individuals subject to fingerprinting the right to complete and correct information contained in the criminal history records prior to any final adverse action.".

(b) The provisions of subsection a of section 149 of the Atomic Energy Act of 1954, as added by this Act, shall take effect upon promulgation of regulations by the Commission as set forth in subsection c of such section. Such regulations shall be promulgated on or before January 1, 1986.

[(b)] *(c)* The table of contents at the beginning of such Act is amended by inserting after the item for section 148 the following new item:

"Sec. 149. Fingerprinting for security clearance.".

Mr. DENTON. Mr. President, on January 24, 1985, I introduced S. 274, the Nuclear Power Plant Security and Anti-Terrorism Act of 1985. The bill, which would amend the Atomic Energy Act of 1954, significantly improves the security of nuclear power facilities by granting nuclear power reactor licensees access to the criminal history files of the FBI. By creating a mechanism to conduct a background investigation on any individual having unescorted access to a nuclear power facility, the bill will help to ensure that only individuals who are reliable and trustworthy have access to critically sensitive areas, thereby significantly improving the security of that nuclear power facility.

On September 12, 1985, the Judiciary Committee met in executive session to consider S. 274. During the meeting, amendments were offered by Senator LEAHY and myself which incorporated into the bill a number of changes including certain suggestions by the Nuclear Regulatory Commission and the Department of Justice. The amendments were unanimously accepted and the bill unanimously ordered to be reported to the full Senate.

Mr. President, most background checks by nuclear power reactor licensees are limited to State and local files. Unfortunately, those files do not include information about an individual's criminal record, if any, in other parts of the country. By allowing nuclear power reactor operators to have access to the FBI's national files, they would be able to obtain more complete criminal histories. That information is essential to determine who will be granted unescorted access to nuclear facilities.

The Nuclear Regulatory Commission advises that there are 85 U.S. nuclear reactor plants that produce and are licensed for full power. There are five that are licensed for fuel loading and low power. Those facilities currently produce approximately 13 percent of all U.S. electrical power. As of December 1984, 37 additional plants had been granted construction permits. When those plants become operational, nuclear power will provide approximately 25 percent of all our electrical power. Although increasingly vital for energy, nuclear facilities can also present a grave danger to the environment and to human life if they are not managed properly.

The NRC has investigated more than a dozen incidents of suspected sabotage by plant employees. The incidents involved critical valves in the wrong position, miswired electrical equipment, and other problem areas. A Commission report indicated that between 1974 and 1982 there had been 32 possible deliberate acts of damage at 24 operating reactors and reactor construction sites, including the dozen reported since 1980.

Examples of incidents include instrument valves apparently deliberately mispositioned in a way that knocked out the steam generator fed-water pump, thus forcing the operator to reduce power immediately to keep the reactor from going into emergency shutdown. That incident happened on May 1, 1982, at the Salem atomic power station in southern New Jersey. At the Beaver Valley plant near Pittsburgh, a valve normally left in an open position was found closed, and the chain and padlock that secured the valve in the open position were missing. With the valve closed, emergency cooling water would not have been available for high pressure injection into the core.

The NRC reported:

Since there were no indications of unauthorized entry to the sites of these incidents, they are thought to have involved insiders.

A 1983 Commission memorandum concluded that:

The major threat of sabotage to a nuclear plant is associated with the insider.

More stringent employee screening procedures might have prevented many incidents of that kind.

If a nuclear power facility ever became a terrorist target, obviously, the consequences could be catastrophic. If we allow nuclear power reactor licensees access to FBI criminal history files, and thus give the Bureau the authority to help screen individuals having unescorted access to sensitive areas of the nuclear plant, we will greatly aid in preventing sabotage from within.

The act which is endorsed by the NRC, the Department of Justice, and private industry, would help to ensure the safety of nuclear powerplants, and thereby protect our citizens and our environment. It is urgently needed to safeguard the security of the United States and the welfare of the American people.

Mr. President, the bill has wide based bipartisan support. Among others, the bill is supported by Senator LEAHY, ranking minority member on the Judiciary Subcommittee on Security and Terrorism, whose efforts on this matter I commend; Senator SIMPSON, chairman of the Environment and Public Works Subcommittee on Nuclear Regulation; and Senators THURMOND and BIDEN, the chairman and ranking minority member of the Judiciary Committee.

Mr. DENTON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

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

The bill (S. 274) was ordered to be engrossed for a third reading, read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, the legislation we have passed today addresses the real need for better security at our nuclear powerplants, while at the same time addressing the privacy needs and due process rights of individuals who are employed at or may be employed at these plants.

I want to especially thank my colleague and chairman of the Senate Judiciary Subcommittee on Security and Terrorism, Senator DENTON, for his leadership in introducing this important bill and seeing it through the amendment process to final passage today.

There are currently 90 licensed nuclear reactor plants in this country. Thirty-seven permits had been issued for the construction of new plants as of December 1984. These plants pose an unprecedented danger to the environment if they are not managed properly. Since 1980, the Nuclear Regulatory Commission has reported a dozen incidents of suspected sabotage by plant employees. The NRC has concluded that "The major threat of sabotage to a nuclear plant is associated with the insider."

Until today, most background checks by nuclear powerplant operators of prospective employees have been limited to State and local criminal history files. Those files do not include information about a person's criminal record, if any, in other parts of the country.

This legislation will enable nuclear powerplant operators to have access to the fullest amount of information relevant to whether the person constitutes a security risk, while at the same time ensuring that a person is not fired or not hired based on faulty or incomplete records in the criminal justice system. The information provided to the plant operator will only be used to determine if a person is fit to be given unescorted access to the nuclear facility. The bill prohibits the redissemination of this information for any other purpose. Any person who is subject to a criminal record check will have the opportunity to complete and correct the information contained in the FBI records prior to any adverse job action being taken.

The full cost of this program will be borne by the nuclear powerplant operators.

This is a bill I have been proud to cosponsor. It will make our nuclear powerplants safer, while protecting the privacy rights of plant employees to the fullest extent possible.

THE DEATH OF ROCK HUDSON

Mr. WILSON. Mr. President, astronomers tell us that even stars are impermanent, that their light must eventually fade and die. But until then, they provide luster in the night skies, and beckon to the imagination of those of us who live an earthbound existence. There are stars in this world as well. Some are brighter than others.

The death yesterday of Rock Hudson will darken the lives of all those who knew him as a friend and colleague. It will also dim the glow cast by Hollywood's entertainment community throughout this country and the world. But the stars of stage and screen differ from their galactic counterparts. They leave behind indelible images, performances which live on to make us laugh or cry or challenge our own comfortable assumptions about life.

In the last weeks of his life, Rock Hudson challenged the assumption that illness must rob a man of his dignity or usefulness to others. He gave perhaps the greatest performance of his career—only in this case, it was a performance that did not depend for its meaningfulness on the scripted words of writers or the cinematography of Hollywood cameramen. An actor who was singularly gifted in the art of light comedy made us all see and feel the tragic implications of fate. He showed us more than a touch of the heroic as well. And this morning, who can doubt that along with the feeling of sorrow which pervades the film community, there is also a feeling of admiration and profound respect for a man who turned his own suffering into a cause for renewed hope for others, less celebrated than he, but like him, victims of a savage and merciless disease.

So long as other Americans fall prey to AIDS, then no one can feel either secure or smug in their own good health. The fact is that this is a scourge confined to no single element of the population. Its victims are to be regarded with the compassion extended to anyone who is sick. More than that, they should also be afforded the encouragement which comes with the knowledge that government and experts who rely on government for their funding are committed to doing everything conceivable to fight, and ultimately conquer, this insidious ailment. I am determined that we in Congress and throughout the Federal Establishment take every step and support every measure which can provide that solace. We cannot hope to nurse every AIDS victim back to good health. But we can make certain they do not go without hope, or struggle against their illness with a feeling of abandonment to worsen an already dreadful predicament.

One of Rock Hudson's greatest triumphs as an actor came in the film version of Edna Ferber's sprawling novel, "Giant." If anyone doubted it then, no one can doubt now, that the star of that film was an authetic Hollywood giant. Lives, like movies, do not always have happy endings. But they have enduring messages. The message of Mr. Hudson's life is essentially triumphant. It will outlive him, for as long as celluloid can preserve our dreams and convey our emotions.

(Mr. DENTON assumed the chair.)

JAPANESE BARRIERS TO UNITED STATES WINE EXPORTS

Mr. WILSON. Mr. President, I rise today to discuss a matter which has become all too common a subject for discussion on the floor of the Senate—still another barrier to trade between the United States and Japan. As we are all aware, legislators and businessmen continue to struggle against the endless obstacles which have been erected in the path of increased American exports and fair access to the Japanese market. The plight of U.S. vintners anxious to market their product in Japan provides another example of these impenetrable barriers to fair trade on their part to pursue tangible reforms of their own policies of protectionism.

Last month at the insistence of our Government, United States and Japanese negotiators attempted to conduct consultations aimed at the elimination of trade barriers to the sale of American wines in Japan. These consultations were required by the wine equity provisions of the Tariff and Trade Act of 1984, which directs the U.S. Trade Representative to designate countries that have significant market potential for U.S. wine sales, but maintain trade barriers, including tariffs, inhibiting such wine trade.

On September 3, 1985, the USTR designated six countries, including Japan, as "major wine trading countries," as defined in that law. As a next step, the law requires that consultations aimed at the elimination of the identified trade barriers be conducted and concluded by the end of October of this year. By the end of November, a report on the trade barriers and the results of these bilateral consultations must be submitted to the Congress.

My colleagues may recall that I was the author of the Wine Equity Act and have followed with keen interest the manner in which USTR has implemented its provisions and pursued the requisite consultations. With only one dismal exception, each of the other countries identified as a potentially strong export market for U.S. wines, absent existing trade barriers, has indicated a willingness to consult with USTR and attempt to provide American wineries with fair access to their markets.

The one dismal—but not surprising—exception is the Government of Japan whose negotiators have repeatedly rebuffed American requests to discuss the matter. Ironically, the maze of Japanese trade barriers are more complex than those of any other country identified by USTR and, therefore, will likely require more negotiating sessions to resolve.

For example, the Japanese impose an unacceptably high tariff rate of 38 percent on imports of premium bottled wine, in order to insulate Japa-

nese wine producers and grape growers from foreign competition. Ironically, Japan's vineyards only provide 18 percent of the product used to process Japanese wines; the remaining 82 percent is acquired through imported bulk wine and grape concentrate, which receive preferential or duty free treatment, and are blended with domestic grapes to produce Japanese wines. While the Japanese suggest that the low tariffs on bulk and concentrated wines offset the prohibitively high tariffs on premium wines, in reality, their two-tiered tariff structure is blatantly self-serving and undeniably protectionistic.

In addition to these discriminatory tariffs on premium wines, the Japanese add an excise tax of 50 percent on all wines valued at or above $3 a liter. As a result, more than 90 percent of imported wines are valued at less than $3 a liter—predominately bulk wines—because premium bottled wines would be priced out of the market.

The tariffs and excise taxes are only part of the trade obstacles facing American wine exporters. In addition, the Japanese use a 7 percent dry extract level to determine tax for sweetened and unsweetened wines, stringent labeling and tolerance requirements for additives, as well as cumbersome licensing and certification requirements.

Suffice it to say that there is an abundance of complex barriers prohibiting American wine imports and requiring serious negotiations between our two countries. Obviously, the lack of cooperation displayed by Japan on this matter is not without risks. Japanese officials should realize that USTR must report to Congress with specific recommendations for further legislative action, if the negotiation process is unlikely to resolve existing trade barriers. Japan should know by now that the mood in Congress is disposed toward retaliatory trade sanctions against Japan and that any such recommendations from the Office of the U.S. Trade Representative are likely to receive a warm congressional reception and prompt action.

I caution our trading partners in Japan, whose products have long enjoyed unfettered access to American consumers and whose country presently enjoys an unacceptably large balance of trade surplus, that these bilateral consultations are not merely perfunctory. On the contrary, USTR is seeking to provide American wine exporters with fair access to Japan because the Congress of the United States has explicitly instructed the Trade Ambassador to do so. These talks, as well as any resultant recommendations for retaliatory trade actions, are not merely motivated by a desire to achieve fair trade between our two countries, but are required by U.S. law.

While the Government of Japan has gone to great lengths, including the use of a public relations firm, to convince us of their sincere interest in reversing a deteriorating trade relationship, the intransigence of Japanese negotiators regarding American wine exports speaks volumes.

On September 18, Japanese Ambassador Matsunaga told reporters at the National Press Club that his Government is "exerting its maximum efforts" to respond to United States concerns about Japanese trade barriers. According to the Ambassador, his Government "is moving ahead with very strong determination," and United States businesses should anticipate improved trading opportunities in Japanese markets.

Regrettably, I take small comfort in the Ambassador's assurances or in similar statements that were made to me personally during my recent visit to Japan. In fact, on the very day that Ambassador Matsunaga was promoting fair trade to a group of Washington reporters, Japanese negotiators were conveying to officials from USTR a disinterest in even discussing trade barriers to wine exports. As a result, nothing was accomplished. Obviously, actions by the Ambassador's negotiators did not substantiate the Ambassador's fine words about "moving ahead with a very strong determination" to improve trade opportunities. On the contrary, his negotiators conveyed an unmistakably strong determination to perpetuate the barriers to trade.

This attitude of obstructionism is truly regrettable, because Japan has an ideal opportunity to engage in meaningful negotiations with us on wine trade barriers and to demonstrate its good faith interest in improving our trade relations; however, that opportunity will expire October 31, when USTR is required to prepare its report to Congress on the status of these consultations. At that time, Congress will act to resolve unilaterally a matter that is more preferably negotiated bilaterally.

American wine is but one of hundreds of United States products for which the door to Japanese markets is tightly shut; however, it presents both of our countries with the same choice surrounding every other American commodity being denied fair access. The choice, which I have mentioned in the past, is one between a key and a fire ax. Either the negotiators for Japan can grasp the key to unlock the door for American wine exports, or the U.S. Congress will be forced to resort to the use of a statutory fire ax. Let there be no misconception within the Government of Japan—that door for American wines, as well as for American walnuts and nectarines, cherries and chocolate, forest products and telecommunications equipment, will be opened. For the long-term good of relations between our two nations, I hope that the key to fair, reciprocal trade will be found and that, within the next 4 weeks, USTR receives concrete evidence of improved opportunities within Japan for American wine exporters.

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

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

THE PERMANENT PUBLIC DEBT LIMIT

Mr. MOYNIHAN. Mr. President, in a very short while, we will be taking up the legislation reported by the Committee on Finance to increase the permanent public debt limit. In this case, we shall be asked to raise the debt ceiling above $2 trillion, having more than doubled that debt since January 21, 1981.

At the same time we will be asked to accept a proposal for reducing Federal budget deficits. There is a severity to this proposal that has not ever been, to my knowledge, contemplated or entertained in this body. If it has been the plan of this administration to use the Federal deficit—a deficit created by the legislation of 1981—to be the driving and compelling force behind the dismantling of Federal programs generally, certainly we see the embodiment of such a mechanism in the measure to be proposed by the distinguished Senator from Texas.

It strikes me as an extraordinary act of a legislature of our antiquity and presumed competence to think that we can fairly enact a measure of this kind, under an absolute deadline. This body and this Congress must increase the debt ceiling by a date, if not certain, within at most 2 or 3 days, after which the U.S. Government would simply default on its obligations. It is manifestly not possible to craft a measure dealing with automatic reductions in the budget of the U.S. Government and all that is behind it in this space of time. And such is obviously not desired by its sponsors, because any close inquiry would raise questions of the sort that could not be answered in a 7-day space.

But I would like to point out one thing before this debate begins, a matter that is very simple. We are going to be asked to put in place an automatic mechanism for cutting most of the major activities of the Federal Government—the CIA, the FBI, the Department of the Interior, the Department of Housing and Urban De-

velopment, and so on. But the striking and remarkable thing is that farm programs would not be cut. It does, indeed, reassure those of us who have thought that perhaps there was some weaning of political wile in the American body politic that we were no longer capable as perhaps we once were of achieving goals by indirection. In the name of forcing reductions in "bloated Federal programs", or however they are called, we are going to be asked to cut mass transit, and defense procurement not subject to prior contracts—which is, for example, future research and development on the strategic defense initiative—and all other discretionary programs.

May I expand on this point, Mr. President, about research programs. Successful research programs begin like babies. They cost very little, but they cannot do much either. As they begin to acquire real utility, they cost more. As they reach maturity, they cost a very great deal as well indeed, but then they can achieve things. What begins in the mind of a reseacher on, let us say, particle beam accelerators, costs little more than pencil and paper for a period, but by the time you produce and test machinery, it cost a great deal.

But to return to this proposal. We are going to cut back the funds that provide the Internal Revenue Service the capacity to examine income tax returns and collect payments. We will be automatically cutting the way we collect funds for the Treasury. We are going to cut back the FBI and its efforts to combat terrorism. We are going to cut back the CIA. We are going to cut back drug enforcement programs. Programs that fall under the general category of relatively controllable outlays will face a cut of about 9 percent. But to the wonder of the casual reader, what turns out not to be a relatively controllable outlay? Surprise. Of all things, the outlay which is growing faster than any other element of the budget of which I am aware, save interest on the debt—farm price support programs—farm programs are not considered to be a relatively controllable outlay. They are somehow incorporated in the category of programs with automatic spending increases, such as cost-of-living adjustments for retirees. And under this proposal, those programs could see their future COLA's cut, but spending for them at current levels would be protected.

There is, to my knowledge, Mr. President, no automatic spending increase in the farm program. None. It is an absolute arbitrary way of saying we are going to cut everything but this, and therefore will you vote for it?

I really do think that at the outset of this debate we have to ask if this is honest. Is it honest and open to suggest that farm price-support programs have about them an automatic spending increase characteristic of pension programs or such others as might exist—the principal one being Social Security, which has been removed from this proposal entirely.

Well, price supports are a form of Social Security but we thought them to be relatively controllable. We thought that we passed a farm bill every 4 years and declared how much we would spend on it. As of yesterday, this Senator was under the understanding that farm programs are in the area of relatively controllable outlays, only this morning to learn that, no, on closer examination this is not so. This has not been made clear. This is hidden. It is hidden in the text of the legislation. It would cut drug enforcement some 10 percent the first year, while farm spending would remain at current levels. If anyone knows about it, they have said nothing, to my knowledge.

If you wonder about how high these levels are, and the degree to which they are relatively controllable, could I point out that in fiscal year 1980, Commodity Credit Corporation [CCC] outlays totaled $2.7 billion. The Senate farm bill, S. 1714, is estimated to cost $22 billion in fiscal year 1987. We have gone from $2.7 billion to $22 billion in 7 years. If that is not relatively controllable—well, perhaps that is uncontrollable, but it certainly comes under the heading of legislative increases far beyond anything associated with changes in price levels. No program has grown as expensively, as fast, and as expansively in the last 4 years. Maybe there is a case for that. I am not always sure, Mr. President. I represent New York, and although this may not be immediately persuasive to my colleagues, I happen to live on a dairy farm and have done so for 25 years. It is our home. We are surrounded by cows. I do not claim to milk them, but I talk to them a lot, and joke with them more than I should. Not as much as my children did, of course.

In 1984 and early 1985, we had a milk diversion program. Before this program was enacted in November 1983, I spoke against it on the floor. The distinguished majority leader said to me that a very careful "agreement" had been worked out in the matter. I retorted that it seemed to be a very careful deal. Let me state how that diversion program worked.

In Arizona, the average payment per participating dairyman was $226,978. Those poor fellows! I am almost moved to some of the rhetorical heights of the Senator from South Carolina when I consider the plight of the Arizona dairymen who got a quarter-of-a-million dollars in 1984 for not milking their cows.

In Florida, the average participant got $216,590; in Nevada, $215,262; in California, $125,044. In New York, the average payment was $24,749—which I knew very well would be the case.

We had a farm program casually pay a quarter-of-a-million dollars to just a few dairymen; don't worry about the side effect: The price consumers pay for milk and other dairy products.

In my State, where there are a great many small farms, the simple problem, which I tried to explain on this floor, is that milk is no longer sent to market in cans. It is picked up by tanker trucks.

If the small New York farmer, perfectly capable of making a living under ordinary circumstances, is taxed for the milk he produces but given a return for the milk he does not produce, his situation is simple: If he takes advantage of the production cuts in the program—a program he pays for—his herd output falls below the level of milk production profitable—even economically possible—to be picked up. So he has no choice except to pay a tax on the milk he produces. He receives no benefit. Fifty cents a hundredweight, or go out of dairy farming altogether. But not in Arizona, where huge feed-lot operations exist to sell their surpluses to the Federal Government, and a few dairymen receive $226,978 per person.

Mr. President, to my knowledge this automatic mechanism for dismantling programs of the Federal Government—which will cut the FBI and cut the Navy and cut the Internal Revenue Service and cut the park services and cut aid to education, and cut research on the strategic defense initiative—will not touch farm programs, which benefit but a few.

As we approach our 200th anniversary, perhaps we are reverting to the agrarian body that we once were. But I think there ought to be some acknowledgement of two things: First, since 1920, the majority of the population has lived in places the census defines as cities. Second, we have some interests abroad, and we are preparing to cut our defense, cut our counterintelligence; we are cutting the National Security Agency; we are cutting the CIA; but we do not cut the farm program. It might not grow; but it could not be cut. That is not a program; that is a tradition. That is not an option; that is an obligation.

After all, if you were an Arizona dairyman and had to make do with $226,978 a year in payments, you might not be able to go to Acapulco in the winter.

Mr. DOLE. Mr. President, if the Senator will yield, if you live in Arizona, you would not want to go to Acapulco.

Mr. MOYNIHAN. Some people come to Manhattan. At those prices, you can come to Manhattan. I will not make the distinction.

Mr. President, I know that the distinguished majority leader has business to attend to. I should like him to respond to a question.

Am I correct in my understanding that the Gramm amendment, as it is generally called, does not include farm programs under the category of the relatively controllable outlays?

Mr. DOLE. First, maybe we should get on the bill before we debate it.

That is not my understanding. My understanding is that it would be included and could be affected, because there are increases in target prices on an annual basis.

So, to me, that still would be a program that would be ripe for action under the amendment to be offered soon by Senator GRAMM, Senator RUDMAN, and Senator HOLLINGS.

Mr. MOYNIHAN. But the Senator does understand that we divide our expenditures into two groups. One is the relatively controllable, such as the Defense Department and others, and in the second group we provide arrangements for automatic cost increases, and farm programs are in the second category.

Mr. DOLE. I indicate to the Senator from New York that we are prepared to respond to that; but what I would prefer to do, if there is no objection, would be to move to consideration of the debt ceiling extension, offer the amendment, and then, within a matter of minutes, I could have Senator GRAMM give the Senator from New York the information.

Mr. MOYNIHAN. That is entirely agreeable. We were in morning business and in a quorum, and I thought I would take advantage of this opportunity. This is essential to the equity of the measure, in my view.

Mr. President, I yield the floor.

INCREASE OF PERMANENT PUBLIC DEBT LIMIT

Mr. DOLE. Mr. President, I move that the Senate now proceed to the consideration of Calendar No. 327, House Joint Resolution 372, the debt limit extension.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt.

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

The motion was agreed to, and the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 729

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and others, proposes an amendment numbered 729:

At the end of the bill insert the following:

SEC. . DEFICIT REDUCTION PROCEDURES.

(a) SHORT TITLE.—This section may be cited as the "Balanced Budget and Emergency Deficit Control Act of 1985".

Cosponsors of the amendment are Senators GRAMM, RUDMAN, HOLLINGS, ABDNOR, ANDREWS, BOREN, BOSCHWITZ, COCHRAN, COHEN, D'AMATO, DANFORTH, DENTON, DODD, EAST, EVANS, GARN, GOLDWATER, GORTON, GRASSLEY, HATCH, HECHT, HELMS, HUMPHREY, KASTEN, KERRY, LAXALT, LUGAR, MATTINGLY, MCCLURE, MCCONNELL, MURKOWSKI, NICKLES, STEVENS, SYMMS, TRIBLE, WALLOP, WARNER, WILSON, ZORINSKY, and DIXON.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 730

(Purpose: To require a graduated reduction of the Federal budget deficit, to balance the budget, to establish emergency procedures to avoid deficit overages, and for other purposes)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and others, proposes an amendment numbered 730.

Cosponsors of the amendment are Senators GRAMM, RUDMAN, HOLLINGS, ABDNOR, ANDREWS, BOREN, BOSCHWITZ, COCHRAN, COHEN, D'AMATO, DANFORTH, DENTON, DODD, EAST, EVANS, GARN, GOLDWATER, GORTON, GRASSLEY, HATCH, HECHT, HELMS, HUMPHREY, KASTEN, KERRY, LAXALT, LUGAR, MATTINGLY, MCCLURE, MCCONNELL, MURKOWSKI, NICKLES, STEVENS, SYMMS, TRIBLE, WALLOP, WARNER, WILSON, ZORINSKY, and DIXON.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that we temporarily suspend the reading of the amendment and go into executive session.

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

EXECUTIVE SESSION

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar No. 377, Vice Admiral Trost.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF THE NAVY

The legislative clerk read the nomination of Carlisle A.H. Trost to be admiral.

Mr. WARNER. Mr. President, I wish to thank the leadership.

Admiral Trost has long been my naval aide when I was Secretary. He was nominated by the President to take over the Atlantic Command and his change of command is tomorrow.

I thank the leadership for their cooperation and courtesy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

INCREASE OF PERMANENT PUBLIC DEBT LIMIT

The Senate resumed consideration of House Joint Resolution 372.

Mr. HOLLINGS. Mr. President, will the distinguished majority leader yield for a question?

Mr. DOLE. I think now we go back to the reading of the amendment.

Mr. HOLLINGS. Will the majority leader yield for a question?

Mr. DOLE. I am happy to yield for a question.

Mr. HOLLINGS. Mr. President, I wish to clarify the record. I think I have something better than a unanimous consent. Ordinarily, I understand, the Senate procedure provides that by unanimous consent when we go off of the "Compact of Free Association" and the textile amendment then we automatically go back to it after we finish the pending matter. But as I understand the majority leader says he will call the "Compact of Free Association." It is back on the calendar now, and we have the leader's word on it.

Mr. DOLE. That is correct.

Mr. HOLLINGS. That is better than unanimous consent.

Mr. DOLE. That is correct. I hope so.

Mr. HOLLINGS. Good. I thank the majority leader.

The PRESIDING OFFICER. The clerk will resume reading the amendment.

The assistant legislative clerk resumed reading the amendment.

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

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

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . DEFICIT REDUCTION PROCEDURES.

(a) SHORT TITLE.—This section may be cited as the "Balanced Budget and Emergency Deficit Control Act of 1985".

(b) CONGRESSIONAL BUDGET.—

(1) ONE CONCURRENT RESOLUTION ON THE BUDGET REQUIRED ANNUALLY.—

(A) IN GENERAL.—Section 310 of the Congressional Budget Act of 1974 is amended—

(i) by striking out all beginning with "SEC. 310. (a)" through "necessary—" in the matter preceding paragraph (1) of subsection (a) and inserting in lieu thereof the following:

"SEC. 310. (a) IN GENERAL.—Any concurrent resolution on the budget considered under section 301 or section 304 for a fiscal year shall, to the extent necessary, specify—"; and

(ii) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

(B) CONFORMING CHANGES.—

(i) The table of contents in subsection (b) of section 1 of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(I) by striking out "Adoption of first concurrent resolution" in the item relating to section 301 and inserting in lieu thereof "Annual adoption of concurrent resolution";

(II) by striking out "First concurrent resolution" in the item relating to section 303 and inserting in lieu thereof "Concurrent resolution"; and

(III) by striking out "Second required concurrent resolution and reconciliation" in the item relating to section 310 and inserting in lieu thereof "Reconciliation".

(ii) Paragraph (4) of section 3 of such Act is amended—

(I) by adding "and" after the semicolon at the end of subparagraph (A);

(II) by striking out subparagraph (B); and

(III) by striking out "(C) any other" and inserting in lieu thereof "(B) a".

(iii) Section 300 of the Congressional Budget Act of 1974 is amended—

(I) by striking out "first" in the item relating to April 15 and in the second item relating to May 15; and

(II) by striking out the items relating to September 15 and September 25.

(iv)(I) The heading of section 301 of the Congressional Budget Act of 1974 is amended to read as follows:

"ANNUAL ADOPTION OF CONCURRENT RESOLUTION".

(II) Section 301(a) of such Act is amended by striking out "the first concurrent resolution on the budget" in the first sentence and inserting in lieu thereof "a concurrent resolution on the budget".

(III) Section 301(b) of such Act is amended—

(aa) by striking out "first concurrent resolution on the budget" in the matter preceding paragraph (1) and inserting in lieu thereof "concurrent resolution on the budget referred to in subsection (a)"; and

(bb) in paragraph (1) by striking out all beginning with "the concurrent resolution" through "both" the second place it appears and inserting in lieu thereof "the Congress has completed action on any reconciliation bill or reconciliation resolution, or both, required by such concurrent resolution to be reported in accordance with section 310(b)".

(IV) Section 301(d) of such Act is amended by striking out "first" each place it appears.

(V) Section 301(e) of such Act is amended—

(aa) by striking out "set for" in paragraph (1) and inserting in lieu thereof "set forth"; and

(bb) by striking out "first concurrent resolution on the budget" each place it appears and inserting in lieu thereof "concurrent resolution on the budget referred to in subsection (a)".

(v) Section 302(c) of such Act is amended by striking out "or 310".

(vi)(I) The heading of section 303 of such Act is amended by striking out "FIRST".

(II) Section 303(a) of such Act is amended by striking out "first concurrent resolution on the budget" in the matter following paragraph (4) and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)".

(vii) Section 304 of such Act is amended—

(I) by striking out "first concurrent resolution on the budget" and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)"; and

(II) by striking out "pursuant to section 301".

(viii)(I) Section 305(a)(3) is amended by striking out "first concurrent resolution on the budget" and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)".

(II) Section 305(b) of such Act is amended—

(aa) in paragraph (1) by striking out ", except that" and all that follows through "15 hours"; and

(bb) in paragraph (3) by striking out "first concurrent resolution on the budget" and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)".

(ix) Section 308(a)(2)(A) of such Act is amended by striking out "first concurrent resolution on the budget" and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)".

(x) Paragraph (1) of section 309 of such Act is amended by striking out ", and other than the reconciliation bill for such year, if required to be reported under section 310(c)".

(xi) Section 310(f) of such Act is amended by striking out "subsection (a)" and inserting in lieu thereof "301(a)".

(xii) Section 311(a) of such Act is amended—

(I) by striking out "310(a)" the first place it appears and inserting in lieu thereof "301(a)"; and

(II) by striking out "310(c)" and inserting in lieu thereof "310(b)".

(xiii) Clause 1. of Rule XLIX of the Rules of the House of Representatives is amended by striking out ", 304, or 310" and inserting in lieu thereof "or 304".

(2) MAXIMUM DEFICIT AMOUNTS.—

(A) ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.—

(i) POINT OF ORDER.—Section 301 of the Congressional Budget Act of 1974 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and inserting after subsection (b) the following new subsection:

"(c) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED—

"(1) Except as provided in paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider or adopt any concurrent resolution on the budget for a fiscal year under this section, or to consider or adopt any amendment to such a concurrent resolution, or to adopt a conference report on such a concurrent resolution, if the level of total budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report (or that would result from the adoption of such amendment), exceeds the recommended level of Federal revenues for that year by an amount that is greater than the maximum deficit amount specified for such fiscal year in section 3(7).

"(2) Paragraph (1) of this subsection shall not apply to any fiscal year for which a declaration of war has been enacted.".

(ii) CONFORMING CHANGE.—Section 301(e) of such Act, as redesignated by clause (i) of this subparagraph, is amended by inserting "; and when so reported such concurrent resolution shall comply with the requirement described in paragraph (1) of subsection (c), unless such paragraph does not apply to such fiscal year by reason of paragraph (2) of such subsection" after "October 1 of such year" in the second sentence thereof.

(B) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304 of such Act is amended—

(i) by inserting "(a) IN GENERAL.—" after "SEC. 304."; and

(ii) by adding at the end thereof the following new subsection:

"(b) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—

"(1) Except as provided in paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider or adopt any concurrent resolution on the budget for a fiscal year under this section, or to consider or adopt any amendment to such a concurrent resolution, or to adopt a conference report on such a concurrent resolution, if the level of total budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report (or that would result from the adoption of such amendment), exceeds the recommended level of Federal revenues for that year by an amount that is greater than the maximum deficit amount specified for such fiscal year in section 3(7).

"(2) Paragraph (1) of this subsection shall not apply to any fiscal year for which a declaration of war has been enacted.".

(C) DEFINITIONS.—Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(6) The term 'deficit' means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. For purposes of this Act, and unless specifically superseded by a law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985, the receipts of the Federal Old-Age, Survivors, and Disability Insurance Trust Fund for a fiscal year, and the taxes payable under sections 1401(a), 3101(a), and

3111(a) of the Internal Revenue Code of 1954 during such fiscal year, shall be included in total revenues for such fiscal year, and the disbursements of such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year.

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $180,000,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $108,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $72,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $36,000,000,000; and"

"(F) with respect to the fiscal year beginning October 1, 1990, zero.".

(3) RECONCILIATION.—

(A) ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.—

(i) DIRECTIONS TO COMMITTEES.—Section 301(b) of the Congressional Budget Act of 1974 (as amended by paragraph (1)(B)(iv)(III) of this subsection) is further amended—

(I) by striking out "may also require" in the matter preceding paragraph (1) and inserting in lieu thereof "shall also, to the extent necessary to comply with subsection (c)";

(II) by inserting "require" after the paragraph designation in paragraph (1);

(III) by inserting "require" after the paragraph designation in paragraph (2); and

(IV) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) specify and direct any combination of the matters described in paragraphs (1), (2), and (3) of section 310(a);".

(ii) CONFORMING CHANGES.—

(I) Section 310(a) of such Act is amended—

(aa) by inserting "or" at the end of paragraph (2);

(bb) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period; and

(cc) by striking out paragraph (4).

(II) Section 310(d) of such Act is amended by striking out "subsection (c)" and all that follows through "year" and inserting in lieu thereof "subsection (b) with respect to a concurrent resolution on the budget adopted under section 301(a) not later than June 15 of each year".

(III) Subsections (e) and (f) of section 310 of such Act are amended by striking out "subsection (c)" each place it appears and inserting in lieu thereof "subsection (b)".

(IV) Section 300 of such Act is amended by inserting immediately after the second item relating to May 15 the following new item:

"June 15	Congress completes action on reconciliation bill or resolution, or both, implementing first required concurrent resolution.".

(B) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—

(i) IN GENERAL.—Section 304(a) of such Act (as redesignated by paragraph (2)(B)(i) of this subsection) is amended by adding after the period the following new sentence: "Any concurrent resolution adopted under this section shall specify and direct any combination of the matters described in paragraphs (1), (2), and (3) of section 310(a) to the extent necessary to comply with subsection (b).".

(ii) CONFORMING CHANGE.—Section 310(d) of such Act (as amended by subparagraph (A)(ii)(II) of this paragraph) is further amended by adding at the end thereof the following new sentence: "Congress shall complete action on any reconciliation bill or reconciliation resolution reported under subsection (b) with respect to a concurrent resolution on the budget adopted under section 304(a) not later than 30 days after the adoption of the concurrent resolution.".

(4) LIMITATION ON AMENDMENTS.—

(A) CONCURRENT RESOLUTIONS ON THE BUDGET.—

(i) HOUSE OF REPRESENTATIVES.—Section 305(a)(6) of such Act is amended—

(I) by inserting "(A)" after the paragraph designation; and

(II) by adding at the end thereof the following new subparagraph:

"(B)(i) No amendment that would have the effect of increasing any specific budget outlays above the level of such outlays set forth in a concurrent resolution on the budget as reported, or of reducing any specific Federal revenues below the level of such revenues set forth in such concurrent resolution as reported, shall be in order unless such amendment ensures that the amount of total budget outlays set forth in the concurrent resolution as reported is not increased, and that the recommended level of total Federal revenues set forth in such concurrent resolution as reported is not reduced, by making an equivalent reduction in other specific budget outlays or an equivalent increase in other specific Federal revenues.

"(ii) Clause (i) of this subparagraph shall not apply to any fiscal year for which a declaration of war has been enacted.".

(ii) SENATE.—Section 305(b)(2) of such Act is amended—

(I) by inserting "(A)" before the paragraph designation; and

(II) by adding at the end thereof the following new subparagraph:

"(B)(i) No amendment that would have the effect of increasing any specific budget outlays above the level of such outlays set forth in a concurrent resolution on the budget as reported, or of reducing any specific Federal revenues below the level of such revenues set forth in such concurrent resolution as reported, shall be in order unless such amendment ensures that the amount of total budget outlays set forth in the concurrent resolution as reported is not increased, and that the recommended level of total Federal revenues set forth in the concurrent resolution as reported is not reduced, by making an equivalent reduction in other specific budget outlays or an equivalent increase in other specific Federal revenues.

"(ii) Clause (i) of this subparagraph shall not apply to any fiscal year for which a declaration of war has been enacted.".

(B) RECONCILIATION BILLS AND RESOLUTIONS.—Section 310 of such Act is amended by inserting after subsection (b) (as redesignated by paragraph (1)(A)(ii) of this subsection) the following new subsection:

"(c) LIMITATION ON AMENDMENTS TO RECONCILIATION BILLS AND RESOLUTIONS.—

"(1) It shall not be in order in either the House of Representatives or the Senate to receive or consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution as reported, or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution as reported, unless such amendment ensures that total budget outlays are not increased, and that total Federal revenues are not reduced, by making an equivalent reduction in other specific budget outlays or an equivalent increase in other specific Federal revenues.

"(2) Paragraph (1) shall not apply to any fiscal year for which a declaration of war has been enacted.".

(5) ENFORCEMENT.—

(A) ALLOCATIONS OF BUDGET AUTHORITY AND OUTLAYS.—

(i) REPORTING DATE FOR ALLOCATIONS.—Section 302(b) of such Act is amended by striking out "Each such committee shall promptly report" in the last sentence and inserting in lieu thereof "Each such committee, within ten days of session after the concurrent resolution is agreed to, shall report".

(ii) ALLOCATIONS MADE BINDING.—Section 311 of such Act is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and inserting immediately after "SEC. 311" the following new subsection:

"(a) LEGISLATION SUBJECT TO POINT OF ORDER AFTER ADOPTION OF ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.—

"(1) IN GENERAL.—At any time after the Congress has completed action on the concurrent resolution on the budget required to be reported under section 301(a) for a fiscal year, it shall not be in order in either the House of Representatives or the Senate—

"(A) to consider any bill or resolution (including a conference report thereon), or any amendment to a bill or resolution, that provides for budget outlays or new budget authority in excess of the appropriate allocation of such outlays or authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year; or

"(B) to consider any bill or resolution (including a conference report thereon), or any amendment to a bill or resolution, that provides new spending authority described in section 401(c)(2)(C) to become effective during such fiscal year, if the amount of budget outlays or new budget authority that would be required for such year if such bill or resolution were enacted without change or such amendment were adopted would exceed the appropriate allocation of budget outlays or new budget authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, unless such bill, resolution, or amendment was favorably reported by the Committee on Appropriations of the House involved under section 401(b)(2) along with a certification that if such bill, resolution, or amendment is enacted or adopted, the committee will reduce appropriations or take any other actions necessary to assure that the enactment or adoption of such bill, resolution, or amendment will not result in a deficit for such fiscal year in excess of the maximum deficit amount specified for such fiscal year in section 3(7).

"(2) ALTERATION OF 302(b) ALLOCATIONS.—At the time after a committee reports the allocations required to be made under section 302(b), such committee may report to its House an alteration of such allocations, provided that any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

"(3) EXCEPTION.—Paragraph (1) shall not apply to any fiscal year for which a declaration of war has been enacted.".

(B) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—Section 311(b) of such Act, as redesignated by subparagraph (A)(ii) of this subsection, is amended by inserting before the period at the end thereof the following: ", or would otherwise result in a deficit for such fiscal year that exceeds the maximum deficit amount specified for such fiscal year in section 3(7) (except to the extent that paragraph (1) of subsection (b) of section 310 does not apply by reason of paragraph (2) of such subsection)".

(C) REPORTING REQUIREMENT EXTENDED TO CONFERENCE REPORTS.—Section 308(a) of such Act is amended by striking out "the report accompanying that bill or resolution" in the matter preceding paragraph (1) and inserting in lieu thereof the following: "or whenever a conference report is filed in either House, the report accompanying that bill or resolution or the statement of managers accompanying that conference report".

(c) BUDGET SUBMITTED BY THE PRESIDENT.—

(1) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared on the basis of the best estimates then available, in such a manner as to ensure that the deficit for such fiscal year shall not exceed the maximum deficit amount specified for such fiscal year in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974; and the President shall take such action under subsection (d)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 as is necessary to ensure that the deficit for such fiscal year does not exceed such maximum deficit amount.

"(2) Subject to paragraph (3) of this subsection, the deficit set forth in the budget so transmitted for any fiscal year shall not exceed the maximum deficit amount specified for such fiscal year in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974, with budget outlays and Federal revenues at such levels as the President may consider most desirable and feasible. The President may also recommend alternative budgets complying with the requirement of the preceding sentence, with outlays and revenues at higher or lower levels to take account of possible changes in economic conditions or other circumstances.

"(3) Paragraph (2) shall not apply with respect to any fiscal year for which a declaration of war has been enacted.".

(2) REVISIONS AND SUPPLEMENTAL SUMMARIES.—Section 1106 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate.".

(d) EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICITS AMOUNTS.—

(1) REPORTING OF DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNTS.—

(A) IN GENERAL.—

(i) FISCAL YEAR FOR WHICH CONCURRENT RESOLUTION ON THE BUDGET IS ADOPTED.—The Director of the Office of Management and Budget and the Director of the Congressional Budget Office (hereafter in this section referred to as "the Directors") shall, with respect to any fiscal year for which a concurrent resolution on the budget has been adopted before the first day of such fiscal year (I) estimate the levels of total revenues and budget outlays that may be anticipated for such fiscal year, (II) determine whether the deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year and whether such excess is statistically significant, and (III) estimate the rate of real economic growth that will occur during such fiscal year. The Directors jointly shall report to the President and to the Congress not later than November 1 of such fiscal year (in the case of the fiscal year beginning October 1, 1985) and October 1 of such fiscal year (in the case of any succeeding fiscal year) if either such Director determines that the amount of the deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year, identifying the amount of such excess, stating whether such excess is statistically significant, specifying the estimated rate of real economic growth for such fiscal year, and specifying the percentages by which automatic spending increases and relatively controllable expenditures shall be reduced during such fiscal year in order to eliminate such excess. In the event that the Directors are unable to agree on an amount to be set forth with respect to any item in any such report, the amount set forth for such item in such report shall be the average of the amounts proposed by each of them with respect to such item.

(ii) FISCAL YEAR WITHOUT CONCURRENT RESOLUTION ON THE BUDGET.—Not later than October 1 of any fiscal year for which a concurrent resolution on the budget has not been adopted, the Directors shall (I) estimate the level of Federal revenues and budget outlays for such fiscal year, (II) determine whether the deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year and whether such excess is statistically significant, and (III) estimate the rate of real economic growth that will occur during such fiscal year, and, if either such Director determines that the amount of the deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year, shall jointly report to the President and the Congress, identifying the amount of such excess, stating whether such excess is statistically significant, specifying the estimated rate of real economic growth for such fiscal year, and specifying the percentages by which automatic spending increases and relatively controllable expenditures shall be reduced in order to eliminate such excess. Any disagreement between the Directors on an amount to be set forth in any such report shall be resolved in the manner described in the last sentence of clause (i).

(B) EXCEPTION.—Subparagraph (A) shall not apply to any fiscal year for which a declaration of war has been enacted.

(2) PRESIDENTIAL ORDER.—

(A) CONTENTS.—

(i) IN GENERAL.—Except as provided in subparagraph (B), upon receipt of any report from the Directors under paragraph (1) of this subsection identifying an amount by which the deficit for a fiscal year will exceed the maximum deficit amount for such fiscal year, notwithstanding the Impoundment Control Act of 1974, the President shall issue an order that—

(I) subject to clause (ii) of this subparagraph, eliminates one-half of such excess by modifying or suspending the operation of each provision of Federal law that would (but for such order) require an automatic spending increase to take effect during such fiscal year, in such a manner as to reduce by a uniform percentage (but not below zero) the amount of increase under each such provision, and

(II) subject to clause (ii) of this subparagraph, eliminates one-half of such excess by sequestering such amounts of budget authority, obligation limitations, and loan limitations as are necessary to reduce each relatively controllable expenditure by a uniform percentage and by adjusting payments provided by the Federal Government;

and shall transmit to both Houses of the Congress a message—

(III) identifying—

(aa) the total amount and the percentage by which automatic spending increases are to be reduced under subclause (I) of this clause;

(bb) the total amount of budget authority, obligation limitations, and loan limitations which is to be sequestered and the total amount of payments which is to be adjusted under subclause (II) of this clause with respect to relatively controllable expenditures;

(cc) the amount of budget authority, obligation limitations, and loan limitations which is to be sequestered and payments which are to be adjusted with respect to each such relatively controllable expenditure in order to reduce it by the required percentage; and

(dd) the account, department, or establishment of the Government to which each amount of budget authority, obligation limitations, and loan limitations and each payment specified under subdivision (cc) of this clause would be available for obligation (but for such order), and the specific project or governmental functions involved; and

(IV) providing a full supporting details with respect to each action to be taken under subclause (I) or (II) of this clause.

(ii) LIMITATION.—Actions taken under subclause (I) of clause (i) may reduce by less than one-half the amount by which the deficit for a fiscal year exceeds the maximum deficit amount for such fiscal year, and actions taken under subclause (II) of such clause may reduce such excess by more than one-half only to the extent that compliance with the requirement that actions taken under each such subclause reduce such excess by one-half would require the reduction of automatic spending increases below zero.

(B) EXCEPTION.—If the amount of the excess of the deficit for a fiscal year over the maximum deficit amount for such fiscal year set forth in a report from the Directors under paragraph (1) of this subsection is not statistically significant, subparagraph (A) shall be applied by substituting "may" for "shall" each place it appears.

(C) DATE ISSUED.—

(i) POSITIVE REAL ECONOMIC GROWTH.—If the estimate of real economic growth set forth in a report transmitted under paragraph (1) of this subsection is zero or greater, the President shall issue the order required to be issued under this subsection pursuant to such report not later than 14 days after transmittal of such report.

(ii) NEGATIVE REAL ECONOMIC GROWTH.—

(I) IN GENERAL.—If the estimate of real economic growth set forth in a report transmitted under paragraph (1) of this subsection is less than zero, the President shall

issue the order required to be issued under this subsection pursuant to such report not later than 30 days after transmittal of such report.

(II) ALTERNATIVE PROPOSALS.—The President may, during the 30-day period specified in subclause (I), submit to each House of the Congress a joint resolution that will, if enacted—

(aa) reduce the deficit for a fiscal year to an amount not greater than the maximum deficit amount for such fiscal year, or

(bb) subject to the requirements of subsection (e) of this section, suspend (in part or in whole) the requirements of this section and of the amendments made by this section with respect to such fiscal year.

Such joint resolution shall be introduced (by request) by the majority leader of each such House on the day on which it is submitted and shall be referred on such day to the appropriate committee of such House. The committee shall report the joint resolution not later than 10 days after the date on which it is introduced. A committee failing to report a joint resolution within the 10-day period referred to in the preceding sentence shall be automatically discharged from consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar. The provisions of section 305 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget shall also apply to consideration of any joint resolution submitted under this subparagraph and to conference reports thereon. Section 310(c) of such Act (as added by subsection (b)(4)(B) of this section) shall apply to any such joint resolution.

(D) EFFECTIVE IMMEDIATELY.—Except to the extent that it is superseded by a joint resolution enacted under paragraph (3) of this subsection, an order issued pursuant to this paragraph shall be effective from and after its issuance. Any modification or suspension of a provision of law that would (but for such order) require an automatic spending increase to take effect during a fiscal year shall apply for the one-year period beginning with the date on which such automatic increase would have taken effect during such fiscal year (but for such order).

(E) PROPOSAL OF ALTERNATIVES.—A message transmitted pursuant to this paragraph with respect to a fiscal year may be accompanied by a proposal setting forth in full detail alternative ways to reduce the deficit for such fiscal year to an amount not greater than the maximum deficit amount for such fiscal year.

(3) CONGRESSIONAL ACTION.—

(A) REPORTING OF JOINT RESOLUTIONS.—

(i) IN GENERAL.—Not later than 10 days after issuance of an order by the President under paragraph (2) with respect to a fiscal year, the Committee on the Budget of the House of Representatives or the Senate may report to its House a joint resolution superseding such order. The report accompanying such joint resolution shall explain in full detail the nature and effects of each provision of the joint resolution.

(ii) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider or agree to any joint resolution reported under clause (i) with respect to a fiscal year, any amendment thereto, or any conference report thereon if—

(I) the enactment of such joint resolution as reported;

(II) the adoption and enactment of such amendment; or

(III) the enactment of such joint resolution in the form recommended in such conference report;

would cause the amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year.

(iii) DEFINITION.—For purposes of clause (i), the term "day" shall mean any calendar day on which either House of the Congress is in session.

(B) PROCEDURES.—

(i) IN GENERAL.—The provisions of section 305 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to consideration of joint resolutions reported under this paragraph and conference reports thereon.

(ii) LIMITATION ON AMENDMENTS.—Section 310(c) of such Act (as added by subsection (b)(4)(B) of this section) shall apply to joint resolutions reported under this paragraph.

(4) DEFINITIONS.—For purposes of this subsection:

(A) The term "automatic spending increase" shall include all Federal programs indexed directly or indirectly, whether appropriated or contained in current law. This shall include entitlements and other payments to individuals, open-ended programs and grants, and other similar programs, and shall not include increases in Government expenditures due to changes in program participation rates. Such term shall not include any increase in benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

(B) The term "budget outlays" has the meaning given to such term in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974.

(C) The term "concurrent resolution on the budget" has the meaning given to such term in section 3(4) of the Congressional Budget and Impoundment Control Act of 1974.

(D) The term "deficit" has the meaning given to such term in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974.

(E) The term "maximum deficit amount" has the meaning given to such term in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974.

(F) The term "real economic growth" means, with respect to a fiscal year, the nominal growth in the production of goods and services during such fiscal year, adjusted for inflation.

(G) The term "relatively controllable expenditures" means budget outlays that are classified as relatively controllable outlays in Office of Management and Budget, *Controllability of Budget Outlays*, Report No. BPS07014 (August 27, 1985).

(H) The amount by which the deficit for a fiscal year exceeds the maximum deficit amount for such fiscal year shall be treated as "statistically significant" if the amount of such excess is greater than 5 percent of such maximum deficit amount. For purposes of the fiscal year beginning October 1, 1985, the preceding sentence shall be applied by substituting "7" for "5".

(5) CONFORMING CHANGES.—

(A) RULES OF THE HOUSE OF REPRESENTATIVES.—

(i) Clause 1.(e)(3) of rule X of the Rules of the House of Representatives is amended—

(I) by striking out "and" at the end of subdivision (C);

(II) by redesignating subdivision (D) as subdivision (E); and

(III) by inserting after subdivision (C) the following new subdivision:

"(D) to report joint resolutions with respect to Presidential orders issued under subsection (d)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, and to take such other actions as may be required of it under that section; and".

(ii) Clause 4.(a) of rule XI of such Rules is amended by inserting after "Budget Act of 1974" the following: "and on joint resolutions under subsection (d)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(B) STANDING RULES OF THE SENATE.—Rule XXV(e)(2) of the Standing Rules of the Senate is amended—

(i) by striking out "and" at the end of subdivision (C);

(ii) by redesignating subdivision (D) as subdivision (E); and

(iii) by inserting after subdivision (C) the following new subdivision:

"(D) to report joint resolutions with respect to Presidential orders issued under subsection (d)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, and to take such other actions as may be required of it under that section; and".

(e) BUDGETARY TREATMENT OF SOCIAL SECURITY TRUST FUNDS.—

(1) FISCAL YEARS 1986 THROUGH 1992.—

(A) IN GENERAL.—Section 710 of the Social Security Act (as added by paragraph (1) of subsection (a) of section 346 of the Social Security Amendments of 1983) is amended—

(i) by striking out all beginning with "the" the first place it appears down through "Disability Insurance Trust Fund, the" and inserting in lieu thereof "The";

(ii) by striking out "sections 1401, 3101, and 3111" and inserting in lieu thereof "1401(b), 3101(b), and 3111(b)";

(iii) by redesignating all after the section designation as subsection (b);

(iv) by inserting after the section designation the following:

"(a) The receipts and disbursements of the Federal Old-Age, Survivors, and Disability Insurance Trust Fund, and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954, shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government."; and

(v) by adding at the end thereof the following new subsection:

"(c) No provision of law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriates funds authorized under the Social Security Act as in effect on the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985) may provide for payments from the general fund of the Treasury to the Federal Old-Age, Survivors, and Disability Insurance Trust Fund, or for payments from such Trust Fund to the general fund of the Treasury.".

(B) APPLICATION.—The amendments made by subparagraph (A) shall apply with respect to fiscal years beginning after September 30, 1985, and ending before October 1, 1992.

(2) FISCAL YEAR 1993 AND THEREAFTER.—Section 710(a) of the Social Security Act (42 U.S.C. 911 note), as amended by section

346(b) of the Social Security Amendments of 1983 (to be effective with respect to fiscal years beginning after September 30, 1992) is amended by—

(A) inserting "(1)" after the subsection designation; and

(B) adding at the end thereof the following new paragraph:

"(2) No provision of law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriates funds authorized under the Social Security Act as in effect on the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.".

(f) WAIVERS AND AMENDMENTS.—Notwithstanding section 904(b) of the Congressional Budget and Impoundment Control Act of 1974, any other provision of law, or any rule or standing order of the Senate or the House of Representatives, no provision of this section, or of any amendment made by this section, may be waived, amended, or otherwise modified except by a joint resolution that—

(1) does so in specific terms, referring to such provision by its designation and declaring that such joint resolution waives, amends, or otherwise modifies such provision; and

(2) is addressed solely to that subject.

(g) Section 1106(a) of title 31, United States Code, is amended by striking out "July 16" and inserting in lieu thereof "September 16".

(h) Notwithstanding any other provision of law, it shall not be in order in the Senate or House of Representatives to consider any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 301, 304, or 310 of the Congressional Budget Act of 1974, or any amendment thereto, or conference report thereon that contains recommendations with respect to the Federal Old-Age Survivors Trust Fund or the Federal Disability Insurance Trust Fund, with respect to revenues attributable to the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954, with respect to the old-age, survivors, and disability insurance program established under title II of this Act.

(i) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section and the amendments made by this section shall become effective on the date of the enactment of this section and shall apply with respect to fiscal years beginning after September 30, 1985, and before October 1, 1991.

(2) EXCEPTION.—The amendments made by subsections (b)(1), (b)(2)(A), (b)(3)(A), (b)(5)(A)(i), and (c) of this section shall apply with respect to fiscal years beginning after September 30, 1986, and before October 1, 1990.

(3) OASDI TRUST FUNDS.—The amendment made by subsection (e) shall apply as provided in such subsection.

Mr. DOLE. Mr. President, let me indicate for the RECORD cosponsors of both amendments. The principal sponsors are the distinguished Senator from Texas [Mr. GRAMM], the distinguished Senator from New Hampshire [Mr. RUDMAN], the distinguished Senator from South Carolina [Mr. HOLLINGS]; and in addition, the cosponsors are Senators ABDNOR, ANDREWS, BOREN, BOSCHWITZ, COCHRAN, COHEN, D'AMATO, DANFORTH, DENTON, DODD, EAST, EVANS, GARN, GOLDWATER, GORTON, GRASSLEY, HATCH, HECHT, HELMS, HUMPHREY, KASSEBAUM, KASTEN, KERRY, LAXALT, LUGAR, MATTINGLY, MCCLURE, MCCONNELL, MURKOWSKI, NICKLES, STEVENS, SYMMS, TRIBLE, WALLOP, WARNER, WILSON, ZORINSKY, and DIXON.

Mr. President, let me indicate we now have before us the Gramm-Rudman-Hollings amendment, and it would be my hope, although we have advised our colleagues there will be no votes after 3 p.m., this would be a good opportunity for the principals to explain the amendment, so it will be laid out in the RECORD.

Let me also indicate that there will be votes tomorrow. We have urged our colleagues to change their travel plans tomorrow, even those who may be leaving at 3 p.m. for St. Louis, to return to Washington.

It is my understanding there will be a Democratic caucus in the morning, so I would guess that votes could occur as early as 12 noon and we could have votes throughout tomorrow afternoon.

Again, the primary reason for this schedule is that according to the Treasury Secretary we must act on the debt ceiling extension by Monday. We could wait until Monday if we were passing a clean debt ceiling. We are not. We are probably going to amend the House debt ceiling bill maybe with one amendment, or maybe with more than one amendment. This means that the legislation will go back to the House of Representatives, which triggers a number of opportunities for the Speaker and others in the House of Representatives. They may go to conference. They may not go to conference. They may send us another debt ceiling without any amendment or another clean debt ceiling.

My point is that we cannot afford to wait until Monday or Tuesday to take final action in the Senate. We have already agreed to go out Thursday night to accommodate about a dozen Senators, and thus we are going to have a real problem of trying to complete action on the debt ceiling in addition to completing action of the reconciliation bill next week.

Following that, as I have indicated before, it would be my intention to go back to the Micronesia bill, with the textile amendment pending. At that time I assume the Senator from South Carolina would offer a cloture motion but hopefully during that period, while the petition is maturing, we might move on to the farm bill or some other legislation so that we can keep the calendar moving.

But I urge my colleagues that this would be a good opportunity between now and 6, 8, or 9 o'clock to debate the bill, make all the good arguments and any others you care to make between now and then.

I yield to the principal sponsor, Senator GRAMM.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I rise to speak on behalf of our amendment, the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. President, we have before us for consideration an extraordinary request that we raise the debt ceiling to over $2 trillion.

I am not going to burden this body by trying to talk about how much money that is because, the truth is, no one knows.

But what we do know is it is twice the debt ceiling that existed only 5 years ago. In bringing this debt ceiling proposal to the floor, we admit to the American people that the budget process has failed and that we have failed.

And that brings us, Mr. President, to the point of our amendment. We have to raise the debt ceiling. To fail to act on the debt ceiling, to fail to raise the debt ceiling to allow the Federal Government to borrow money to cover the deficit, would insure the default on commitments the Federal Government has made to its people and has made around the world.

The question here is not whether or not we are going to raise the debt ceiling. The question is under what kind of circumstances are we going to raise it?

I remember, Mr. President, vividly, 7 years ago I had just gotten to the other body and we voted on raising the debt ceiling. I offered an amendment at the time to tie the debt ceiling to the budget process and mandate a balanced budget by 1983, and it failed by two votes. I remember a person in the leadership getting up and saying:

Raising this debt ceiling is like a family paying its bills. Your spouse goes out and runs up big bills and you do not like it, but you don't have any alternative except to pay them.

And I got up and said:

You are not taking the analogy far enough; that in any responsible family, when people go out and spend beyond their means, they pay their bills. But they also sit down around the kitchen table, call in the credit cards, get out the butcher knife and cut up the credit cards and set out an agreement to deal with the problem.

Well, Mr. President, in my 7 years in the Congress we have raised the debt ceiling but we have never called in the credit cards. We have never set out a method to deal with the problem. We are going to do that here on this increase in the debt ceiling. The time has come for us to do something about the deficit problem. The American people, by a margin of four to one, say the deficit problem of the Federal

Government is the No. 1 problem in the country. In fact, that has been true, Mr. President, since 1982. But today, for the first time since 1982, the No. 1 issue in America is now the No. 1 issue on the floor of the U.S. Senate.

This proposal, Mr. President, is an emergency program to deal with an economic emergency. It is a 5-year program that sets out extraordinary conditions related to the Federal budget and related to our target to balance the budget.

Beginning with a deficit of $180 billion for fiscal year 1986, we set out, over a 5-year period, a $36-billion-a-year reduction in the maximum allowable deficit to achieve our goal of balancing the budget in the budget that we will adopt in 1990 for fiscal year 1991.

Now that is important, Mr. President, not only because in 5 years we are going to deliver on a balanced budget—something we all claim to be for but we very seldom vote for—but that will be the last outyear budget submitted by Ronald Reagan. And it will give him an opportunity, under this bill, after going through very difficult and soul-searching decisions, to submit a balanced budget before he leaves the White House.

These budget ceilings, beginning with $180 billion and going to zero in the budget that we will adopt in calendar year 1990, represent the maximum allowable deficit under this emergency bill.

During the 5 years in which this emergency bill is in effect, the President will be required to submit budgets that do not have deficits that exceed these limits. During the 5-year emergency period under which this bill is in effect, it will not be in order in either the Senate or the House for the Budget Committees to bring to the floor of those respective Chambers budgets that have deficits that exceed these maximum allowable amounts.

Under this emergency measure, during the next 5 years in budget deliberations, all amendments will be zero-sum amendments. So that, if somebody wants to add money to a mother's milk program, they have to kill off a hog somewhere to pay for it. If somebody wants to raise spending in one area or reduce savings in another, or cut somebody's taxes somewhere else in the budget resolution, they have to come up with a corresponding way to pay for those programs.

Once the budget is adopted, within 10 legislative days during which either House of Congress is in session, the budget authority provided by the budget adopted under this emergency plan will be allocated down to the 302(b) levels, which, in English, means it will be allocated down to the subcommittee level, and those levels of spending will be binding. It will not be in order in either the House or the Senate to bring to the floor any amendment, any spending bill, any entitlement bill that violates the 302(b) allocations. So that for the first time ever under a budget, under this emergency procedure, the budget will be binding down to the subcommittee level.

Finally, Mr. President, on October 1 of every year except the first year—in the first year we are setting it into place on November 1—the Director of the Office of Management and Budget and the Director of the Congressional Budget Office must submit jointly a report setting out a series of economic projections for the fiscal year beginning on that day. If that projection shows a nonnegative real GNP growth—in other words, if there is no recession—and if that projection shows a deficit which exceeds the maximum allowable deficit by a significant amount, which is 7 percent in the first year, 5 percent thereafter, then this joint report will report to the President and the Congress the amount of the overage and the amount by which automatic increases and discretionary programs should be sequestered across the board proportionately so as to preserve the priorities of the Congress in order to terminate the deficit.

After the receipt of this report, the President must, in 14 days or less, enforce the sequester order and issue the order sequestering spending, discretionary spending, and automatic increases across the board. That order shall go into effect immediately upon promulgation.

At that point, the President can send to the Congress a proposed alternative, and that proposal is highly privileged under the procedures of the Budget Act. Either Budget Committee can report an alternative, which is also highly privileged in procedure. But none of those alternatives will be in order on the floor unless they totally eliminate the deficit. If the Congress acts on an alternative, sends it to the President, and the President signs it, that alternative savings plan is substituted for the automatic sequester.

Let me make it clear what is included and what is not included. The Social Security trust fund, as a free-standing trust fund, self-contained, is excluded from the budget process, is moved off-budget by this amendment and is not counted as part of the sequester process. In getting the aggregate budget to calculate the deficit, the Social Security trust fund is part of that calculation. But for consideration of the budget, submission by the President, and action by the Budget Committee, it is removed from consideration.

In those areas of entitlements, where the Federal Government sets out the conditions under which an entitlement is paid, where the Federal Government sets out eligibility standards and, therefore, where the expenditure is gauged by the number of people who qualify and the amount they qualified for, only automatic increases built into the budget will be subject to sequester.

Fifty percent of the initial overage shall be counted against those automatic increases, and not just entitlement programs but any automatic increase across the board except for that in the Social Security trust fund. The proviso that is operative, however, is that the automatic increase cannot be reduced below zero. If the automatic increase reaches zero before the deficit is terminated, then the remainder is transferred to discretionary programs. Under the discretionary programs the President must sequester across-the-board budget authority so as to produce a proportionate reduction in outlay.

Let me make note of the fact, Mr. President, why this is significantly different than impoundment, and why it is significantly different than any line-item veto approach. We all know that the difficulties in those procedures is that Members of Congress are jealous of their powers, and they do not want to transfer power to the executive branch. The executive branch likewise does not want to pass power to the Congress. This bill does not create new powers. What this bill does is simply makes the President the instrument of the will of Congress in sequestering across the board proportionately so as to preserve the congressional intent in terms of priorities.

A second option exists, Mr. President, and that exists in cases where we have a recession. I think it is important to say very briefly why that is important. In 1981, in the beginning of August, we were looking at about a $60 billion deficit depending on how you figured it. When the midyear review came out and it was clear how deep the recession was, in a 2-week period the deficit jumped from $60 billion to $140 billion. Of course, we have had it ever since. So we set out here special recognition that a recession plays havoc with the budget, and we set up a special proviso, or set out a special proviso to deal with that possibility. If on November 1, the joint report of OMB and CBO—and if they differ on their numbers, we are required by law to take the midpoint of those two projections—if they project a negative real GNP growth, a recession, then the President has 30 days instead of 14 days to submit the sequester order, or to impose it. He can send to the Congress a range of proposed alternatives, including the partial, total, temporary, or permanent suspension of the requirements of this bill. This bill is also suspended automatically in years

when Congress has declared a state of war.

Mr. President, that in essence is the procedure. It is a simple procedure. There are those who have asked, is this the way you raise taxes? There are those who have asked is this the way you cut spending? Well, let me answer by saying this process does not prejudge the decisions made by Congress and by the President. This process, however, guarantees that action will be taken. It guarantees that we do not have the luxury of simply passing the buck to the American worker in terms of higher deficits. It means that we do not have the freedom to pass the burden of decisions not made onto the backs of our children and grandchildren. It means that a solution will occur. It does not dictate which solution. But it does dictate that the time has come for choosing, and that a choice will have to be made. I personally believe that with 5 years to balance the budget we can do the job, and the American people clearly believe that as well. With a $36 billion a year reduction in the deficit, at the same time that revenues are growing by over $7 billion a year, I believe that is doable by controlling spending. But the point is that if Congress and the President refuse to act, the across-the-board sequester will occur, and the spending will be reduced.

There are those who say should we submit defense to these across-the-board cuts? Should we submit portions of the farm bill? Should we submit automatic increases? Let me remind you, Mr. President, and remind my colleagues that this automatic process need not occur if we do our job. If we adopt responsible budgets with realistic assumptions, with real savings, then this automatic sequester need never occur. No one need suffer from an across-the-board reduction in a Federal benefit if Congress does its job. So I say to those who will drag every dead cat across the table they can think of in terms of some motherhood, apple-pie program that if you do not want an automatic across-the-board reduction in spending to occur, do your job, vote to control spending, and vote to deal with the deficit.

Finally, Mr. President, let me conclude, since I know my two distinguished coauthors—at least one is here—and there are others who will want to speak on this amendment as well, by saying that when we adopt the debt ceiling every year, normally we wait around until the last minute and people are wondering whether mama's check is going to bounce in Social Security, or whether some Government employee is going to be laid off. And all the people that benefit from the Federal Government breathe a sigh of relief. In fact, we have done something for them when we raise the debt ceiling.

Mr. President, we have an opportunity on this amendment to do something not just for the people that are riding in the wagon; not just for the people that are benefiting from the Federal Government. But we have an opportunity to do something for somebody that Government seldom does much for. We have an opportunity to do something for the people who do the work, who pay the taxes, who pull the wagon, who make America work because in adopting this amendment like that responsible family that makes up all of our States and congressional districts in the Congress, we pay our bills. We are honorable. We meet our commitments. But also like that responsible family, when we are having trouble making ends meet, when there is runaway spending, when we have prodigal husbands, wives or children, we call in the credit cards. We set in force a procedure to deal with the problem. This is the procedure to deal with this problem. I believe Mr. President, that while we are all prone to exaggeration, that this is probably the most significant vote that we have cast in Congress in a long time. Certainly in my 7 years, only the 1981 budget and tax cut programs would rival this in terms of importance. We made a mistake in 1981, and in the subsequent years. We committed to a budget process we did not live with. We let the deficit get out of control. We came in, set out a budget, we cut taxes, we provided incentives for people to work, save and invest, and they have done it—8 million new jobs. We brought the inflation rate to a standstill. We have rebuilt national defense, saved Social Security, and cut taxes. And America has prospered. But we have one unfulfilled promise—one thing we said we would do we have not done. It has pained me ever since as a person who cosponsored that first budget. We said we would balance the budget. If we adopt this amendment, and the President signs it into law, we will have set into place the strongest provisions that can be written in statute to force fulfillment of that promise made long ago that we balance the budget. And I am convinced, Mr. President, that by doing this we will have fufilled the commitments of the Reagan program, and will have made the progress that we have made in the last 5 years permanent.

So I urge my colleagues to adopt this amendment. I urge those on the Democratic side of the aisle to join with our Democratic cosponsors in making this a bipartisan approach to a problem—that it is a bipartisan problem.

I thank you, Mr. President.

Mr. RUDMAN. Will the Senator from Texas yield before giving up the floor?

Mr. GRAMM. Yes.

Mr. RUDMAN. I know the Senator from Texas has a great deal that he would like to say and ought to say on the bill. The Senator from South Carolina and I, who are cosponsors with the Senator from Texas, have a bit of a pressing problem in that we both are involved in marking up a bill before the Appropriations Committee this afternoon. And we would inquire of the Senator from Texas, who probably ought not to give up the floor at this time, whether he might like to yield to the Senator from South Carolina, who would like to address this issue, and then the Senator from New Hampshire, without giving up his right to be recognized. If the Senator from Texas would agree with that, I ask unanimous consent that the Senator from Texas might yield to the Senator from South Carolina and then the Senator from New Hampshire without giving up his right to the floor.

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

Mr. GRAMM. I am so proud to yield to my distinguished colleague from South Carolina.

Mr. HOLLINGS. I thank the distinguished authors, our distinguished friend from Texas, Senator GRAMM, and our distinguished Senator from New Hampshire, Senator RUDMAN.

Mr. President, I am very pleased to join in on this particular initiative because it is time that we have truth in budgeting and truth in description in what we have done and realize the absolute necessity for a mechanism of this kind. In reality, we never have had truth in description or truth in reporting of the budget process. I readily acknowledge it is a very complicated story to tell.

In essence, what we are going to stop and what we are really going to cut with this particular mechanism is the fraud that we have all perpetrated on the American people and ourselves in the adoption of the budget.

Our distinguished friend from New York was listing just a little while ago the cuts in the FBI, the cuts in all the important programs that none of us want to cut.

But we have given deliberate consideration to all of these particular items. I happen to be the ranking member on Commerce, Justice, State, and Judiciary Appropriations Subcommittee and handle the FBI budget. So no one could be more concerned and more considerate, I think the RECORD will show, about the increases in the FBI budget that have gone through at the insistence of this particular Senator.

What we really need to do is to cut the fraud that we engaged in which occurred about 2 months ago.

At the time of adoption in the Senate of the budget resolution we

were all worn and weary and battle fatigue had set in. We began then the rhythmical rundown, getting ready for the August break.

At the time of that August break, I took the floor to outline exactly what we were doing, what the figures really were, and, as former chairman of the Budget Committee, why I was not voting for that budget.

I had been in the meetings all year long. I had been in the caucuses and conferences. So necessarily I feel loyalty to my comembers on the Budget Committee and deeply respect the hard work that they have performed, with the great leadership on both sides of the aisle, of Senator CHILES, the ranking member, and Senator DOMENICI, the chairman.

But I have to say that the budget they came up with didn't do enough about the deficit. I said at that particular time, "Look, this is not a $171.9 billion deficit." If you will look at the RECORD of August 1, I said, "It is nearly $192 billion to $200 billion."

Now, this afternoon as we present the Balanced Budget and Emergency Deficit Control Act—I do not believe we can get far with that title; I would prefer to call it truth in budgeting. We present the Truth in Budgeting Act because we want to accomplish something. This is not a political charade to find out who is who and what is what, to embarrass anyone, make members take a tough vote, or any of that stuff. We have been through those exercises.

This is a bipartisan move amongst colleagues to try to gain credibility in this particular body for truth in budgeting.

In going down the numbers, Senator GRAMM and I have had to make some adjustments.

First, rather than using the figure over the 5-year period in 1986 of $171.9 billion, we adjust it upward to $180 billion. We saw we were going above that, maybe substantially above it. It worried us because we were not trying to pass this particular mechanism to make traumatic cuts or require revenues and all the particular histrionics that you are going to hear as we discuss this thing. On the contrary, we want to make it realistically politically attainable.

Even after adjusting it to the $180 billion, counseling as we have with the Congressional Budget Office and the Office of Management and Budget, we have now made the adjustment for the first year rather than a 5-percent triggering figure over and above the stated deficit level of $171.9 billion, or $180 billion now—rather than the 5 percent, we put in 7 percent.

If the distinguished Senators will refer to that, they can take the 7 percent of the $180 billion and we are now working at a figure of $192.6 billion before the trigger is set on cutting the deficit. I said on August 1 it would be $192 billion. I have good authority standing here at this moment in truth in description and truth in budgeting from both the Office of Management and Budget and the Congressional Budget Office that it is going to be nearer that $192 billion figure.

What we wanted to do is to get right at the trigger level and perhaps not trigger it.

I would be the one who would say I still think perhaps we might trigger something as I relate it back to the various items. I will refer to the offshore drilling. We always embellish that some $4 billion and we are lucky to get $2 billion in offshore drilling. You know of the difficulties in California and down in the gulf, the problems we have there.

We always overdescribe the attainments of the Congress, such as Conrail. We were hoping to save $1.2 billion that we would get from Southern or somebody who wanted to buy it, or at least that amount.

We had a saving of $11.9 billion in agriculture. If we can get the bill in the next few moments on the floor we will be discussing $7.9 billion, so there is $4 billion as an outage right there.

We can get the rosy scenario where we were talking about an August 1 growth in GNP of 4 percent but now it is 1.67 percent.

So here in this period what we are trying to do is to lay our plan out on the table for our colleagues with no tricks, no pressures, no politics, as best we can keep them out of this. Everybody has priorities. Some will talk about education or what will happen to this or what will happen to that.

In my joining with Senator RUDMAN and Senator GRAMM, we have insisted that we be as impartial as we possibly could be and as unprejudiced as we possibly could be with respect to the executive branch and the Congress; with respect to the two bodies and the priorities that have been set therein, one priority being with respect to defense and the other with respect to the Social Security or social programs; with respect to the different parties, Republican and Democrats.

Democrats pride themselves in preserving Social Security and the Republicans pride themselves in not raising taxes. Our distinguished President says, "Make my day." So we are trying to be realistic about it. We are not mandating revenues and we are not mandating this or that or anything else. In that impartial, nonpartisan, bipartisan fashion, we come and say, "Here is the budget that the Congress has passed." Then, at the beginning of the fiscal year, October 1, in some 14 days—OMB and CBO have already given the particular figures on October 1. So by October 15, the President moves, if there is not a recession with his cuts.

The Washington word for that is "sequester." Our distinguished leader, Senator GRAMM, who has come off the campus, taught me that word. I have gone through and improved my vocabulary every year.

I got up here and got in an argument, I say to Senator LONG, and found I was not in an argument, I was in a dichotomy. I tried to find out what we were talking about when we talked about increasing spending, and they talk about "exacerbating." If I can ever find what "destabilizing" means—I never found anything stabilized to get destabilized. The most delightful word I have ever learned up here is "honorarium." That is a nice one, the best one I ever heard.

Now I learn from my distinguished friend, Senator GRAMM, on this particular score, that when something is "sequestered," that means the President cuts. He cuts in equal percentages, having adhered to the division of controllables and uncontrollables.

So, if you look at it realistically and we are trying to really set in a mechanism that we can all join in now, we said, "Heavens above, Congress has already voted to take Social Security off budget in 1991." That has been a solid vote. There are many still in the ranks who feel it is not a part of the budget and its difficulties only commenced back in 1968–69 when President Johnson took it and put it into the unified budget.

I think perhaps if we had a vote in the next 2 seconds, the majority of the Senate would vote that way. There is no use, in these important closing days of the national Congress, trying to get a debt limit, to find out who is where on Social Security. That would bring them from Missouri; they would turn plain around in midair if we bring that up, and they would come out on the floor and everybody would start talking about Social Security and miss the point.

So realistically, we said look at it this way: We are supposed to believe that Social Security has helped us in our analysis and the adoption of the 1986 budget. So with the outlays and expenditures, we tried to count it in—we are not trying to exacerbate, to increase that 1986 budget. We are trying to keep it the way Congress acted on it. When it comes around to that Presidential cutting or "sequestering," that is off limits, that ends that argument. There should not be any in there and some feel strongly about that. We have not arrived at that literally.

I happen to have been one who recommended back in January to freeze the COLA's. I have been trying to do that for 3 or 4 years. That is what brings me to this particular point. We have fought the good fight on a bipartisan basis since 1981 of presenting a freeze across the board and somehow,

it just does not get passed. The Budget Committee members were edging up to it at the Fourth of July break, but I am not going into that and reirritate some feelings with references to that. The fact is we did not do it.

I can identify with those on Social Security that perhaps everything should be included. But we have ended that argument with respect to this present action, because we are doing our dead-level best to pass something. We are not out here demonstrating this Thursday afternoon. We are trying to actually get this passed.

Along that line, we have been on the House side. There are some meetings going on over there right now. There is good, strong bipartisan support, I might say, in all of the House for going along with a mechanism of this kind. It may not be exactly what we may pass over here on the Senate side, but it will not be distorted in any particular fashion. I am really encouraged in that sense.

Mr. President, in the early days of the budget process, I would have liked to present my own version of a balanced budget along with Senator Muskie—because we as former Governors, in creating the budget process—thought we ought to have some teeth in it. As Governors we had developed a balanced budget approach before and it is a working thing that can be done. There is no use to look at the Federal Government and say it is an impossibility. If there is an impossibility part of the Government, it is the Congress, it is that the Congress does not want to do it.

So we want to entice and encourage and persuade as best we can all of our colleagues on both sides of the aisle—as I say, do it or work it out—and make sure that there is a mechanism instituted to balance the budget that we can live with.

On that point, Mr. President, there are some differences in thoughts that are going around, with others making suggestions about how to balance the budget. I have only recently seen the proposals made by some of my Democratic colleagues. I would take exception to the schedule for the deficit reduction and that is one reason I moved up Senator GRAMM's dates. That is when I got into the picture. We were talking about next year and we have to be realistic.

If we wait until January, when the President presents his budget along with an economic report, soon we will have Lincoln's Birthday recess, then we will finally gear up at the end of February, move into March and not get anything done until the end of April or May. But if you wait until then to "sequester" or cut, you will have already given COLA's in January, February, and perhaps March, and are not going to take them away. If, on the other hand, you want to go after defense and make some proportional cuts there, then, of course, the contracts will have already been let. I described how our distinguished Secretary of Defense, Cap Weinberger, over there, is staying up day and night, around the clock, to let all the contracts he can possibly get out before this catches him in November when we get it passed.

If you wait until next spring you will be in a position where all you can do with defense is cut operation, maintenance, readiness, or salaries, and we do not want to do that on either side of the aisle—conservative or liberal.

If we cut in defense, we should cut some new initiatives, some procurement contracts, hold them up, perhaps stretch them out, cut on some research, perhaps. But in any event, we want to make the cuts realistically obtainable and as prompt as possible.

But we did not play with real bullets this year. Nobody knew that we were going to do this or try this or even get this much support. There are some 40 Senators already here to begin with and I am confident we can get something of this kind passed in the Senate on a bipartisan basis. They did not think in these kinds of terms. No one listened at the particular time when we were trying to analyze what we had done, we were already $20 billion out. I have been telling my colleagues in the appropriations markups—we had beaten each other up. It is a good discipline and I follow Senators DOMENICI and CHILES on that, to at least stay within targets. But in reality, as we beat each other up about $50 million here or $50 million there, we are already $20 billion out. That appears on the face of this document.

On that basis, we have moved along now and picked up—I say to Senator GRAMM. I am going to ask unanimous consent that the distinguished Senator from Texas [Mr. BENTSEN] be added as a cosponsor.

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

Mr. HOLLINGS. Senator GRAMM did not object?

Mr. GRAMM. I am delighted, Mr. President.

Mr. HOLLINGS. I thank the Senator very much.

Let me conclude by saying, one more time, that this is a realistic proposal. You find controllables—there are no tricks there—and uncontrollables. Those who have not worked within the budget system, and I am not speaking smugly as if that is some honor; I can tell my friends that politically, it is a negative. You can just say no, no, no to all your colleagues on all the programs. I have not picked up a vote being on the Budget Committee. But you learn and there are some descriptions for controllables and uncontrollables.

We cannot come in and change formative law, but we can take on the uncontrollable side of entitlements, whereby, at some $12.5 billion in COLA's or increases, $5.2 billion being off limits to the President—that is $5.2 billion of Social Security COLA's. You will have to go to the $7.3 billion there and then you would have to go to the other side, where the controllables are, and an equal proportional amount of defense and social programs and everything else.

And, yes, if you have gone along, you are going to have some cuts. We are trying, as I have indicated, to measure it right down the middle. It is very, very unfortunate, Mr. President, we never have listened and realized. This Congress already has approved a budget which mandates that when we meet again in the 2d session of the 99th Congress, in January, we spend some $80 billion to $85 billion more. It does this without revenues, in an election year we are back to cutting programs and everything else.

Now, that is the sort of political thing that I have tried to describe to my Democratic friends, that we have been playing a game and losing that game because we do not like to cut women, infants and children's feeding and school lunches and student loans for higher education, but those are the only places that can be cut under the game that is being played. We have already agreed, in the budget that we are talking about, not the debt limit now or the deficit, but for next year we have agreed to a 3-percent real growth or $25 billion in defense. We must pay the interest cost which is going up $30 billion. That is $55 billion. You have COLA's. If we did not cut it this year, we are not going to cut it in 1986, I can assume, so that is another $15 billion, $16 billion perhaps more if inflation goes up, CPI increases, so you are up there to $70 billion. And you look at health care costs. They run about $12 billion to $15 billion, so you already have committed on the floors of the Congress and in this administration—we have done it—$85 billion more next year and we are not going to have any revenues.

And then we will increase the deficit again. We offer this plan not just to reduce the $2 trillion debt. More important than that is the need to stop this onrushing, marathon kind of operation of rolling down the hill like a snowball, with the deficit and the debt getting bigger and bigger and bigger. If we just stopped it and did nothing more, we would have accomplished a tremendous act of progress on this whole charade that we have been playing. Why have we played this charade? Because we have committed in the adoption of the budget to spend some $85 billion more. At the same time we refused to talk about increasing reve-

nues. There is just no way in the world to stop this mammoth snowballing other than the particular mechanism that we have here before our colleagues. I can go into some of the things that I am confident will be asked about it, but the Senator from Texas has been most indulgent. Our distinguished Senator RUDMAN of New Hampshire has been working not just on this particular balanced budget and deficit reduction act or truth in budgeting, but he is also the chairman of the Commerce, Justice, State Appropriations Subcommittee, which is having its markup this afternoon, so I am limiting my remarks and saying only one word. We are going to have to mean what we say and say what we mean and not play that game at the end of the year of, "Oops, we miscalculated," and then start pointing fingers at each other. As has been stated, we are pulling in the credit cards, we are playing with real bullets, we are trying to be serious and institute a mechanism to bring back credibility to the national Government. We have fiscal responsibility at the State level. The States have been able to raise revenues, pay bills, and maintain their credit ratings in face of increased financial burdens in recent years. They have balanced their budgets, I can tell you, as a professional politician and public servant for over 35 years now. It can work at the Federal level as well. I never have succeeded passing any kind of budget freeze or anything else, but I have not given up. I am optimistic and I am proud to join Senator GRAMM and Senator RUDMAN and the many cosponsors in this particular initiative. I thank the distinguished Senator from Texas [Mr. GRAMM]. I am proud to work with him on this one and with Senator RUDMAN.

Mr. GRAMM. I yield to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I will be brief because, as my friend from South Carolina has pointed out, the two of us must go back to the appropriations markup to finish work on the Commerce-State-Justice Department appropriation bill which is now pending. But I want to depart from the remarks made by the Senator from South Carolina and the Senator from Texas in describing the process because I think that has been explained by them in exquisite detail and needs no further expounding by me. I want to make a couple of observations for my colleagues and for the RECORD about the Senator from Texas and the Senator from South Carolina. The Senator from Texas, although he has come to this body only this year, brings to the U.S. Senate an encyclopedic knowledge of the process, again by his 4-year service on the House Budget Committee during his 6 years in the other body. He brings a knowledge and a precision to this that, frankly, I find astounding. Working with him on this has been a pleasure because he understands this process as well as anyone in this city.

As for my friend from South Carolina, Senator HOLLINGS, who was at one time the chairman of the Senate Budget Committee, and who serves with me on the Appropriations Subcommittee on Commerce-State-Justice, not only does he bring a great deal of knowledge to this task but an understanding of the dynamics of this body, and I think probably more important than anything else he brings a certain humanity and a sense of humor to the process that probably make it more understandable and more bearable for all of us. Mr. President, I am particularly pleased to work with the Senator from Texas and the Senator from South Carolina on this issue.

I believe it was Victor Hugo who said something to the effect that there is an idea whose time has come. More than a month ago Senator GRAMM and I discussed this very briefly, at the time of the passage of the budget resolution. I voted against that budget resolution at the time saying—some thought harshly—that the resoluion was not better than nothing, as it has been propounded, but in fact was nothing. And as we come down the road now roughly 60 days later, we find this country facing deficits anywhere from $20 billion to $30 billion more than the U.S. Congress said they would be by solemn declaration no more than 60 days ago.

The fact is that we had a very narrow window of opportunity.

As I got back to New Hampshire during the month of August and traveled all over that State, what I found was that people were concerned about the deficit more than anything else. They were concerned about their future, the future of this economy, and their children's future.

All of a sudden, the press started reporting that when Congress came back, we would be asked to vote on increasing the national debt ceiling to $2 trillion. I believe that that figure, more than any other, has given us this window of opportunity. Frankly, as we stand on this floor this afternoon, whereas that window was open slightly a crack, I think we have blown the glass out of the window. I think there is a prairie fire in this town right now, sweeping through the Senate, and it is going to roll right over the House of Representatives; because the American people are not going to stand by and see the U.S. Congress go "Ho hum" and vote for a $2 trillion national debt limit unless there is some indication that we have the intestinal fortitude—known in my State as guts—to put some tough structural reform into the process, which is a failure.

Let me comment about what the national debt means to the people of my State, the people sitting in the galleries today, the people across the country, and these young pages sitting at the foot of the Presiding Officer's dais.

For every family of four in America today, this week, you are paying $34.50 a week in taxes which go to pay interest on the national debt. If that is not an astounding figure, I have not heard one; $34.50 for every family of four in America is allocated from their after-tax income—not even before-tax income—to pay interest on the debt.

So what are we supposed to do, when we come back here from our home States after the recess? Simply sit here and play coy and cute and let the leadership trample on us and beat on us and, after holding it up, realize that we have to do the responsible thing and, finally, vote again, as I have done four times in the past, to increase the national debt, and this time to $2 trillion plus?

To me, the answer was clearly "No," although, as a responsible Member of this body, I recognize that that must be done.

So the Senator from Texas, the Senator from South Carolina, and I decided that we would raise the ante, that there ought to be a price for raising the debt; and I will be pleased, strike that, I will be willing to vote for the national debt in the event that this Congress adopts this proposal or one like it.

I am fascinated that the other body is now working very vigorously to get its version. I am delighted to hear that my friends on the other side of the aisle—and I have many—who are as deeply concerned about this deficit as we are on this side of the aisle are working on a Democratic alternative. I think that is wonderful, and I say that in all sincerity; because it was Disraeli who said that in democracies, as long as nobody cares who gets the credit, a lot can get done. I do not particularly care who gets the credit. I do not care if it is called "Gramm-Hollings-Rudman" or anything else.

The important thing to the people of America is that when we leave here, be it tonight, tomorrow night, next Monday night, or 4 o'clock in the morning next Friday, when we pass the increase in the national debt, the people of America can wake up in the morning and watch the morning news and be told that the U.S. Congress finally put a stop to the irresponsibility of Congress and administrations, present and past, which have failed to confront the basic policy decisions facing America.

What does this proposal do? What it does is of the most simple essence. It forces policy decisions.

There are those in this body who believe that we should have more taxes. There are those in this body who believe that we should have less defense spending. There are others who think that we should have more social spending. None of those is addressed in this proposal.

The purpose of this proposal is not to take up a slant for or against any of those points of view. The purpose of this proposal is simply, and in a straightforward manner, to say that when Jefferson and Madison talked about checks and balances, they did not realize that there was a safety valve called the deficit and that the checks and balances could lead to gridlock; that Congress and the administration could fail in addressing basic policy and pour it all into the deficit, with phony assumptions and phony numbers and phony speeches.

At our press conference the other day, the junior Senator from Connecticut [Mr. DODD] coined a phrase that is the best I have heard in a long time. What he said was that people were practicing bumper sticker politics. That is what Congress has been practicing; and I must say, with some reluctance, that I think that is what the administration, to some extent, has been practicing—bumper sticker politics.

The Gramm-Hollings-Rudman proposal is only one thing: When all is said and done, we will stand on the floor in this body and the other body and we will vote. We will be forced to vote; because if we do not like what the President does in applying this formula, we must stand up and be counted. We cannot be engaged in a perpetual finger-pointing society, where we point our finger at the House, the House points its finger at the President, and the President points his finger back at Congress. That is what we have been doing for the last 4 years. That is precisely how dificit and debt has gone from $1 trillion to $2 trillion.

All we are asking our colleagues in this body and the other body is to give the original system of checks and balances a chance to work. Let us be responsible; let us be direct; let us be forthright. Whatever solutions come out of Congress next year, based on this proposal, only guarantee one thing, and that is that this never-ending, rising series of deficits plaguing this country and our future will end.

I again thank the Senator from South Carolina and the Senator from Texas, who truly have brought a breadth of experience to this effort, and I am glad to have had a small part in working with them.

Mr. GRAMM. Mr. President, it has been a great privilege for me to work with the distinguished Senator from New Hampshire and the distinguished Senator from South Carolina.

This is not a perfect proposal. May be somebody could come up with a better one. But it is a proposal that has been worked on for a long time. It has had input from a vast number of people with different perspectives on the problem and different backgrounds and different experiences. It is a proposal that I believe will work. It will not solve the problem, but it will make us make choices and do our job.

I recall that in my 6 years in the House, I used to read above the Speaker's chair a quotation that was carved in the wall by a Senator from New Hampshire—not our colleague WARREN RUDMAN, but another Senator from New Hampshire, Daniel Webster. That quotation concluded: "May we do something in our time worthy of being remembered."

I believe that on this amendment, on this debt ceiling, we have an opportunity to do something worthy of being remembered. I believe that we are going to do it in the U.S. Senate. I believe that we are going to adopt this comprehensive reform measure to set in place a program that will balance the budget and make our economic recovery sustainable.

I hope that when the House votes on this measure, they will read that Webster quotation and that they will do something worthy of being remembered as well; because if they do, we will have truly made history and we will truly have dealt with a problem that our Nation and our people cry out to be dealt with.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

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

Mr. PACKWOOD. Mr. President, we are on the debt ceiling bill, and just so that we might simply lay out what the debt ceiling bill is and why we are here to raise it, let me put it in illustrative and rather simple terms.

Assume that you have a country that has 12 people in it, and the Government promises to each of those 12 people that it will give them $100 a year—$1200. We are going to pay this out of the coffers of the Government. We raise taxes enough only to produce $1,000. So we have promised to pay $1,200, we have collected only enough to bring in $1,000, and if we are going to bring in the $1,200, we have to get the $200 someplace.

What we have been doing is borrowing it. The Government can only borrow money by authorization of Congress. So the President comes to Congress and he says to Congress, "Ladies and gentlemen of the Congress, please pass authority for the Government to borrow $200 so that we can have $1,000 of taxes and $200 of borrowed money to pay each of our citizens $100 a year." We approve it. The year goes by. We pay each of the citizens their $100. The year is gone.

Now we are into the next year. We still have 12 citizens. We are still promising to pay them $100 a year. We are still only collecting $1,000 total. So next year we are going to pay out $1,200 and have only $1,000 coming in. Again we are $200 short. Only now we have already borrowed $200 last year and all we are paying is the interest on it. We are not paying back any of the principal.

So when we get to this year the President says again to Congress, "Ladies and gentlemen of the Congress, last year you authorized me to borrow $200 to pay for the difference between what we are paying out and what we are collecting in taxes."

We are borrowing that and we are borrowing it all the time because we are not paying anything on the principal. Now by the laws that you passed we are going to continue this process of paying out $1,200 and taxing $1,000. So now we need to borrow another $200 on top of the $200 last year. And if we cannot borrow it because we are not going to tax it and we are not going to cut the spending or have not, then we cannot meet our obligations. So he asks us to increase the debt ceiling from $200 which was the ceiling last year to $400, again because we are paying nothing on the principal. So we pass a law that says the President can borrow $400.

And that is what we have been doing year after year after year, and now we are at a situation where we have borrowed up to the limit that the law allows, somewhat in excess of $1.8 trillion. And as we are going to have a deficit in the magnitude of $170 billion to $200 billion the President has come to us and said, "Ladies and gentlemen of the Congress, will you please raise the debt ceiling the slightest," in excess of $2 trillion so that we can borrow the money to pay the obligations that we said we are going to undertake?

And Congress really has no choice and Congress is as much at fault in this and is as much a partner as the President, because we have passed the laws authorizing the spending, we have even appropriated the money for the spending and now we either have to tax it, borrow it, or renege on the promises that we made about this spending, and there is an argument that can be made on occasion we should do that, but you must do one of the three.

So we are here before us today on the debate on the debt ceiling. On oc-

casion I am amused by some of my colleagues who will vote for most of the expenditures month in, month out, month in, month out, and vote against any taxes or enough taxes to pay for it, and when it comes time to vote for the debt ceiling to borrow the money make their one vote of the year in defense of fiscal conservatism by voting against the debt ceiling, having voted to spend all the money.

The time to stop spending is not when you have already promised to spend it all and appropriated it all and at the end of it go out to borrow it. The time to stop the spending is before you make the promise to spend it.

And that is what the amendment of the Senators from Texas, New Hampshire, and South Carolina is intended to do over the next 6 years, to gradually reduce the amount of spending we do so that our income equals our outgo and that we will not have to have any more increases in the debt ceiling to fund expenditures.

I am delighted to join with my colleague from Texas and others in supporting this amendment.

Every now and then I get from a constituent a question about are we going to make any effort to pay back the national debt, and my response is I hope so but I will be happy now just if we can keep even and not add to the national debt.

This amendment will do that.

Now, is this amendment in the academic community universally agreed to? Probably not. I have been in this body 17 years. I served on the Banking Committee for eight. I have been on the Finance Committee now for 12. And in that time I have heard all of the great economists at least by reputation in this country and many of the world's great economists testify. Many of them have Nobel Prizes in economics. Many of them are heads of our great university economic departments. They are nice people. But I have come to the conclusion that they no better know what is going to happen to the economy of this country than any other citizen of average competence with a reasonably intuitive feeling about spending and receiving.

Oh, there are economists—I have heard them testify—there are economists—and my good friend from Texas heard them also—who will assure us we can go on borrowing $250 billion a year, ad infinitum, that we can handle that deficit, and it makes no difference that the interest that we pay each year goes up and becomes an increasing portion of our national budget, you can do it forever, somewhat akin to the magic saltbox in the fairy tale of our youth that sat on the bottom of the sea and perpetually turned out salt and that is why the sea was salty. There is unfortunately no similar moneybox, not even as some of our colleagues think the Federal Reserve System where they would suggest that it simply print money and that will solve our problems. It will not.

There are as many good economists who agree with the amendment of the Senator from Texas, many more than those who disagree. But at the bottom I think what most of us are going to have to do is vote on what we think or feel will work or is right, or define it as you want.

The Senator from Texas is himself a distinguished academic. The limit of my formal economic academic training is limited to an introductory course at Willamette University, first year's economics. Beyond that, I have no formal training. But intuitively it seems to me that you cannot borrow forever, not the Senator from Texas, not me, not the United States, without one day your creditor finally saying "No more and, by the way, pay back a little on what you owe in addition to trying to borrow more."

It has happened to most of the civilized countries in the world and what has happened is that they have gone bankrupt from time to time. It happened to Russia after the revolution. It happened to Germany in the early 1920's. It happened to Japan after World War II. In essence, it happened to Britain under the Labor Government. They did not call it bankruptcy but for all practical purposes, that is what it was. They simply spent and spent and borrowed and borrowed and finally, the international community would loan them no more money and they went bankrupt and started all over again. If you do that, it takes not just a decade or a generation, but decades and decades and decades to reestablish your good name and credit.

Could that happen to the United States? I hope not, but I am not sure that in this sense God set us apart from all of the others and said, "You and you alone can borrow forever without repercussion."

As a matter of fact, most of the countries of the world today do not have a credit rating in the normal sense that you would define the term. Most of the countries of the world today are probably bankrupt in the actual sense, perhaps not in the technical sense, because their creditors have not yet foreclosed on them.

But if you mean most of the countries of the world borrow money in the sense that we mean one country would extend credit to another on a creditworthy basis, the answer is no. They get soft loans from international organizations or renegotiated loans from banks that they had previously loaned the money and now are in a hopeless condition and cannot renegotiate them and all they can do is extend them.

They get foreign aid from countries, including ours, which we give to them because we think it is better that we help them, even though they have no credit, than that they go through revolutions or turn against us.

But finally, even the largess of the United States cannot extend to everyone. And we have discovered that, finally, it cannot even extend always to ourselves.

So, Mr. President, I am pleased to join my colleague from Texas in his endeavor. After 17 years of listening to the world's great credit minds on one side or the other of this issue, many of them from around the world, I have come to the conclusion that this country has lived too long on borrowed ideas, borrowed money, and borrowed time. The time has come to stop.

The debate on the debt ceiling, per se, is today, tomorrow, and until we act, really, but is a minor part of this drama. A much more significant part is the amendment proposed by the Senator from Texas and his colleagues. And, while I am technically manager of this bill, as chairman of the Finance Committee, I feel more akin to a picador at the bullfight when the matador is the Senator from Texas.

I wish him good luck. He has done an extraordinary thing for this body in bringing before us this amendment. We will eventually, if it passes here, go to conference with the House. I assure him I will do everything in my power to make sure that it is adopted or, at a minimum, make sure that the House must vote on it so that everyone will understand who attempted to adopt this amendment and, if it is defeated, who defeated it.

I yield the floor.

(Mr. QUAYLE assumed the chair.)

Mr. GORTON. Mr. President, as the Senator from Oregon has so eloquently pointed out, we are now debating an increase in the debt limit of the United States. It has always seemed to me a curious vehicle on which to debate extraneous subject matter, though year after year it becomes just such a vehicle.

It seems to me to be curious because, of course, the debt limit or the national debt itself simply reflects the mathematical necessity to pay for decisions which have already been made by a Congress and by a national administration. And, as a consequence, it has always seemed to me curious, particularly, that those who have been unwilling to cast a difficult or controversial vote on either spending programs or taxing programs, nonetheless are willing to speak eloquently about the foolhardiness of increasing the debt limit.

This amendment, however, does not fall into the category of the extraneous subject matter often debated when a debt limit ceiling is before the Senate of the United States. It is total-

ly appropriate to consider a change in the system by which this body and the House of Representatives and the President of the United States made the decisions, as a part of this year's debate on the budget which inevitably led to the necessity to raise the debt limit.

Mark my words, Mr. President, and all those who will hear or read them, the Gramm-Rudman-Hollings amendment represents a dramatic, a radically new and different approach to the way in which the Congress of the United States deals with fiscal questions. In that sense, it is at least comparable in importance to the Budget Act of 1974 itself. It is a matter still of some surprise, to a Member who was not here in 1974, that it is only at that relatively recent date that the Congress first organized its debate over fiscal policy in such a fashion that all of the elements of that policy could be before the Congress at a single time. For the first time, beginning with the Budget Act of 1974, Members of this body and the House of Representatives were required to consider all spending programs and their impacts, all taxing and other revenue programs and their impacts, and the consequent deficit or, in theory, surplus—though no such surplus has ever had to be debated under the Budget Act of 1974—at one time and in the context of one single resolution.

The Budget Act of 1974, however, Mr. President, did not force action of any particular kind. While it enlightened, while it made it almost impossible for Members to ignore the consequences of their actions, the ultimate result of a debate over the budget under that act could be responsible action, it could be irresponsible action, or it could amount to no action at all.

This year, in 1985, there was perhaps more interest in the debate over the budget resolution than at any other time, with the possible exception of 1981. It took the Congress far longer than the Budget Act envisaged, from late in January until the first day of August, because many ideas designed to solve the problem of budget deficits were presented to the Members of this body and the other body and the people of the United States. Unfortunately, too many such ideas were presented for any to pass.

One of those proposals, rather late in the game, came to the conference committee on the budget at least under my name and the name of the distinguished ranking minority member of the Senate Budget Committee, the Senator from Florida, with the strong support of the Senator from South Carolina, who is one of the primary authors of this proposal. It took a different approach toward balancing the budget than I suspect the Senator from Texas would have taken or that would have been taken by a number of other Members on both sides of the aisle. It also, unfortunately, ran into opposition on the part of the President of the United States and the Speaker of the House of Representatives, and that combination was too much to overcome.

As a consequence, Mr. President, the conference committee and this body and the House accepted what we could get, accepted a budget resolution which, if enforced, would at least arrest the seemingly inevitable increase in each year's national deficit and begin perhaps modestly to reduce those deficits.

No person, however, seriously contends that the 1985 budget resolution can ever result in a balanced budget. Regrettably, no responsible person claims that it can have a dramatic and positive impact on strengthening our economy, on encouraging national growth, on providing hundreds of thousands of new jobs to Americans seeking those positions, on lowering the value of the dollar and thus on our terrible trade deficit. But it was, nonetheless, the best that could be done under the procedures set forth by the Budget Act of 1974.

Regrettably, Mr. President, to a certain extent, that agreement has already unraveled. We are unlikely to reach precisely the goals which it set, even for fiscal year 1986, much less for the years coming after 1986. Therein lies the genius of the Gramm-Rudman-Hollings proposal.

Its genius is not in the special detail, in the dates by which certain actions must be taken, or in the mechanics of the proposal. Its genius is in its theory. The amendment before us would accomplish this: change profoundly the consequences of a deadlock over budget priorities, and the consequences of inaction. To this point the consequences is deadlocked, the consequences of inaction, have been that budget deficits went on as they did before, growing for all practical purposes on automatic pilot, frustrating the people of the country, choking the economy, and frustrating even the members who vote for them.

Under Gramm-Rudman-Hollings, if the Members of the Congress of the United States cannot reach their goals, cannot reach the goals of that amendment which would result in a balanced budget by fiscal year 1990, through a course of creative compromise, then the amendment's formula will do it for us. That is to say, whereas under the present system the consequences of inaction or deadlock are a continuation of present policy and a growth of deficits, after the passage of this amendment the consequences of inaction or of a deadlock will be that we will nonetheless proceed in the direction of a balanced budget and of a stronger economy.

It is perhaps a secondary benefit of this proposal that the formula contained in the amendment by which we will reach those goals is not one which any Member would pick or would like for himself or for herself. Some of course will prefer that the entire burden of reaching a balanced budget be placed on the backs of many spending programs. Few who fall into that category, however, will feel that every spending program, domestic and foreign, defense and civilian, should be treated in a precisely equal fashion, because the needs of varying programs differ from one to another. But, in order to change the priorities set out in this amendment, they will be required to pass an alternative proposal which meets the same set of goals, and the alternative will have to be signed by the President of the United States. In other words, this amendment shifts the burden of proof, and that is the whole game. It is the most profound of all possible changes in budgeting priorities. We will reach goals which all of us share if this amendment passes this body, the House, and is signed by the President of the United States. I suspect we will reach it in a manner far different from what the mechanical formula contained in the amendment would require simply because the penalties for inaction will be so great, and the demands for a creative and sensitive response will be correspondingly great.

As a consequence, this is a magnificent idea. Its primary sponsors, the Senator from Texas, the Senator from New Hampshire and the Senator from South Carolina, are owed a great debt of gratitude, not only by every Member of this body but by the people of the United States. The finest way in which we can pay that debt, Mr. President, is to pass their proposal tomorrow by a huge majority here in the Senate, and hope that the House does likewise.

In setting out the details of their amendment, the sponsors have been particularly modest. Each of them has disclaimed the perfection of the proposal. Each has stated that he would be perfectly happy if an alternative could be discovered which would reach the same goals. In my view, Mr. President, they have been too modest. I doubt seriously that any Member of this body or of the House of Representatives will in fact come up with a better alternative. Each Member is, of course, invited to do so. In my view, this is a dramatic debate because this is a vitally important proposal. If it should pass, it would undoubtedly be the single most effective piece of legislation passed by the Congress in 1985.

We have been given a second chance, Mr. President.

We thought that we had a brief window of opportunity this summer in

which to reach our goals through the budget resolution for 1985. We failed to do so. Many felt that opportunity would not present itself again for some time. Thanks to the genius of these three members, that opportunity has presented itself promptly. It has presented itself in a form which is at least semideterminant in nature, and which will, I hope, become a permanent part of the budget process.

I commend the amendment to you, Mr. President, to the Members of this body, and to the balance of the Congress of the United States.

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. SYMMS. 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. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, as we gather here again for this annual ritual to so-call raise the debt ceiling, I would like to inquire with a couple of questions of the distinguished chairman. It is often said, and it was only last evening when I was in a meeting where people were talking about the fact that, well, there is no choice but to go ahead and raise this debt ceiling is the gist of the conversation. I say, Mr. President, that there is no choice but to go ahead because the Congress and the Government has already spent this money, and now they have to pay the bills. I made the observation to this gentleman that is not quite the case because what we are doing is establishing a line of credit for next year—starting fiscal year. Actually, it is for this year. We are starting in fiscal year 1986. I would like to ask the chairman what is the case here? We have not spent this $100 billion that is being borrowed at this point. Is that not correct?

Mr. PACKWOOD. My colleague from Idaho is right. We are not borrowing money to pay debts that we have already incurred. But what we have done is adopt a budget—as a matter of fact, it went into effect day before yesterday, and our fiscal year started October 1—in which we said we promise you, Mr. and Mrs. America, so many battleships, so much Social Security, so much education, and we will spend this over the next 12 months. That is the budget we have adopted. We voted for it. Congress voted for it. We have not spent the money. That money will be spent throughout the year—the 1st of October through the 30th of September.

If we spend money on the basis that we have said we are going to spend it in the budget resolution that we have adopted, we will spend about $180 to $200 billion more than we will take in. What we are going to borrow is that roughly $180 to $200 million to pay for the obligations which we have already voted to undertake.

Mr. SYMMS. I thank the chairman very much. I have made observations before that in the hypothetical case the President often asks for line item veto. I would say to the chairman, what would happen if the President would have his Attorney General give him a ruling that he as Chief Executive of this Government is not allowed to spend any money that he does not take in, he must then establish priorities where Congress has failed to do so, and just put them on a cash basis? It would not be $200 billion. It would be the first month's shortage like last month. In September, the Government actually ran a $3 billion surplus, I believe.

Mr. PACKWOOD. Actually, we are very close to being at that point right now. At of about next Monday, 3 or 4 days from now, we are out of cash. And the debt ceiling? We will have reached the amount of money we can borrow. We cannot borrow any more money under the existing debt ceiling. We will be out of cash. We will start to have more obligations coming due than we have cash coming in.

At that stage, the President has one of two choices, and I think he can probably constitutionally do either. We have never faced it, so no one knows.

Perhaps he might have the power to allocate, to say, "Instead of two battleships, we are going to have one, and instead of $500 million for education we are going to have $300 million."

That is technically impoundment. We had a battle in this Congress years ago regarding impoundment, as to whether the President could pick and choose things for which the money could be spent. The Congress said he was not able to do that.

But technically, it becomes a race to the bank to see who can cash their check first. It is first come, first served. If General Electric gets down there immediately for whatever money they should receive from the Government that month, and they happen to beat a little old lady with arthritis with a cane, if she does not get there faster, she would not be paid, but General Electric would get paid.

Where you have more cash coming in than going out, you can make it in that month. As the Senator is aware, the money does not come in in equal amounts each month. The months which are tax-collecting months are bigger months, and the quarterly payments months are bigger months. But over the year you would have about a $200 billion uneven flow on the average.

Mr. SYMMS. I thank the chairman very much. In other words, to accomplish the plan that I alluded to, and, in fact, have suggested to the President, he would have to put the country on notice in advance that he was going to do it, and what the Senator is saying is it has never been tested whether it is unconstitutional or not.

Mr. PACKWOOD. It has never been tested because we have always passed an increase in the debt ceiling, one, and, two, we have always been able to get people to buy the debt, to buy the bonds, to float the deficit.

Mr. SYMMS. I would envision that the President would have to announce the first priority of spending was going to be the notes, bonds and so on of the U.S. Government to keep our credit good. The chairman stated very clearly that we have to have credit. I would add that we live in a society where all debts are paid and we often think that these debts have to be paid. Either the person who lends the money pays the debt or the person who borrows the money pays the debt, but one way or the other the debt is paid.

What I would envision the President would do is he would first see that the interest is paid on all the notes and all the credit would be kept good. The little, old lady with arthritis would get her check and he would hold back for everyone else, like the States do.

The proposal that we are discussing here, the Gramm-Rudman-Hollings proposal, will, in effect, be a moderated version of that. Is that the case?

Mr. PACKWOOD. It is. There are some limitations on the Presidential sequestering power. It has to be somewhat proportionate. He cannot take it all out of defense or all out of education.

Mr. SYMMS. We will have some holdbacks that will start going into effect if we do not meet the targets?

Mr. PACKWOOD. That is correct. The President has a slight percentage of leeway, but basically the Senator is correct.

Mr. SYMMS. I share the views of the distinguished Senator from Washington who just spoke. This is very important legislation to pass. I wish there would be a way so that Congress would see fit to adopt another amendment in addition to it, after this has been resolved, that would actually take the budget that passed the House and the budget that passed the Senate and take the lowest number in each function and attach that to it so we can achieve some more savings in the first year, so we can get this started sooner.

It appears to me, and I have prepared that very amendment, as a matter of fact, that even though this

is a moderated version of that, eventually if we stuck to the blueprint of the Gramm proposal we would eventually go down the road to a balanced budget in 3 or 4 years out.

Mr. PACKWOOD. If we stick to the Gramm proposal as written, in 6 years you come to a balanced budget. You cut back the deficit about $32 billion a year for the requisite number of years until you reach the balance, which, as I recall, is about 6 years.

Mr. SYMMS. I thank the chairman very much.

I might say that in my travels, Mr. President, in my State, the farmers and timber producers have that as the first thing on their minds. When will Government get its Federal house in order so they can enjoy lower interest rates and be more competitive in the international marketplace, particularly in our region of the United States where we are so dependent on the Pacific market for our agricultural products. It is vital that we make some important moves.

I hope this will be enough. I wish it was more dramatic. I would urge my colleagues to support this proposal. Of course, this is just one Senator, but I have long said that I wish the President would take the other course. I personally believe that if the President of the United States took the initiative and put the Federal Government on a cash basis, he would have the overwhelming support of the American people. Inside the beltway he might not have the support, but outside the beltway he would have enormous support.

In my town meetings, people have constantly said that we ought to hold back as they have had to do. Those stories are all over the country about people who have had freezes in wages, freezes in salaries, and so forth.

I certainly laud the Senator from Texas, the Senator from New Hampshire, and others who have joined in this effort. I am happy to lend them my support because I believe it is so important. There is nothing that we can do as Members of this Congress which is more important than restraining the growth of spending in the Federal Government. No matter where the responsibility goes, there are 435 Members of the House and 100 Senators and 1 President. The way the Constitution is set up, those 536 people have to take the responsibility for this.

We are all elected. We represent different constituencies and different States but we have to all take the responsibility for getting the President's budget in line with revenues. This effort, though it may not be the full answer, is a step in the right direction. I laud the chairman for supporting it and I laud my colleagues who joined in the effort to bring this about. I hope we have an expeditious passage of this.

In another year or two it will certainly force us to establish priorities and make some hard decisions. It may not take a year or two to do it.

Mr. PACKWOOD. If this is adopted now, we will be making those hard choices very soon, which is all the better.

Mr. SYMMS. That is all the better.

On the point the Senator made about these debts that we incur that we agree must be paid, either by the person who lends the money or the one who borrows the money, we are reducing the risks of all the creditors of the United States and the risks of our constituents who are relying on Social Security checks and other means of support that comes through the Federal establishment a system that is going to see that the checks will always be good.

I think that is the best way we can serve our constituents. I urge passage of this amendment.

Mr. PACKWOOD. I thank the Senator for his support, Mr. President, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeding to call the roll.

Mr. SYMMS. 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. SYMMS. Mr. President, I am not certain I asked my question clearly enough of the chairman of the Finance Committee.

The scenario I am trying to lay out is one in which President Reagan did not want the debt ceiling raised; if Congress chose to raise the debt ceiling anyway, he vetoes it; assuming we could then get 34 Senators to sustain the veto, it puts him in a situation where he would be on illegal grounds to borrow more money. So he would have to make a choice: Either do not pay all the bills or borrow money illegally.

If his Attorney General then ruled that, as Chief Executive Officer of the U.S. Government, he is not allowed to borrow money, that Congress did not approve the credit for him to borrow, then he would be in a position to say he was responsible to establish priorities of spending and put the Government on a cash basis overnight, which might mean furloughing workers, reducing the pay of Federal workers, freezing pay, possibly skewing COLAs on the high end of some of the pension programs. But he would certainly have to pay the interest on the debt.

That is the point I was making. Where would that put us constitutionally?

Mr. PACKWOOD. Let me take the question in two parts, Mr. President. I am not sure I know the answer to the latter part.

If we were to pass a debt ceiling bill and the President vetoes it and the veto is sustained, he has no legal power to borrow any money. That is the reason he is coming and asking for the increase now. If there is no increase in the debt ceiling, the Federal Government is no longer empowered to borrow any money.

If he tried to do it, my hunch is we could go to court and get a mandamus order to stop him, but I think it is a moot point. I will wager if we did not increase the debt ceiling or increased it and the President vetoed it and it was sustained, no money would be lent. It would be a very risky situation.

So let us assume the answer to the first part is he cannot borrow any money, he does not try, all of a sudden we are on a cash basis. I do not know if, under the present law, he has the legal authority to decide, himself, what to pay, what not to pay. He has to apportion it equally with the exception of contractual obligations of the United States, like the debt, which I assume he would have to pay or we could be sued on. Whether he has the power to apportion it as he chooses or has to pay it equally, reducing it equally, I do not know.

Mr. SYMMS. Mr. President, having spent the month of August in Idaho and having had a series of meetings and hearings and so forth, I would wager he has a consensus of support of the American people to go ahead and get it over with and get it settled. There would be a big crisis, as viewed in the headlines, for 1 or 2 days, but once everybody learned that the credit was still good, that the bonds and bills were still good and the money was still good, then we would live within our means and work out of what we have. Then I would perceive that, after a week or two of this showdown, he could come in and ask to raise the debt ceiling $50 billion instead of $200 billion and Congress would make these holdbacks and then we could force the issue and get it over with and still put it off.

I praise the effort being made here, because half a loaf is better than no loaf, in this case. The less money we spend, as this Senator sees it, the better off the country is going to be in the long run, because we will have accrued that much less debt that we will have to answer to in one of three ways—raise taxes, print money, or try to borrow more. All of those are rather unpleasant choices.

Mr. PACKWOOD. Those are unpleasant choices. I would not envy the President if he were put in that position, but the Senator has correctly assessed what he would have to do if he had to do it.

Mr. SYMMS. I think a prudent position for the President would be to take a look at this. Of course, I am one who thinks I am going to support this effort, but it will not break my heart if they do not raise the debt ceiling. As far as I am concerned, let them figure out as all the millions of Americans are doing, what households are doing, forcing themselves not to use their credit cards any more and paying off their past debts. Most of us have had that personal experience.

Many, many businesses are in a crunch. In my State, the mining industry is severely curtailed. They have had pay reductions of the workers. I have talked to sawmill operators who have had to reduce the pay of workers to keep the sawmill operating. We talked to many farmers who literally are on a very stringent budget, credit limits imposed on them by their banks and so forth, where they simply had no extra cash to spend.

I simply think this is a step that is really needed and I think the effort that is being made here—I foresee this will get some holdbacks. When you talk about a $1 trillion budget, if you just get a little bit of a holdback, just a percentage of a holdback, on that much money, pretty soon it adds up to real savings.

That is what we hope to achieve by the passage of the amendment. Then I hope that Congress will be willing to not come back and try to override the decision once the pressure starts mounting from around the country to spend a little bit for this and to waive that. Already, there has been some chipping away or compromise made here, as I understand it. The authors have had to agree to set Social Security aside. I hope we could limit it to just that one issue and not set anything else aside and keep that whole budget. Because is we have everything in the budget, then we shared sacrifice of everybody participating in the savings makes it much less unpleasant for people if they know that every segment of the budget—the defense part, the social welfare sector, the agriculture part, the land management, the regulatory agencies—that every part of the budget comes under the same tent, it will be much easier to accomplish this.

Mr. President, I yield the floor.

Mr. ZORINSKY. Mr. President, the time has come to declare war on these runaway deficits. I can think of no better place to begin the battle than with the bill to raise the debt ceiling. The amendment we are offering provides a mechanism which simply forces Congress to live up to its responsibility to reduce the deficit. Our amendment mandates a steady reduction in the size of the deficit, with provisions to make across-the-board cuts whenever Congress' budget does not achieve sufficient savings. By 1990, the deficit will be eliminated.

The amendment says nothing about how we should achieve our deficit reductions. I personally believe that spending cuts, not tax increases, should be used. I will shortly introduce legislation to that end. Others, however, may feel some mix of taxes and spending cuts should be used. Still others may feel that taxes alone should be used to eliminate the deficit. This amendment forecloses none of these options. It allows for that issue to be settled during the budget debate. This amendment is about the ends, not the means, of our budget dilemma. And I feel everyone here supports the end of reducing the deficit.

Mr. President, as one of the original cosponsors to this amendment, I am pleased with the groundswell of support it is receiving. While we may have to pay the bills, the time has come to call in the credit cards. I believe that the amendment provides a framework for calling in those cards and I encourage all of my colleagues to give their support.

Mr. DOLE. 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.

Mr. DOLE. Mr. President, we have had good debate this afternoon on the pending amendment.

I will ask to have printed in the RECORD a third letter from the Secretary of the Treasury, James A. Baker III, in which he indicates that he wants to emphasize the need for final action—I underscore the words "final action"—by Congress, which means the House and the Senate, on the debt limit legislation no later than October 7, which is Monday.

"Final action," "Congress," and "Monday" would indicate that we are going to have a number of votes tomorrow. We do not have much choice.

He indicates that the cash balance of the Treasury is virtually exhausted. He says:

This means that, unless a debt limit is passed by the Congress and signed into law by the President on or before October 7, 1985 or we take unprecedented and costly measures such as using Federal Financing Bank borrowing authority, the United States could be in the position of defaulting on its obligations for the first time in history.

If the debt limit is not increased by October 7, the Government likely will be unable to meet all of its essential obligations when they fall due including social security checks, payroll checks, unemployment checks, defense contracts, and principal and interest on its securities. The full consequences of a default by the United States are impossible to predict and awesome to anticipate.

I suggest that it is imperative that we try to complete action on this bill tomorrow and go to conference on Monday and have some resolution on Monday before 5 p.m.

Therefore I indicate to my colleagues that we will attempt to complete action tomorrow. It is my hope that everyone can be here and that we can vote. We have had about 2½ hours of debate in favor of the proposal, presumably there may also be debate in opposition. Then I would hope we would be prepared to vote.

Mr. President, I ask unanimous consent to have the letter from Secretary of the Treasury Baker printed in the RECORD.

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

THE SECRETARY OF THE TREASURY,
Washington, DC, October 3, 1985.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR BOB: I am writing to emphasize the need for final action by the Congress on debt limit legislation no later than October 7.

As I indicated in my letter to you on October 1, current projections indicate that Treasury's cash balance will be virtually exhausted by October 7 and the situation will deteriorate sharply thereafter.

This means that, unless a debt limit is passed by the Congress and signed into law by the President on or before October 7, 1985 or we take unprecedented and costly measures such as using Federal Financing Bank borrowing authority, the United States could be in the position of defaulting on its obligations for the first time in history.

If the debt limit is not increased by October 7, the Government likely will be unable to meet all of its essential obligations when they fall due including social security checks, payroll checks, unemployment checks, defense contracts, and principal and interest on its securities. The full consequences of a default by the United States are impossible to predict and awesome to anticipate.

I urge the Congress to pass this legislation at the earliest possible date but under no circumstances later than October 7, 1985.

Sincerely,

JAMES A. BAKER III.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:48 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2475. An act to amend the Internal Revenue Code of 1954 to simplify the imputed interest rules of sections 1274 and 483, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 2 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 393) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3424. An act making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1985, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3424. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1985, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute and an amendment to the title:

S. 744. A bill to amend the Agriculture and Food Act of 1981 to provide protection for agricultural purchasers of farm products (Rept. No. 99-147).

By Mr. DOMENICI, from the Committee on the Budget, without recommendation without amendment:

S. Res. 226. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1264.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 150. Joint resolution to designate the month of March 1986 as "National Hempholia Month".

S.J. Res. 174. Joint resolution to designate November 18, 1985, as "Eugene Ormandy Appreciation Day".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Alan H. Nevas, of Connecticut, to be United States District Judge for the District of Connecticut;

Paul N. Brown, of Texas, to be United States District Judge for the Eastern District of Texas;

Alan A. McDonald, of Washington, to be United States District Judge for the Eastern District of Washington;

William A. Maddox, of Nevada, to be United States Attorney for the District of Nevada for a term of four years; and

Roger Hilfiger, of Oklahoma, to be United States Attorney for the Eastern District of Oklahoma.

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 98-5. Extension of the 1971 International Wheat Agreement (Exec. Rept. No. 99-3).

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. BINGAMAN:

S. 1732. A bill to amend the Internal Revenue Code of 1954 by increasing the Federal excise tax on cigarettes by 8 cents per pack to a permanent 24 cents per pack and by providing that 50 percent of the revenues from the additional tax be deposited in the Federal Hospital Insurance Trust Fund under the Social Security Act and 50 percent of such revenues be used for health promotion and disease prevention programs in the Department of Health and Human Services; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. KERRY, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 1733. A bill to extend, improve, and authorize additional appropriations for the Emergency Veterans' Job Training Act of 1983, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON:

S. Con. Res. 75. A concurrent resolution to request the President to provide economic assistance to Mexico while enhancing the national security and energy preparedness of the United States by further filling the Strategic Petroleum Reserve with petroleum obtained from Mexico; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1732. A bill to amend the Internal Revenue Code of 1954 by increasing the Federal excise tax on cigarettes by 8 cents per pack to a permanent 24 cents per pack and by providing that 50 percent of the revenues from the additional tax be deposited in the Federal Hospital Insurance Trust Fund under the Social Security Act and 50 percent of such revenues be used for health promotion and disease prevention programs in the Department of Health and Human Services; to the Committee on Finance.

HOSPITAL INSURANCE TRUST FUND AND HEALTH PROMOTION REVENUE ACT

Mr. BINGAMAN. Mr. President, today I am introducing legislation to promote better health and help prevent disease in our Nation. In doing so, I am pleased to join with many of my distinguished colleagues, as well as with health educators, health professionals, and concerned citizens across the country, who recognize the health threat posed by cigarette smoking.

Americans are becoming increasingly aware of the importance of better health and its relationship to the prevention of disease. This new health consciousness serves both the individual and the national interest.

At the individual level, Mr. President, cigarette smoking will kill 350,000 Americans this year. This human toll from smoking can be prevented. Recently, Harvard University's Institute for the Study of Smoking Behavior and Policy concluded that an excise tax on cigarettes is perhaps the most effective available tool to deter smoking and to reduce smoking related cost to the Federal Government. If we increase this tax, the institute explains, cigarette consumption would drop dramatically, especially among young people. For example, a 16-cent tax increase would diminish the number of teenage smokers by 17 percent or 820,000 teens. As for those smokers aged 36 and older, 630,000 would quit if the excise tax were increased to 32 cents per pack.

In addition to the health consequences of smoking, the economic costs are enormous. The Office of Technology Assessment estimates that disease and lost productivity from smoking cost our economy an estimated $65 billion a year. That is $2.17 for each pack of cigarettes sold.

The legislation which I am introducing today will raise the excise tax on cigarettes from 16 cents per pack to 24 cents per pack. I believe that this increase will provide a significant step toward discouraging cigarette smoking in the United States.

I am, however, convinced that simply increasing the cost of cigarettes is not enough, Mr. President. We must take action to address both the causes and effects of cigarette smoking. Therefore, this bill earmarks half of the additional revenues raised by the increased excise tax for health promotion and disease prevention programs already existing in the Department of Health and Human Services. It earmarks the other half for the Hospital Insurance Trust Fund, which is part A of the Medicare Program.

By earmarking funds for health promotion and disease prevention programs we will be taking necessary action to reduce the number of Americans who begin or continue to smoke, and, more important, we will save lives.

By earmarking funds for Medicare, we will help shift some of the financial burden generated by smoking to smokers. This will help to defray some of the $13 billion in smoking-related

health care and medical costs paid by Medicare each year.

Mr. President, this is not a partisan issue. I commend my colleagues on both sides of the aisle who have worked to address this matter both on the floor and in committee, especially the distinguished Senator from New Jersey [Mr. BRADLEY], and the distinguished Senator from Rhode Island [Mr. CHAFEE]. I look forward to working with them and with all Senators on this important issue.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S. 1732

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hospital Insurance Trust Fund and Health Promotion Revenue Act of 1985".

SEC. 2. INCREASE IN TAX ON CIGARETTES.

(a) RATE OF TAX.—Subsection (b) of section 5701 of the Internal Revenue Code of 1954 (relating to rate of tax on cigarettes) is amended—

(1) by striking out "$8" in paragraph (1) and inserting in lieu thereof "$12"; and

(2) by striking out "$16.80" in paragraph (2) and inserting in lieu thereof "$25.20".

(b) FLOOR STOCKS.—

(1) IMPOSITION ON TAX.—On cigarettes manufactured in or imported into the United States which are removed before October 1, 1985, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $12 per thousand;

(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $25.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on October 1, 1985, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be due and payable on October 18, 1985, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on October 1, 1985.

(3) CIGARETTE.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(4) EXCEPTION FOR RETAILERS.—The taxes imposed by paragraph (1) shall not apply to cigarettes in retail stocks held on October 1, 1985, at the place where intended to be sold at retail.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to cigarettes removed after September 30, 1985.

(2) CONFORMING AMENDMENT.—Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "and before October 1, 1985".

SEC. 3. TRANSFER OF 50 PERCENT OF ADDITIONAL REVENUES TO FEDERAL HOSPITAL INSURANCE TRUST FUND.

(a) IN GENERAL.—Subsection (a) of section 1817 of the Social Security Act is amended—

(1) by striking out "100 per centum of" in the matter preceding paragraph (1);

(2) by striking out "(1) the taxes" in paragraph (1) and inserting in lieu thereof "(1) 100 per centum of the taxes";

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

(4) by striking out "(2) the taxes" in paragraph (2) and inserting in lieu thereof "(2) 100 per centum of the taxes";

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

(6) by adding at the end thereof the following new paragraphs:

"(3) 50 per centum of the taxes received in the Treasury under section 2(b) of the Hospital Insurance Trust Fund and Health Promotion Revenue Act of 1985; and

"(4) 25 per centum of the taxes received in the Treasury after September 30, 1985, under subsection (b) of section 5701 of the Internal Revenue Code of 1954.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1985.

SEC. 4. TRANSFER OF 50 PERCENT OF ADDITIONAL REVENUES TO HEALTH PROMOTION AND DISEASE PREVENTION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. HEALTH PROMOTION AND DISEASE PREVENTION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Health Promotion and Disease Prevention Trust Fund', consisting of such amounts as may be appropriated, credited, or transferred to the Health Promotion and Disease Prevention Trust Fund as provided in this section and section 9602(b) (relating to crediting of interest, etc.).

"(b) TRANSFERS TO HEALTH PROMOTION AND DISEASE PREVENTION TRUST FUND.—There are hereby appropriated to the Health Promotion and Disease Prevention Trust Fund amounts equivalent to the following:

"(1) CIGARETTE TAXES.—25 percent of the taxes received in the Treasury after September 30, 1985, under subsection (b) of section 5701.

"(2) FLOOR STOCK TAXES.—50 percent of taxes received in the Treasury under section 2(b) of the Hospital Insurance Trust Fund and Health Promotion Revenue Act of 1985.

"(c) EXPENDITURES FROM TRUST FUND.—There are hereby appropriated and made available amounts in the Health Promotion and Disease Prevention Trust Fund for payment to the Secretary of Health and Human Services to provide funds, in addition to other appropriations and in amounts determined at the discretion of the Secretary, for any health promotion or disease prevention program administered by the Department of Health and Human Services.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"SEC. 9505. HEALTH PROMOTION AND DISEASE PREVENTION TRUST FUND.".

EFFECTIVE DATE.—The amendments made by this section shall take effect on November 15, 1985.

By Mr. CRANSTON (for himself, Mr. KERRY, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 1733. A bill to extend, improve, and authorize additional appropriations for the Emergency Veterans' Job Training Act of 1983, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' JOB TRAINING AMENDMENTS

Mr. CRANSTON. Mr. President, I am today introducing, as the ranking minority member of the Committee on Veterans' Affairs, S. 1733, the proposed Veterans' Job Training Amendments of 1985. Joining with me in introducing this measure is the distinguished Senator from Massachusetts [Mr. KERRY], as well as three of my fellow members of the Veterans' Affairs Committee, the distinguished Senators from Hawaii [Mr. MATSUNAGA], Arizona [Mr. DECONCINI], and West Virginia [Mr. ROCKEFELLER]. The purpose of this measure is to extend, make improvements in, and authorize the appropriation of additional funds for the Emergency Veterans' Job Training Act of 1983 [EVJTA], Public Law 98-77.

As the original Senate author of Public Law 98-77—along with the distinguished former chairman of the committee [Mr. SIMPSON], and of the extension of the program enacted last year in Public Law 98-543, I am intensely interested in this job training program. Indeed, on July 30, I joined with the distinguished chairman of the committee [Mr. MURKOWSKI] in offering an amendment that was approved by the Senate in the veterans' health bill—S. 876—to extend the period of time that veterans have to enter training under this job training program. A provision derived from our amendment that would extend that period until July 1, 1986, was incorporated into S. 1671 and signed into law on Monday, September 30, as Public Law 99-108.

BACKGROUND

Mr. President, the EVJTA originally authorized the appropriation of $150 million for each of 2 fiscal years, 1984 and 1985. However, only $150 million was appropriated for fiscal year 1984—approximately $142 milion of which has been available for the implementation of the job training program itself. At the present time, about $16 million remains unobligated under the pro-

gram; however, as veterans discontinue or complete training, that amount will increase.

The program provides cash incentives to employers to hire and train certain long-term unemployed Vietnam-era and Korean conflict veterans. It has at the present time expired in one respect. The period during which veterans could apply for participation in an EVJTA job training position expired on February 28, 1985. However, as I noted, the period during which veterans who have been certified as eligible for the program may enter training, which had expired on September 1, 1985, has just been extended to July 1, 1986, by virtue of the enactment of S. 1671.

According to a recent evaluation of the EVJTA program—carried out under contract with and released by the Veterans' Administration—more than 27,000 veterans have enrolled in training under the program with more than two-thirds receiving training in structural work occupations, machine trades, and professional, technical, and managerial positions. Those who completed the program had an average hourly wage of $6.77. The completion rate for veterans who entered training under the program was estimated to be 44 percent and the direct cost of training per participant was estimated to be $3,000.

During the Senate's consideration of S. 876 of July 30, the distinguished Senator from Massachusetts [Mr. KERRY] raised the issue of further extending and expanding the EVJTA program, and the chairman and I expressed certain reservations about proceeding with extension legislation at that time. [CONGRESSIONAL RECORD, S10395, July 30, 1985, daily edition.] The result was an agreement which led to the committee's September 12 hearing regarding the program. Senator KERRY testified very movingly and persuasively. All testimony, except for that of the administration urged extension of the EVJTA program. After careful consideration of the issues raised at that hearing, I have concluded that more can and should be done under EVJTA but that certain program improvements are called for before we provide further funding.

Thus, the measure which I am introducing today would reopen the program for new applications by eligible veterans once new appropriations are made. It would also make a number of improvements in the program designed to overcome program weaknesses revealed by our hearings and the VA program evaluation—especially the high-veteran dropout rate—and to take into account employer's general satisfaction with the program.

PROVISIONS OF PROPOSED EVJTA AMENDMENTS

First, Mr. President, our proposal would authorize the appropriation of $53 million for fiscal year 1986—to remain available through fiscal year 1988—for the EVJTA program. This amount when added to the President's fiscal year 1986 budget estimate for fiscal year 1986 outlays for the program, $35 million, equals the amount estimated in that budget for fiscal year 1985 outlays under EVJTA, $88 million.

Second, our proposal would—effective on the date on which appropriations are made available to the VA for the program or March 1, 1986, whichever occurs later—provide an additional year for veterans to apply for participation in the program and an additional 18 months for veterans to enter into job training programs under the act.

One of the concerns I raised during the Senate's consideration of S. 876 and at the committee's hearings on September 12, was that a reopening of the program to new applicants would have the effect of causing those veterans already in the EVJTA pipeline who had not yet been placed in training—principally because they were more difficult to place—to be bypassed by VA and Department of Labor personnel involved with implementation of the program, including disabled veteran Outreach specialists and local veterans' employment representatives, and by employers who would focus on veterans who are easier to place and more job ready. As I previously noted, under current law, veterans were required to apply for participation in the EVJTA program by February 28, 1985, and, by virtue of the enactment of Public Law 99-108, have until July 1, 1986, to enter training. Setting the effective date of the reopening of the program at the latter of the date of the new appropriation or March 1, as our proposal would do, coupled with permitting entry into EVJTA training by veterans who have certifications of eligibility but who have not yet been placed, would enable the VA and the Department of Labor to direct their efforts to assisting those veterans who are likely to be those most in need of employment assistance—those who are not job-ready and who have hardcore unemployment difficulties.

Mr. President, it should be noted that those veterans who have been certified for the program, who are still unemployed, and who have not yet been placed in training under EVJTA are quite likely to have special problems in obtaining and retaining employment. Not surprisingly, the VA's evaluation of the program found that employers tended to select the most employable among the veterans certified for program participation. Thus, I believe strongly that the VA and the Department of Labor need to strengthen their efforts to assist veterans under EVJTA during the recently enacted extension and will need to explore ways to provide special types of assistance, particularly in the area of employment counseling to reduce the disturbingly high noncompletion rate. I intend very strongly to urge both agencies to do a better job in this area.

Indeed, just this morning, during a hearing of the Veterans' Affairs Committee I recommended to the VA's Chief Benefits Director, John Vogel, and he agreed that the VA send a letter to all certified veterans who had not yet been placed in training positions under EVJTA advising them that the act has been reopened and urging them, if they are still interested in the program, to contact the VA or the Department of Labor for assistance. Mr Vogel assured me that such an initiative would be undertaken within the next 30 days. VA officials have also indicated informally that they hope this notification can be accomplished in a much shorter timeframe, and I would urge them to take all possible steps to do so.

As well, since there is no limit on the time by which an employer must apply for participation in the program, I will also be urging both agencies to undertake an expanded employer outreach effort so that a maximum number of job opportunities for veterans will be provided. Section 15(a)(1)(B) of EVJTA requires the VA and the Labor Department jointly to provide for an outreach program to inform employers of the program and the advantages of participating in it.

Third, our bill proposes to respond to the unacceptably high-dropout rate for veterans placed in training positions by requiring the VA and the Labor Department—who share joint responsibility for implementation of the program—to provide two new support activities: First, counseling services designed to resolve difficulties encountered by veterans during EVJTA training, and, second, the assignment of a case manager to each veteran placed in an EVJTA training position and the maintenance by the case manager of periodic contact with the veteran in order to facilitate the successful completion of training.

In carrying out the first new activity, the VA and the Labor Department would be required to advise all veterans and employers participating in EVJTA of the availability of the counseling service and encourage them to request appropriate services whenever necessary. In addition, in order to offer additional assistance to veterans of the Vietnam era, the VA would be required to advise each veteran placed in training of the supportive services available through the VA—including through the VA's Vet Center Program—and through other appropriate agencies in the community.

In connection with the second activity, I want to point out that the case manager assigned to each veteran

need not be, in each case, a trained or professional counselor. Rather, our proposal would envision that the type of case manager assigned to an individual veteran would be based on the particular needs of that veteran. For example, a veteran with no apparent, serious complicating problem or record of job difficulties—other than protracted unemployment—could be assigned a VA veterans' benefits counselor as a case manager and throughout the training period that counselor would be required to maintain contact with the veteran and the employer by making telephone contact with the veteran and the employer on a regular basis to ensure that no unforeseen problems had developed. On the other hand, a veteran who is in need of extensive job-readiness assistance might be assigned a disabled veteran Outreach specialist [DVOP] as a case manager who would maintain much more extensive contact, including periodic personal meetings with the veteran during the training period. A Vietnam veteran with a history of serious readjustment problems could be assigned a counselor from a VA vet center as his or her case manager. Also, of course, if a case manager discovered that a veteran needed more counseling than that case manager could provide, referral could be made to a counselor with the skills and experience needed to help the veteran.

The bill generally would leave to the discretion of the VA and the Department of Labor the development of a mechanism for implementing this approach and for determining how their personnel resources may best be used. The VA has more than 1,030 veterans' benefits counselors, 425 vocational rehabilitation counselors and specialists, and 221 professional counselors and approximately 350 other counseling personnel at its 189 vet centers, and the Department of Labor has the resources of more than 3,300 DVOP's and local veterans' employment representatives that could be assigned responsibilities for implementing this requirement.

Fourth, Mr. President, in light of the finding in the above-mentioned study that most employers who had hired veterans through the EVJTA Program reported that they were pleased with the program and would have hired the veteran with or without the possibility of receiving a wage subsidy, our proposal would modify the basis on which the amount of the EVJTA subsidy is based.

Under current law, payments are limited to 50 percent of the starting wages paid to the veteran for the entire training period, up to a maximum of $10,000. Maximum training periods are 15 months in the case of service-connected disabled veterans and 9 months in the case of all other eligible veterans.

Under our legislation, effective with respect to veterans hired after the latter of the date on which new appropriations are available for the program or March 1, the payments to employers would be determined based on 50 percent of the starting wages paid to the veterans during the first 3 months of the training period and 30 percent of the actual wages paid during the fourth and any succeeding months of training. I believe this approach would be more desirable than current law in a number of respects. It would still provide an attractive, marketable incentive to employers but would recognize the fact that after 3 months on the job an employee is likely to be making contributions to the employer's production levels. Also, by providing that payments in the fourth and succeeding months are to be based on actual, as opposed to starting, wages, the employer would have more incentive to give a raise to a veteran trainee. Our approach would also stretch funds that are available under EVJTA to serve more veterans. Finally, since most participating employers surveyed have indicated general satisfaction with the program and many employers have become familiar with EVJTA, this somewhat lower incentive should not reduce employer participation appreciably.

IMPROVEMENTS IN OTHER VA BENEFIT PROGRAMS

In addition to these improvements in the EVJTA authority, our measure would also make improvements and modifications, on a trial basis of about 22 months, in two existing VA authorities designed to assist certain veterans in obtaining employment and training experience.

First, Mr. President, with respect to the VA's program of assistance for apprenticeship or other on-job training programs conducted under section 1787 of title 38, United States Code, our proposal would permit a veteran to elect to have GI bill benefits which would otherwise be paid directly to the veteran to be paid to the employer instead. Veterans currently eligible for chapter 34 GI bill assistance are those who generally entered the service prior to January 1, 1977, and who have been discharged from active duty for less than 10 years. Under chapter 34, a veteran in training receives a monthly training assistance allowance—in the case of a single veteran, $274 a month for the first 6-month period of training, $205 a month for the second 6-month period, $136 a month for the third period, and $68 a month for the fourth and succeeding periods. However, no payments may be made to the employer, and there, thus, is no financial incentive for the employer to participate in the program. Indeed, the employer is required—by section 1777(b)(1) of title 38—to pay the veteran wages equal to the wages of other similarly situated employees. By permitting the veteran to elect to have the wages paid to the employer, our legislation would provide a mechanism creating an employer incentive for hiring and training eligible veterans. Let me stress, again, that this would be purely voluntary with the veteran.

In addition, since employers now approved for EVJTA training are familiar with the program and how it operates, our proposal would provide that EVJTA-approved programs would be considered to meet the requirements for approval as VA on-job training programs under the Vietnam-era GI bill. Therefore, as long as their OJT programs are currently approved under EVJTA, employers would not be required to be approved a second time pursuant to the criteria established in section 1777 of title 38, United States Code, in order to participate in the GI bill program.

Second, with respect to the VA's program of vocational rehabilitation for service-connected disabled veterans under chapter 31 of title 38, the VA would be required—for the benefit of participants in that program who are eligible to have payments made to employers in their behalf, pursuant to section 1516(b) of title 38—to take all feasible steps, utilizing such section 1516(b) payments, to establish and encourage the development of training opportunities that are consistent with the provisions of EVJTA.

The VA's chapter 31 vocational rehabilitation program is designed to assist service-connected disabled veterans who have employment handicaps to become employable and to obtain and maintain suitable employment. Under the section 1516(b) authority, the Administrator may make payments to employers for providing on-job training to veterans who have been rehabilitated to the point of employability when such payments are necessary to obtain needed training or begin employment. Pursuant to this authority, the VA has established a special employer incentives program to facilitate the placement of veterans who are generally qualified for suitable employment but who lack work experience required by an employer or who are difficult to place due to their disabilities. Under this program, an employer who hires an eligible veteran in an approved training position may be reimbursed for the direct expenses of hiring the veteran, up to one-half of the wages paid to the veteran.

Under our bill, the Administrator would be required to utilize EVJTA-approved job training programs under this segment of the VA's vocational rehabilitation program and to ensure that, in the case of a veteran who is eligible for participation in both programs, maximum efforts are made, consistent with the veteran's best in-

terests, to utilize the title 38 authority. In this manner, the VA would be able to use a program with which employers are already familiar for the benefit of VA chapter 31 vocational rehabilitation trainees and to make maximum use of title 38 benefits in lieu of limited EVJTA funds. Additionally, since the terms and conditions for an employer's participation in a chapter 31 training program would be similar to the EVJTA program, employer involvement would be facilitated.

The provisions relating to the chapter 34 and chapter 31 programs would be in effect until the expiration of an 18-month period beginning on the later of the date on which funds are appropriated and made available for the EVJTA extension or March 1, 1986. This would provide a pilot program opportunity of about 22 months to evaluate the utility of these approaches. After about 18 months of operation, the VA Administrator would be directed to submit to the Veterans' Affairs Committees a report describing and evaluating the VA's use of these new chapters 34 and 31 related provisions.

SUMMARY

Mr. President, before closing, I want to take this opportunity to note the leadership and commitment of the distinguished Senator from Massachusetts [Mr. KERRY] in the development of this proposal. As I previously noted, he first raised this issue in July and has been a vital participant in developing this intitiative. His eloquent, heartfelt testimony before the committee on September 12 was a powerful factor leading to the introduction of this measure today. I am deeply indebted to him for his assistance and cooperation.

Mr. President, I intend to be working hard, along with Senators KERRY, MATSUNAGA, DECONCINI, ROCKEFELLER, and others, to secure enactment of this measure in the forthcoming weeks. I believe it proposes a responsible approach to a very real and continuing problem of unemployment difficulties among certain groups of veterans—particularly those who continue to suffer from long-term unemployment and readjustment difficulties. Although the vast majority of Vietnam-era veterans have good jobs and are steadily employed, there continue to be too many who need the sort of assistance that EVJTA can offer.

I urge my colleagues to review this measure carefully and to join with me in this effort.

Mr. President, I ask unanimous consent that a summary of the provisions of our proposal, followed by the text of the bill itself, be printed at this point.

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

"VETERANS' JOB TRAINING AMENDMENTS OF 1985"

SUMMARY OF PROVISIONS

A. The provisions of this measure, introduced by Senator Cranston, joined by Senators Kerry, Matsunaga, DeConcini, and Rockefeller, would amend the Emergency Veterans Job Training Act of 1983 (EVJTA) to:

1. Authorize the appropriation of $53 million for fiscal year 1986 (to remain available through fiscal year 1988) for EVJTA—an amount which, when added to the President's FY 1986 Budget estimate for fiscal year 1986 outlays for the program, equals the amount estimated in that budget for fiscal year 1985 outlays under EVJTA. (Section 2(c))

(Under current law, $150 million is authorized to be appropriated for each of fiscal years 1984 and 1985 (with appropriations to remain available through fiscal year 1987).)

2. Provide (effective on the date on which appropriations are made available to the Veterans' Administration for the program or March 1, 1986, whichever occurs later) an additional one-year period for veterans to apply for participation in the program and an additional 18-month period for veterans to enter into training programs under the Act. (Section 2(d))

(Under current law, veterans were required to apply for participation in the program by February 28, 1985, and to enter training prior to September 1, 1985. Provisions of S. 1671, recently approved by both the Senate and the House and pending approval by the President, would extend the latter date to July 1, 1985. Fixing the effective date of the reopening of the program as the date on which new appropriations are available to the VA or March 1, 1986, whichever occurs later, coupled with permitting veterans to enter EVJTA training who had certifications of eligibility prior to September 1, 1985, but who had not been placed in training, would enable the VA and the Department of Labor to assist those veterans who had previously established eligibility for EVJTA but who had not yet been served—presumably those who are not job-ready and who have hard-core unemployment difficulties.)

3. Require, effective on the date of enactment, the VA and the Department of Labor jointly to provide:

(A) A program of counseling services designed to resolve difficulties encountered by veterans during EVJTA training and to advise all veterans and employers of the availability of such services and encourage them to request services whenever appropriate.

(B) A program under which a case manager is assigned to each veteran placed in an EVJTA a training position through which periodic contact is maintained with the veteran so as to facilitate the veteran's successful completion of training. (Section 2(b))

4. Require, effective on the date of enactment, the VA to advise each veteran placed in a training program of the supportive services available through the VA (including through the VA's Vet Center program) and through other appropriate agencies in the community. (Section 2(b))

5. Provide that, with respect to payments made to employers on behalf of vetrans who enter training after the date on which appropriations are made available to the Veterans' Administration for the EVJTA program or March 1, 1986, whichever is the later, the amount of the payments will be based on—

(A) Fifty percent of the starting wages paid to the veterans during the first 3 months of the training period; and

(B) Thirty percent of the actual wages paid to the veteran during the remainder of the training. (Section 2(a))

(Under current law, payments are limited to 50 percent of the starting wages paid to the veteran for the entire training period, up to a maximum of $10,000. Maximum training periods are 15 months in the case of service-connected disabled veterans and 9 months in the case of all other eligible veterans.)

B. In addition, effective on the date of enactment and for the 18-month period in whic participants could enter training under these amendments, the proposed "Veterans' Job Training Amendments of 1985" would:

1. Permit veterans entering an apprenticeship or other on-job training program under the current chapter 34 Vietnam-era GI Bill (pursuant to the authority in section 1787 of title 38, United States Code) to elect to have benefits which would otherwise be paid to the veteran ($274/month for the first six-month period for a single veteran, $205/month for the second-six month period, $136 for the third six-month period, and $68/month for the four and succeeding six-month periods) to be paid to the employer instead. (Section 3 (b))

2. Provide that programs of training currently approved under EVJTA would be considered to meet the requirements for approval as VA on-job training programs for the purposes of receiving benefits under section 1787 of title 38, United States Code. (Section 3(a))

3. Require the Administrator of Veterans' Affairs to take all feasible steps—

(A) to establish and encourage the development of training opportunities for service-connected disabled veterans participating in the VA's vocational rehabilitation program (chapter 31 of title 38, United States Code) who are eligible for participation in a program under which payments are made to employers in their behalf (pursuant to section 1516(b) of title 38) that are consistent with the provisions of EVJTA;

(B) to utilize such EVJTA-approved job training programs under this segment of the VA's vocational rehabilitation program; and

(C) to ensure that, in the case of a veteran who is eligible for participation in both programs, maximum efforts are made, consistent with the veteran's best interests, to utilize the title 38 authority. (Section 3(c))

4. Require the Administrator to submit to the House and Senate Veterans' Affairs Committees a report on the implementation of these provisions in connection with the chapters 31 and 34 programs, together with recommendations for appropriate administrative or legislative action.

S. 1733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Job Training Amendments of 1985".

SEC. 2. (a) The second sentence of section 8(a)(1) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97 Stat. 445) is amended to read as follows: "Subject to section 5(c) and paragraph (2), the amount paid to an employer on behalf

of a veteran for a period of training under this Act shall be—

"(A) during the first three months of that period, 50 percent of the product of (i) the starting hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay), and (ii) the number of hours worked by the veteran during those months; and

"(B) during the fourth and any subsequent month of that period, 30 percent of the product of (i) the actual hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay), and (ii) the number of hours worked by the veteran during those months.".

(b) Section 14 of such Act is amended by inserting "(a)" before "The" and adding at the end the following new subsections:

"(b) The Administrator and the Secretary shall jointly provide for a program of counseling services designed to resolve difficulties that may be encountered by veterans during their training under this Act and shall advise all veterans and employers participating under this Act of the availability of such services and encourage them to request such services whenever appropriate.

"(c) The Administrator shall advise each veteran who enters a program of job training under this Act of the supportive services and resources available to such veteran through the Veterans' Administration, especially readjustment counseling services under section 612A of title 38, United States Code, and other appropriate agencies in the community.

"(d) The Administrator and the Secretary shall jointly provide for a program under which a case manager is assigned to each veteran participating in a program of job training under this Act and periodic (not less than monthly) contact is maintained with each such veteran for the purpose of avoiding unncessary termination of employment and facilitating the veteran's successful completion of such program.".

(c) Section 16 of such Act is amended—

(1) by inserting "and $53 million for fiscal year 1986" after "1985"; and

(2) by striking out "1987" and inserting in lieu thereof "1988".

(d) Section 17 of such Act is amended—

(1) by striking out "Assistance" and inserting in lieu thereof "(a) Except as provided in subsection (b), assistance"; and

(b) by adding at the end the following new subsection:

"(b) In the event that funds are appropriated under section 16 for fiscal year 1986, assistance may be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act during the one-year period beginning on (A) the date on which such funds appropriated under section 16 for fiscal year 1986 are made available by the Director of the Office of Management and Budget to the Veterans' Administration, or (B) March 1, 1986, whichever is the later; and

"(2) for any such program which begins during the eighteen-month period beginning on such date.".

(e)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this section.

(2) The amendment made by subsection (a) shall apply with respect to payments made for programs of training under such Act that begin after (A) the date on which the funds are appropriated pursuant to section 16 of such Act for fiscal year 1986 and are made available by the Director of the Office of Management and Budget to the Veterans' Administration, or (B) March 1, 1986, whichever is the later.

SEC. 3. (a) Notwithstanding any other provision of law and except as provided in section 1777(c)(2) of title 38, United States Code, a program of job training currently approved under section 7 of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97 Stat. 443, 445) shall be considered to meet all requirements established under such section 1777 for approval of a program of training on the job.

(b) Subject to subsection (c), notwithstanding any other provision of law, a veteran pursuing a program of apprenticeship or other on-job training pursuant to section 1787 of such title may elect, upon entering such a program, to have the monthly training assistance allowance which would otherwise be paid to such veteran under such section paid (under and subject to the same terms and conditions as are applicable to payments to employers under such Act) to the employer who is conducting such program.

(c)(1) In carrying out section 1516(b) of such title, the Administrator of Veterans' Affairs shall take all feasible steps to establish and encourage, for veterans who are eligible for the making of payments on their behalf under such section, the development of training opportunities through programs of job training consistent with the provisions of such Act so as to utilize programs of job training established by employers pursuant to such Act.

(2) In carrying out such Act, the Administrator shall take all feasible steps to ensure that, in the cases of veterans who are eligible for the making of payments on their behalf under both such Act and such section, the authority to make payments under such section is utilized to the maximum extent feasible and consistent with the veteran's best interests to make payments to employers on behalf of such veterans.

(d)(1) The provisions of this section shall take effect on the date of the enactment of this section and shall expire on the last day of the eighteen-month period beginning on the later of (A) the date on which funds are appropriated pursuant to section 16 of such Act for fiscal year 1986 and are made available by the Director of the Office of Management and Budget to the Veterans' Administration, or (B) March 1, 1986.

(2) Not later than four months prior to the expiration of such provisions, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House and the Senate a report on the implementation of and the activities carried out under this section. Such report shall contain the Administrator's evaluation of such implementation and activities and such recommendations for administrative or legislative action as the Administrator considers appropriate.

● Mr. KERRY. Mr. President, today I am pleased to cosponsor the Veterans' Job Training Amendments Act of 1985, a bill introduced by Senator CRANSTON to extend and broaden the Emergency Veterans' Job Training Act of 1983.

Last April, on behalf of Senator PRESSLER and myself, I sponsored the Veterans' Career Development Training and Job Bank Act, S. 1033, a bill which has subsequently also been cosponsored by Senators HARKIN, KENNEDY, MATSUNAGA, GORE, DURENBERGER, RIEGLE, LEVIN, and ROCKEFELLER.

In that act, I sought to retain EVJTA's basic mechanism—the principle that the United States would provide matching funding for employers who hired out-of-work veterans and placed them in job training programs leading to long-term employment—and to broaden the scope of the program so that it better met the continuing needs of unemployed veterans.

Specifically, the Veterans Career Development Training and Job Bank Act would authorize $75 million for job training in fiscal year 1986, and $100 million for fiscal year 1987 and 1988, and broaden the program by redefining eligibility to include underemployed veterans, and by adding counseling services and a Federal job bank to improve job matching.

Since that bill was filed, the House passed legislation to extend EVJTA which extended the Emergency Veterans' Training Act of 1983 for 1 more year, allowed unemployed veterans to enroll in the program after 5 weeks, instead of the 15 weeks now required, and which authorized $75 million to extend the program through fiscal year 1986.

Following the House action, I prepared an amendment to the Veterans' health care bill that would have substantially followed the action of the House. After extended discussions with Senator CRANSTON and Senator MURKOWSKI, I agreed to withhold the amendment from floor action in order that the Committee on Veterans' Affairs hold a hearing in September on my bill, EVJTA, and job training programs for veterans in general.

That hearing took place on September 17, with the full participation and involvement of the principal veterans organizations, and detailed questioning by the distinguished chairman of the Committee on Veterans' Affairs, Senator MURKOWSKI.

During that hearing, Senator CRANSTON, the ranking Democrat on the committee, reaffirmed his strong commitment to the concept of EVJTA, and to improving the program if possible. Because EVJTA would ever have come into existence without the leadership of Senator CRANSTON, I was especially pleased that Senator CRANSTON had decided to seek not only an extension of EVJTA, but such improvements to the program as he and the staff of the committee could develop.

I am glad to say that this bill embodies the profound and continued commitment to veterans that has always been displayed by Senator CRANSTON, as well as great creativity and care for the fiscal realities all of us here must work under.

The Veterans' Job Training Act Amendments of 1985 would authorize

the appropriation of $53 million for fiscal year 1986 for EVJTA, provide the kind of counseling services which I suggested in S. 1033, and permit veterans entering on-job training programs under title 38 of the current Vietnam-era GI bill to elect paying the benefits to the employer under the mechanism of EVJTA.

It makes other changes in EVJTA, such as reducing the reimbursement paid to the employer from 50 percent of starting wages for the duration of training to 50 percent of starting wages for the first 3 months of training and 30 percent of actual wages for the remaining of the training period, which should make the program increasingly cost-effective.

As a package, the Cranston bill is enormously attractive, and a real step forward in the continuation of veterans' job training programs for those veterans who still need our help. For this reason, I am very happily a cosponsor of the bill, and enormously grateful to Senator CRANSTON for his work in putting it together and for his again taking on the leadership role in an area of vital importance to veterans, as he has so many times over his distinguished career.

I do have a continuing concern about one aspect of Senator CRANSTON's bill.

Specifically, the bill delays the ability of out-of-work veterans to become eligible under EVJTA until March 1, 1986, at the earliest.

It is my understanding that Senator CRANSTON decided to delay eligibility in an effort to be certain that the hardest to place veterans who are already eligible are placed first, before new veterans who may be easier to place may enter the program. Senator CRANSTON's continuing concern for the veterans who have had the hardest time entering the job market is well-placed. But I fear that in seeking to help these veterans, we will be ignoring the profound needs of many other veterans who have not been certified for eligibility, but who may well have been out of work as long as a year by the time that Senator CRANSTON's bill would permit them to become eligible for EVJTA.

Because I believe that period of delay for new eligibility is too long, I will continue to discuss alternatives to this aspect of the Veterans' Job Training Act Amendments of 1985, and look forward to continuing my discussions with Senator CRANSTON on this issue in the weeks to come.

In closing, let me also acknowledge the special leadership and commitment to EVJTA shown by Senator ROCKEFELLER, who as Governor of West Virginia made EVJTA work very effectively there.

Senator ROCKEFELLER clearly understands at a fundamental level that the private-public partnership mechanism of EVJTA represents one of the best approaches to Government in the 1980's, and his support for EVJTA both within and outside the Veterans' Committee has helped create a climate which should facilitate the passage of this much needed extension of EVJTA. ●

ADDITIONAL COSPONSORS

S. 925

At the request of Mr. HUMPHREY, the names of the Senator from Vermont [Mr. STAFFORD], the Senator from Arizona [Mr. GOLDWATER], the Senator from North Carolina [Mr. HELMS], the Senator from Virginia [Mr. TRIBLE], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. SIMON], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Dakota [Mr. ABDNOR], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 925, a bill to deny most-favored-nation trading status to Afghanistan.

S. 942

At the request of Mr. DANFORTH, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 942, a bill to promote expansion of international trade in telecommunications equipment and services, and for other purposes.

S. 1084

At the request of Mr. GOLDWATER, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1084, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

S. 1156

At the request of Mr. DENTON, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1156, a bill to amend chapter XIV of the Comprehensive Crime Control Act of 1984, relating to victims of crime, to provide funds to encourage States to implement protective reforms regarding the investigation and adjudication of child abuse cases which minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action.

S. 1292

At the request of Mr. BAUCUS, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1292, a bill to amend title VII of the Tariff Act of 1930 in order to apply countervailing duties with respect to resource input subsidies.

S. 1356

At the request of Mr. HEINZ, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1356, a bill to give the Nation's performance in international trade appropriately greater importance in the formulation of Government policy, to modernize the remedies available to U.S. producers regarding unfair and injurious foreign trade practices, and for other purposes.

S. 1446

At the request of Mr. ANDREWS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1446, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of wars.

S. 1513

At the request of Mr. BAUCUS, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 1513, a bill to amend the Internal Revenue Code of 1954 to allow monthly deposits of payroll taxes for employers with monthly payroll tax payments under $5,000, and for other purposes.

S. 1622

At the request of Mr. MELCHER, the name of the Senator from Arizona [Mr. GOLDWATER] was added as a cosponsor of S. 1622, a bill to promote the development of Native American Culture and Art.

S. 1647

At the request of Mr. LAUTENBERG, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1647, a bill to amend the Tariff Act of 1930 to enhance the protection of intellectual property rights.

S. 1660

At the request of Mr. DENTON, the names of the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Maryland [Mr. MATHIAS], the Senator from South Dakota [Mr. PRESSLER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Florida [Mr. CHILES], the Senator from Alaska [Mr. STEVENS], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 1660, a bill to grant a Federal Charter to the Confederate Memorial Association.

S. 1672

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1672, a bill to establish an Export Promotion and Information Center.

S. 1702

At the request of Mr. THURMOND, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Missouri [Mr. DANFORTH], the Senator from Connecticut [Mr. DODD], the Senator from Utah [Mr. GARN], the Senator from Massachusetts [Mr. KERRY], the Senator from Virginia [Mr. TRIBLE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1702, a bill to amend the Congressional Budget and Im-

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poundment Control Act of 1974 to require a graduated reduction of the Federal budget deficit, to establish emergency procedures to avoid unanticipated deficits, and for other purposes.

SENATE JOINT RESOLUTION 145

At the request of Mr. DURENBERGER, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Joint Resolution 145, a joint resolution designating November 1985 as "National Diabetes Month."

SENATE JOINT RESOLUTION 193

At the request of Mr. SYMMS, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Idaho [Mr. MCCLURE], the Senator from Oklahoma [Mr. NICKLES], the Senator from Wyoming [Mr. WALLOP], the Senator from Wisconsin [Mr. KASTEN], the Senator from Georgia [Mr. MATTINGLY], the Senator from Indiana [Mr. QUAYLE], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 193, a joint resolution to authorize the President to issue a proclamation designating the week beginning October 20, 1985, as "The Lessons of Grenada Week."

SENATE JOINT RESOLUTION 197

At the request of Mr. HECHT, the name of the Senator from Michigan [Mr. LEVIN] was added as cosponsor of Senate Joint Resolution 197, a joint resolution to designate the week of October 6, 1985 through October 13, 1985 as "National Housing Week."

SENATE JOINT RESOLUTION 199

At the request of Mr. MURKOWSKI, the names of the Senator from California [Mr. CRANSTON] and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Joint Resolution 199, a joint resolution to designate the month of November 1985 as "National Elks Veterans Rememberance Month."

SENATE JOINT RESOLUTION 202

At the request of Mr. HATCH, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Nebraska [Mr. EXON], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Oklahoma [Mr. BOREN], the Senator from Connecticut [Mr. DODD], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 202, a joint resolution to designating November 1985 as "American Liver Foundation National Liver Awareness Month."

SENATE JOINT RESOLUTION 211

At the request of Mr. DURENBERGER, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Joint Resolution 211, a joint resolution to provide for the designation of the week of October 6, 1985, as "National Sudden Death Syndrome Awareness Week."

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. DURENBERGER, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Concurrent Resolution 68, a concurrent resolution expressing support for Chile's national accord for the transition to full democracy.

SENATE RESOLUTION 233

At the request of Mr. PRESSLER, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 233, a resolution to express the sense of the Senate on the need to reject any tax reform proposal which would remove the tax-exempt status of private purpose State and local bond obligations.

SENATE CONCURRENT RESOLUTION 75—ECONOMIC ASSISTANCE TO MEXICO THROUGH PURCHASE OF OIL FOR THE STRATEGIC PETROLEUM RESERVE

Mr. CRANSTON submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 75

Whereas the people of Mexico are struggling valiantly to recover from recent devastating earthquakes that resulted in widespread tragedy;

Whereas recovery from this natural disaster will be a lengthy process that will have severe adverse effects on the Mexican economy that was having difficulty before such disaster;

Whereas the American people are responding, and desire to respond further, to this tragedy in meaningful ways that will promote the economic recovery of Mexico;

Whereas it is in the national security interest of the United States to fill the Strategic Petroleum Reserve;

Whereas it is in the long-term economic interest of the United States to fill the Strategic Petroleum Reserve while the world price of petroleum is low, as it is currently;

Whereas the United States can act in its own economic and national security interests and at the same time provide a needed boost to the economy of Mexico by purchasing petroleum from Mexico and using such petroleum to fill the Strategic Petroleum Reserve; and

Whereas there is an existing agreement with Mexico to purchase petroleum for the Reserve, the quantity of which could easily be increased; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) purchase, by the earliest practicable date, petroleum from Mexico for the Strategic Petroleum Reserve by utilizing the total amount in the SPR Petroleum Account that is available for acquisition of petroleum products; and

(2) submit to the Congress a plan—

(A) to make available to Mexico an additional $1,500,000,000 in a loan that would be repaid, with interest, by Mexico with petroleum to be stored in the Strategic Petroleum Reserve; and

(B) to offset, in the Federal budget, the amount of the outlay of such loan by reducing expenditures.

Mr. CRANSTON. Mr. President, today I am pleased to submit a concurrent resolution expressing the sense of the Congress that this Nation stands willing to aid our neighbor and friend Mexico to overcome the devastation resulting from recent earthquakes in a way that will both be sensitive to the determination of the proud Mexican people to remain self-sufficient, and enhance our own national security and energy preparedness.

The world is witnessing that the monumental devastation caused by the earthquake is surpassed only by the great courage and strength of the Mexican people—a people absolutely determined to overcome this catastrophe.

As Mexico's neighbor and friend, we are in a position to share in their effort to regain their homes, rebuild their lives and restore the beauty of their magnificent capital city.

The United States can be a part of this effort in a mutually beneficial way.

My concurrent resolution calls on the administration to buy oil from Mexico for our strategic petroleum reserve [SPR] using funds already appropriated by Congress for petroleum acquisition in the SPR petroleum fund.

It also calls for a loan of $1.5 billion—at a negotiated rate of interest—to be paid back in oil which we will place into the SPR.

In light of both our desire to be helpful to Mexico and our need for an emergency energy supply, this resolution suggests a policy which can help us to achieve both goals simultaneously.

A very similar resolution, House Concurrent Resolution 202, has very recently been introduced into the other body by two distinguished California Members of the House of Representatives, BARBARA BOXER and GEORGE MILLER.

Mr. President, I urge my colleagues to join us in support of this concurrent resolution.

AMENDMENTS SUBMITTED

EXTENSION OF NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT

STAFFORD AMENDMENT NO. 728

Mr. STAFFORD proposed an amendment to the bill (S. 1264) to amend the National Foundation on the Arts and Humanities Act of 1965, to extend the authorization of appro-

priations for that act, and for other purposes; as follows:

On page 9, beginning with line 5, strike out through line 10 on page 10.

On page 10, line 12, strike out "Sec. 6" and insert in lieu thereof "Sec. 5".

On page 10, line 18, strike out "Sec. 7" and insert in lieu thereof "Sec. 6".

On page 13, strike out lines 1 through 10.

On page 13, line 11, strike out "(c)" and insert in lieu thereof "(b)".

On page 14, line 6, strike out "(d)" and insert in lieu thereof "(c)".

On page 15, line 2, strike out "Sec. 8" and insert in lieu thereof "Sec. 7".

On page 15, line 8, strike out "Sec. 9" and insert in lieu thereof "Sec. 8".

On page 15, line 17, strike out "Sec. 10" and insert in lieu thereof "Sec. 9".

On page 16, line 9, strike out the comma.

On page 16, line 23, strike out "Sec. 11" and insert in lieu thereof "Sec. 10".

On page 18, between lines 20 and 21 insert the following:

EDUCATION PROGRAM FOR THE COMMEMORATION OF THE BICENTENNIAL OF THE CONSTITUTION OF THE UNITED STATES AND THE BILL OF RIGHTS

SEC. 11. (a) GENERAL AUTHORITY.—(1) The Commission on the Bicentennial of the United States Constitution shall, in accordance with the provisions of this section, carry out an education program for the commemoration of the bicentennial of the Constitution of the United States and the Bill of Rights.

(2) To commemorate the bicentennial anniversary of the Constitution of the United States and the Bill of Rights, the Commission—

(A) is authorized to make grants to local educational agencies, private elementary and secondary schools, private organizations, individuals, and State and local public agencies in the United States for the development of instructional materials and programs on the Constitution of the United States and the Bill of Rights which are designed for use by elementary or secondary school students; and

(B) shall implement an annual national bicentennial Constitution and Bill of Rights competition based upon the programs developed and used by elementary and secondary schools.

(3) In carrying out the program authorized by this section, the Chairman of the Commission shall have the same authority as is established in section 10 of the National Foundation of the Arts and the Humanities Act of 1965.

(b) DEFINITION.—For the purpose of this section, the term "Commission" means the Commission on the Bicentennial of the United States Constitution.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1987, 1988, 1989, 1990 and 1991 to carry out the provisions of this section.

(2) Amounts appropriated pursuant to paragraph (1) may be used for necessary administrative expenses, including staff.

POET LAUREATE CONSULTANT IN POETRY

SEC. 12. (a) RECOGNITION OF THE CONSULTANT IN POETRY.—The Congress recognizes that the Consultant in Poetry to the Library of Congress has for some time occupied a position of prominence in the literary life of the Nation, has spoken effectively for literary causes, and has occasionally performed duties and functions sometimes associated with the position of poet laureate in other nations and societies. Individuals are appointed to the position of Consultant in Poetry by the Librarian of Congress for one- or two-year terms solely on the basis of literary merit, and are compensated from endowment funds administered by the Library of Congress Trust Fund Board. The Congress further recognizes this position is equivalent to that of Poet Laureate of the United States.

(b) POET LAUREATE CONSULTANT IN POETRY ESTABLISHED.—(1) There is established in the Library of Congress the position of Poet Laureate Consultant in Poetry. The Poet Laureate Consultant in Poetry shall be appointed by the Librarian of Congress pursuant to the same procedures of appointment as established on the date of enactment of this section for the Consultant in Poetry to the Library of Congress.

(2) Each department and office of the Federal Government is encouraged to make use of the services of the Poet Laureate Consultant in Poetry for ceremonial and other occasions of celebration under such procedures as the Librarian of Congress shall approve designed to assure that participation under this paragraph does not impair the continuation of the work of the individual chosen to fill the position of Poet Laureate Consultant in Poetry.

(c) POETRY PROGRAM.—(1) The Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, shall annually sponsor a program at which the Poet Laureate Consultant in Poetry will present a major work or the work of other distinguished poets.

(2) There are authorized to be appropriated to the National Endowment for the Arts $10,000 for the fiscal year 1987 and for each succeeding fiscal year ending prior to October 1, 1990, for the purpose of carrying out this subsection.

INCREASE IN PUBLIC DEBT LIMIT

GRAMM (AND OTHERS) AMENDMENT NO. 729

Mr. DOLE (for Mr. GRAMM, for himself, Mr. RUDMAN, Mr. HOLLINGS, Mr. ABDNOR, Mr. ANDREWS, Mr. BOREN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DENTON, Mr. DODD, Mr. EAST, Mr. EVANS, Mr. GARN, Mr. GOLDWATER, Mr. GORTON, Mr. GRASSLEY, Mr. HATCH, Mr. HECHT, Mr. HELMS, Mr. HUMPHREY, Mr. KASTEN, Mr. KERRY, Mr. LAXALT, Mr. LUGAR, Mr. MATTINGLY, Mr. MCCLURE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. STEVENS, Mr. SYMMS, Mr. TRIBLE, Mr. WALLOP, Mr. WARNER, Mr. WILSON, Mr. ZORINSKY, Mr. DIXON, Mr. BENTSEN, and Mr. PACKWOOD) proposed an amendment to the joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt; as follows:

At the end of the bill insert the following:

SEC. ——. DEFICIT REDUCTION PROCEDURES.

(a) SHORT TITLE.—This section may be cited as the "Balanced Budget and Emergency Deficit Control Act of 1985".

GRAMM (AND OTHERS) AMENDMENT NO. 730

Mr. DOLE (for Mr. GRAMM, for himself, Mr. RUDMAN, Mr. HOLLINGS, Mr. ABDNOR, Mr. ANDREWS, Mr. BOREN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DENTON, Mr. DODD, Mr. EAST, Mr. EVANS, Mr. GARN, Mr. GOLDWATER, Mr. GORTON, Mr. GRASSLEY, Mr. HATCH, Mr. HECHT, Mr. HELMS, Mr. HUMPHREY, Mr. KASTEN, Mr. KERRY, Mr. LAXALT, Mr. LUGAR, Mr. MATTINGLY, Mr. MCCLURE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. STEVENS, Mr. SYMMS, Mr. TRIBLE, Mr. WALLOP, Mr. WARNER, Mr. WILSON, Mr. ZORINSKY, Mr. DIXON, Mr. BENTSEN, and Mr. PACKWOOD) proposed an amendment to amendment 729 proposed by Mr. DOLE (for Mr. GRAMM and others) to the joint resolution (H.J. Res. 372) increasing the statutory limit on the public debt; as follows:

At the end of the matter proposed to be inserted, insert the following:

(b) CONGRESSIONAL BUDGET.—

(1) ONE CONCURRENT RESOLUTION ON THE BUDGET REQUIRED ANNUALLY.—

(A) IN GENERAL.—Section 310 of the Congressional Budget Act of 1974 is amended—

(i) by striking out all beginning with "SEC. 310. (a)" through "necessary—" in the matter preceding paragraph (1) of subsection (a) and inserting in lieu thereof the following:

"SEC. 310. (a) IN GENERAL.—Any concurrent resolution on the budget considered under section 301 or section 304 for a fiscal year shall, to the extent necessary, specify—

"; and

(ii) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

(B) CONFORMING CHANGES.—

(i) The table of contents in subsection (b) of section 1 of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(I) by striking out "Adoption of first concurrent resolution" in the item relating to section 301 and inserting in lieu thereof "Annual adoption of concurrent resolution";

(II) by striking out "First concurrent resolution" in the item relating to section 303 and inserting in lieu thereof "Concurrent resolution"; and

(III) by striking out "Second required concurrent resolution and reconciliation" in the item relating to section 310 and inserting in lieu thereof "Reconciliation".

(ii) Paragraph (4) of section 3 of such Act is amended—

(I) by adding "and" after the semicolon at the end of subparagraph (A);

(II) by striking out subparagraph (B); and

(III) by striking out "(C) any other" and inserting in lieu thereof "(B) a".

(iii) Section 300 of the Congressional Budget Act of 1974 is amended—

(I) by striking out "first" in the item relating to April 15 and in the second item relating to May 15; and

(II) by striking out the items relating to September 15 and September 25.

(iv)(I) The heading of section 301 of the Congressional Budget Act of 1974 is amended to read as follows:

"ANNUAL ADOPTION OF CONCURRENT RESOLUTION".

(II) Section 301(a) of such Act is amended by striking out "the first concurrent resolution on the budget" in the first sentence and inserting in lieu thereof "a concurrent resolution on the budget".

(III) Section 301(b) of such Act is amended—

(aa) by striking out "first concurrent resolution on the budget" in the matter preceding paragraph (1) and inserting in lieu thereof "concurrent resolution on the budget referred to in subsection (a)"; and

(bb) in paragraph (1) by striking out all beginning with "the concurrent resolution" through "both" the second place it appears and inserting in lieu thereof "the Congress has completed action on any reconciliation bill or reconciliation resolution, or both, required by such concurrent resolution to be reported in accordance with section 310(b)".

(IV) Section 301(d) of such Act is amended by striking out "first" each place it appears.

(V) Section 301(e) of such Act is amended—

(aa) by striking out "set for" in paragraph (1) and inserting in lieu thereof "set forth"; and

(bb) by striking out "first concurrent resolution on the budget" each place it appears and inserting in lieu thereof "concurrent resolution on the budget referred to in subsection (a)".

(v) Section 302(c) of such Act is amended by striking out "or 310".

(vi)(I) The heading of section 303 of such Act is amended by striking out "FIRST".

(II) Section 303(a) of such Act is amended by striking out "first concurrent resolution on the budget" in the matter following paragraph (4) and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)".

(vii) Section 304 of such Act is amended—

(I) by striking out "first concurrent resolution on the budget" and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)"; and

(II) by striking out "pursuant to section 301".

(viii)(I) Section 305(a)(3) is amended by striking out "first concurrent resolution on the budget" and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)".

(II) Section 305(b) of such Act is amended—

(aa) in paragraph (1) by striking out ", except that" and all that follows through "15 hours"; and

(bb) in paragraph (3) by striking out "first concurrent resolution on the budget" and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)".

(ix) Section 308(a)(2)(A) of such Act is amended by striking out "first concurrent resolution on the budget" and inserting in lieu thereof "concurrent resolution on the budget referred to in section 301(a)".

(x) Paragraph (1) of section 309 of such Act is amended by striking out ", and other than the reconciliation bill for such year, if required to be reported under section 310(c)".

(xi) Section 310(f) of such Act is amended by striking out "subsection (a)" and inserting in lieu thereof "301(a)".

(xii) Section 311(a) of such Act is amended—

(I) by striking out "310(a)" the first place it appears and inserting in lieu thereof "301(a)"; and

(II) by striking out "310(c)" and inserting in lieu thereof "310(b)".

(xiii) Clause 1. of Rule XLIX of the Rules of the House of Representatives is amended by striking out ", 304, or 310" and inserting in lieu thereof "or 304".

(2) MAXIMUM DEFICIT AMOUNTS.—

(A) ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.—

(i) POINT OF ORDER.—Section 301 of the Congressional Budget Act of 1974 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and inserting after subsection (b) the following new subsection:

"(c) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED—

"(1) Except as provided in paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider or adopt any concurrent resolution on the budget for a fiscal year under this section, or to consider or adopt any amendment to such a concurrent resolution, or to adopt a conference report on such a concurrent resolution, if the level of total budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report (or that would result from the adoption of such amendment), exceeds the recommended level of Federal revenues for that year by an amount that is greater than the maximum deficit amount specified for such fiscal year in section 3(7).

"(2) Paragraph (1) of this subsection shall not apply to any fiscal year for which a declaration of war has been enacted.".

(ii) CONFORMING CHANGE.—Section 301(e) of such Act, as redesignated by clause (i) of this subparagraph, is amended by inserting "; and when so reported such concurrent resolution shall comply with the requirement described in paragraph (1) of subsection (c), unless such paragraph does not apply to such fiscal year by reason of paragraph (2) of such subsection" after "October 1 of such year" in the second sentence thereof.

(B) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304 of such Act is amended—

(i) by inserting "(a) IN GENERAL.—" after "SEC. 304."; and

(ii) by adding at the end thereof the following new subsection:

"(b) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—

"(1) Except as provided in paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider or adopt any concurrent resolution on the budget for a fiscal year under this section, or to consider or adopt any amendment to such a concurrent resolution, or to adopt a conference report on such a concurrent resolution, if the level of total budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report (or that would result from the adoption of such amendment), exceeds the recommended level of Federal revenues for that year by an amount that is greater than the maximum deficit amount specified for such fiscal year in section 3(7).

"(2) Paragraph (1) of this subsection shall not apply to any fiscal year for which a declaration of war has been enacted.".

(C) DEFINITIONS.—Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(6) The term 'deficit' means, with respect to any fiscal year, the amount by which total budget outlays for such fiscal year exceed total revenues for such fiscal year. For purposes of this Act, and unless specifically superseded by a law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985, the receipts of the Federal Old-Age, Survivors, and Disability Insurance Trust Fund for a fiscal year, and the taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 during such fiscal year, shall be included in total revenues for such fiscal year, and the disbursements of such Trust Fund for such fiscal year shall be included in total budget outlays for such fiscal year.

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $180,000,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $108,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $72,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $36,000,000,000; and"

"(F) with respect to the fiscal year beginning October 1, 1990, zero.".

(3) RECONCILIATION.—

(A) ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.—

(i) DIRECTIONS TO COMMITTEES.—Section 301(b) of the Congressional Budget Act of 1974 (as amended by paragraph (1)(B)(iv)(III) of this subsection) is further amended—

(I) by striking out "may also require" in the matter preceding paragraph (1) and inserting in lieu thereof "shall also, to the extent necessary to comply with subsection (c)";

(II) by inserting "require" after the paragraph designation in paragraph (1);

(III) by inserting "require" after the paragraph designation in paragraph (2); and

(IV) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) specify and direct any combination of the matters described in paragraphs (1), (2), and (3) of section 310(a);".

(ii) CONFORMING CHANGES.—

(I) Section 310(a) of such Act is amended—

(aa) by inserting "or" at the end of paragraph (2);

(bb) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period; and

(cc) by striking out paragraph (4).

(II) Section 310(d) of such Act is amended by striking out "subsection (c)" and all that follows through "year" and inserting in lieu thereof "subsection (b) with respect to a concurrent resolution on the budget adopted under section 301(a) not later than June 15 of each year".

(III) Subsections (e) and (f) of section 310 of such Act are amended by striking out "subsection (c)" each place it appears and inserting in lieu thereof "subsection (b)".

(IV) Section 300 of such Act is amended by inserting immediately after the second item relating to May 15 the following new item:

"June 15	Congress completes action on reconciliation bill or resolution, or both, implementing first required concurrent resolution.".

(B) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—

(i) IN GENERAL.—Section 304(a) of such Act (as redesignated by paragraph (2)(B)(i) of this subsection) is amended by adding after the period the following new sentence: "Any concurrent resolution adopted under this section shall specify and direct any combination of the matters described in paragraphs (1), (2), and (3) of section 310(a) to the extent necessary to comply with subsection (b).".

(ii) CONFORMING CHANGE.—Section 310(d) of such Act (as amended by subparagraph (A)(ii)(II) of this paragraph) is further amended by adding at the end thereof the following new sentence: "Congress shall complete action on any reconciliation bill or reconciliation resolution reported under subsection (b) with respect to a concurrent resolution on the budget adopted under section 304(a) not later than 30 days after the adoption of the concurrent resolution.".

(4) LIMITATION ON AMENDMENTS.—

(A) CONCURRENT RESOLUTIONS ON THE BUDGET.—

(i) HOUSE OF REPRESENTATIVES.—Section 305(a)(6) of such Act is amended—

(I) by inserting "(A)" after the paragraph designation; and

(II) by adding at the end thereof the following new subparagraph:

"(B)(i) No amendment that would have the effect of increasing any specific budget outlays above the level of such outlays set forth in a concurrent resolution on the budget as reported, or of reducing any specific Federal revenues below the level of such revenues set forth in such concurrent resolution as reported, shall be in order unless such amendment ensures that the amount of total budget outlays set forth in the concurrent resolution as reported is not increased, and that the recommended level of total Federal revenues set forth in such concurrent resolution as reported is not reduced, by making an equivalent reduction in other specific budget outlays or an equivalent increase in other specific Federal revenues.

"(ii) Clause (i) of this subparagraph shall not apply to any fiscal year for which a declaration of war has been enacted.".

(ii) SENATE.—Section 305(b)(2) of such Act is amended—

(I) by inserting "(A)" before the paragraph designation; and

(II) by adding at the end thereof the following new subparagraph:

"(B)(i) No amendment that would have the effect of increasing any specific budget outlays above the level of such outlays set forth in a concurrent resolution on the budget as reported, or of reducing any specific Federal revenues below the level of such revenues set forth in such concurrent resolution as reported, shall be in order unless such amendment ensures that the amount of total budget outlays set forth in the concurrent resolution as reported is not increased, and that the recommended level of total Federal revenues set forth in the concurrent resolution as reported is not reduced, by making an equivalent reduction in other specific budget outlays or an equivalent increase in other specific Federal revenues.

"(ii) Clause (i) of this subparagraph shall not apply to any fiscal year for which a declaration of war has been enacted.".

(B) RECONCILIATION BILLS AND RESOLUTIONS.—Section 310 of such Act is amended by inserting after subsection (b) (as redesignated by paragraph (1)(A)(ii) of this subsection) the following new subsection:

"(c) LIMITATION ON AMENDMENTS TO RECONCILIATION BILLS AND RESOLUTIONS.—

"(1) It shall not be in order in either the House of Representatives or the Senate to receive or consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution as reported, or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution as reported, unless such amendment ensures that total budget outlays are not increased, and that total Federal revenues are not reduced, by making an equivalent reduction in other specific budget outlays or an equivalent increase in other specific Federal revenues.

"(2) Paragraph (1) shall not apply to any fiscal year for which a declaration of war has been enacted.".

(5) ENFORCEMENT.—

(A) ALLOCATIONS OF BUDGET AUTHORITY AND OUTLAYS.—

(i) REPORTING DATE FOR ALLOCATIONS.—Section 302(b) of such Act is amended by striking out "Each such committee shall promptly report" in the last sentence and inserting in lieu thereof "Each such committee, within ten days of session after the concurrent resolution is agreed to, shall report".

(ii) ALLOCATIONS MADE BINDING.—Section 311 of such Act is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and inserting immediately after "SEC. 311" the following new subsection:

"(a) LEGISLATION SUBJECT TO POINT OF ORDER AFTER ADOPTION OF ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.—

"(1) IN GENERAL.—At any time after the Congress has completed action on the concurrent resolution on the budget required to be reported under section 301(a) for a fiscal year, it shall not be in order in either the House of Representatives or the Senate—

"(A) to consider any bill or resolution (including a conference report thereon), or any amendment to a bill or resolution, that provides for budget outlays or new budget authority in excess of the appropriate allocation of such outlays or authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year; or

"(B) to consider any bill or resolution (including a conference report thereon), or any amendment to a bill or resolution, that provides new spending authority described in section 401(c)(2)(C) to become effective during such fiscal year, if the amount of budget outlays or new budget authority that would be required for such year if such bill or resolution were enacted without change or such amendment were adopted would exceed the appropriate allocation of budget outlays or new budget authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, unless such bill, resolution, or amendment was favorably reported by the Committee on Appropriations of the House involved under section 401(b)(2) along with a certification that if such bill, resolution, or amendment is enacted or adopted, the committee will reduce appropriations or take any other actions necessary to assure that the enactment or adoption of such bill, resolution, or amendment will not result in a deficit for such fiscal year in excess of the maximum deficit amount specified for such fiscal year in section 3(7).

"(2) ALTERATION OF 302(b) ALLOCATIONS.—At the time after a committee reports the allocations required to be made under section 302(b), such committee may report to its House an alteration of such allocations, provided that any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

"(3) EXCEPTION.—Paragraph (1) shall not apply to any fiscal year for which a declaration of war has been enacted.".

(B) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—Section 311(b) of such Act, as redesignated by subparagraph (A)(ii) of this subsection, is amended by inserting before the period at the end thereof the following: ", or would otherwise result in a deficit for such fiscal year that exceeds the maximum deficit amount specified for such fiscal year in section 3(7) (except to the extent that paragraph (1) of subsection (b) of section 310 does not apply by reason of paragraph (2) of such subsection)".

(C) REPORTING REQUIREMENT EXTENDED TO CONFERENCE REPORTS.—Section 308(a) of such Act is amended by striking out "the report accompanying that bill or resolution" in the matter preceding paragraph (1) and inserting in lieu thereof the following: "or whenever a conference report is filed in either House, the report accompanying that bill or resolution or the statement of managers accompanying that conference report".

(c) BUDGET SUBMITTED BY THE PRESIDENT.—

(1) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared on the basis of the best estimates then available, in such a manner as to ensure that the deficit for such fiscal year shall not exceed the maximum deficit amount specified for such fiscal year in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974; and the President shall take such action under subsection (d)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 as is necessary to ensure that the deficit for such fiscal year does not exceed such maximum deficit amount.

"(2) Subject to paragraph (3) of this subsection, the deficit set forth in the budget so transmitted for any fiscal year shall not exceed the maximum deficit amount specified for such fiscal year in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974, with budget outlays and Federal revenues at such levels as the President may consider most desirable and feasible. The President may also recommend alternative budgets complying with the requirement of the preceding sentence, with outlays and revenues at higher or lower levels to take account of possible changes in economic conditions or other circumstances.

"(3) Paragraph (2) shall not apply with respect to any fiscal year for which a declaration of war has been enacted.".

(2) REVISIONS AND SUPPLEMENTAL SUMMARIES.—Section 1106 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate.".

(d) EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICITS AMOUNTS.—

(1) REPORTING OF DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNTS.—

(A) IN GENERAL.—

(i) FISCAL YEAR FOR WHICH CONCURRENT RESOLUTION ON THE BUDGET IS ADOPTED.—The Director of the Office of Management and Budget and the Director of the Congressional Budget Office (hereafter in this section referred to as "the Directors") shall, with respect to any fiscal year for which a concurrent resolution on the budget has been adopted before the first day of such fiscal year (I) estimate the levels of total revenues and budget outlays that may be anticipated for such fiscal year, (II) determine whether the deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year and whether such excess is statistically significant, and (III) estimate the rate of real economic growth that will occur during such fiscal year. The Directors jointly shall report to the President and to the Congress not later than November 1 of such fiscal year (in the case of the fiscal year beginning October 1, 1985) and October 1 of such fiscal year (in the case of any succeeding fiscal year) if either such Director determines that the amount of the deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year, identifying the amount of such excess, stating whether such excess is statistically significant, specifying the estimated rate of real economic growth for such fiscal year, and specifying the percentages by which automatic spending increases and relatively controllable expenditures shall be reduced during such fiscal year in order to eliminate such excess. In the event that the Directors are unable to agree on an amount to be set forth with respect to any item in any such report, the amount set forth for such item in such report shall be the average of the amounts proposed by each of them with respect to such item.

(ii) FISCAL YEAR WITHOUT CONCURRENT RESOLUTION ON THE BUDGET.—Not later than October 1 of any fiscal year for which a concurrent resolution on the budget has not been adopted, the Directors shall (I) estimate the level of Federal revenues and budget outlays for such fiscal year, (II) determine whether the deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year and whether such excess is statistically significant, and (III) estimate the rate of real economic growth that will occur during such fiscal year, and, if either such Director determines that the amount of the deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year, shall jointly report to the President and the Congress, identifying the amount of such excess, stating whether such excess is statistically significant, specifying the estimated rate of real economic growth for such fiscal year, and specifying the percentages by which automatic spending increases and relatively controllable expenditures shall be reduced in order to eliminate such excess. Any disagreement between the Directors on an amount to be set forth in any such report shall be resolved in the manner described in the last sentence of clause (i).

(B) EXCEPTION.—Subparagraph (A) shall not apply to any fiscal year for which a declaration of war has been enacted.

(2) PRESIDENTIAL ORDER.—

(A) CONTENTS.—

(i) IN GENERAL.—Except as provided in subparagraph (B), upon receipt of any report from the Directors under paragraph (1) of this subsection identifying an amount by which the deficit for a fiscal year will exceed the maximum deficit amount for such fiscal year, notwithstanding the Impoundment Control Act of 1974, the President shall issue an order that—

(I) subject to clause (ii) of this subparagraph, eliminates one-half of such excess by modifying or suspending the operation of each provision of Federal law that would (but for such order) require an automatic spending increase to take effect during such fiscal year, in such a manner as to reduce by a uniform percentage (but not below zero) the amount of increase under each such provision, and

(II) subject to clause (ii) of this subparagraph, eliminates one-half of such excess by sequestering such amounts of budget authority, obligation limitations, and loan limitations as are necessary to reduce each relatively controllable expenditure by a uniform percentage and by adjusting payments provided by the Federal Government;

and shall transmit to both Houses of the Congress a message—

(III) identifying—

(aa) the total amount and the percentage by which automatic spending increases are to be reduced under subclause (I) of this clause;

(bb) the total amount of budget authority, obligation limitations, and loan limitations which is to be sequestered and the total amount of payments which is to be adjusted under subclause (II) of this clause with respect to relatively controllable expenditures;

(cc) the amount of budget authority, obligation limitations, and loan limitations which is to be sequestered and payments which are to be adjusted with respect to each such relatively controllable expenditure in order to reduce it by the required percentage; and

(dd) the account, department, or establishment of the Government to which each amount of budget authority, obligation limitations, and loan limitations and each payment specified under subdivision (cc) of this clause would be available for obligation (but for such order), and the specific project or governmental functions involved; and

(IV) providing a full supporting details with respect to each action to be taken under subclause (I) or (II) of this clause.

(ii) LIMITATION.—Actions taken under subclause (I) of clause (i) may reduce by less than one-half the amount by which the deficit for a fiscal year exceeds the maximum deficit amount for such fiscal year, and actions taken under subclause (II) of such clause may reduce such excess by more than one-half only to the extent that compliance with the requirement that actions taken under each such subclause reduce such excess by one-half would require the reduction of automatic spending increases below zero.

(B) EXCEPTION.—If the amount of the excess of the deficit for a fiscal year over the maximum deficit amount for such fiscal year set forth in a report from the Directors under paragraph (1) of this subsection is not statistically significant, subparagraph (A) shall be applied by substituting "may" for "shall" each place it appears.

(C) DATE ISSUED.—

(i) POSITIVE REAL ECONOMIC GROWTH.—If the estimate of real economic growth set forth in a report transmitted under paragraph (1) of this subsection is zero or greater, the President shall issue the order required to be issued under this subsection pursuant to such report not later than 14 days after transmittal of such report.

(ii) NEGATIVE REAL ECONOMIC GROWTH.—

(I) IN GENERAL.—If the estimate of real economic growth set forth in a report transmitted under paragraph (1) of this subsection is less than zero, the President shall issue the order required to be issued under this subsection pursuant to such report not later than 30 days after transmittal of such report.

(II) ALTERNATIVE PROPOSALS.—The President may, during the 30-day period specified in subclause (I), submit to each House of the Congress a joint resolution that will, if enacted—

(aa) reduce the deficit for a fiscal year to an amount not greater than the maximum deficit amount for such fiscal year, or

(bb) subject to the requirements of subsection (e) of this section, suspend (in part or in whole) the requirements of this section and of the amendments made by this section with respect to such fiscal year.

Such joint resolution shall be introduced (by request) by the majority leader of each such House on the day on which it is submitted and shall be referred on such day to the appropriate committee of such House. The committee shall report the joint resolution not later than 10 days after the date on which it is introduced. A committee failing to report a joint resolution within the 10-day period referred to in the preceding sentence shall be automatically discharged from consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar. The provisions of section 305 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget shall also apply to consideration of any joint resolution submitted under this subparagraph and to conference reports thereon. Section 310(c) of such Act (as added by subsection (b)(4)(B) of this section) shall apply to any such joint resolution.

(D) EFFECTIVE IMMEDIATELY.—Except to the extent that it is superseded by a joint resolution enacted under paragraph (3) of this subsection, an order issued pursuant to this paragraph shall be effective from and after its issuance. Any modification or suspension of a provision of law that would (but for such order) require an automatic spending increase to take effect during a fiscal year shall apply for the one-year period beginning with the date on which such automatic increase would have taken effect during such fiscal year (but for such order).

(E) PROPOSAL OF ALTERNATIVES.—A message transmitted pursuant to this paragraph with respect to a fiscal year may be accompanied by a proposal setting forth in full detail alternative ways to reduce the deficit for such fiscal year to an amount not greater than the maximum deficit amount for such fiscal year.

(3) CONGRESSIONAL ACTION.—

(A) REPORTING OF JOINT RESOLUTIONS.—

(i) IN GENERAL.—Not later than 10 days after issuance of an order by the President under paragraph (2) with respect to a fiscal year, the Committee on the Budget of the House of Representatives or the Senate may report to its House a joint resolution superseding such order. The report accompanying such joint resolution shall explain in full detail the nature and effects of each provision of the joint resolution.

(ii) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider or agree to any joint resolution reported under clause (i) with respect to a fiscal year, any amendment thereto, or any conference report thereon if—

(I) the enactment of such joint resolution as reported;

(II) the adoption and enactment of such amendment; or

(III) the enactment of such joint resolution in the form recommended in such conference report;

would cause the amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year.

(iii) DEFINITION.—For purposes of clause (i), the term "day" shall mean any calendar day on which either House of the Congress is in session.

(B) PROCEDURES.—

(i) IN GENERAL.—The provisions of section 305 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to consideration of joint resolutions reported under this paragraph and conference reports thereon.

(ii) LIMITATION ON AMENDMENTS.—Section 310(c) of such Act (as added by subsection (b)(4)(B) of this section) shall apply to joint resolutions reported under this paragraph.

(4) DEFINITIONS.—For purposes of this subsection:

(A) The term "automatic spending increase" shall include all Federal programs indexed directly or indirectly, whether appropriated or contained in current law. This shall include entitlements and other payments to individuals, open-ended programs and grants, and other similar programs, and shall not include increases in Government expenditures due to changes in program participation rates. Such term shall not include any increase in benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

(B) The term "budget outlays" has the meaning given to such term in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974.

(C) The term "concurrent resolution on the budget" has the meaning given to such term in section 3(4) of the Congressional Budget and Impoundment Control Act of 1974.

(D) The term "deficit" has the meaning given to such term in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974.

(E) The term "maximum deficit amount" has the meaning given to such term in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974.

(F) The term "real economic growth" means, with respect to a fiscal year, the nominal growth in the production of goods and services during such fiscal year, adjusted for inflation.

(G) The term "relatively controllable expenditures" means budget outlays that are classified as relatively controllable outlays in Office of Management and Budget, *Controllability of Budget Outlays*, Report No. BPS07014 (August 27, 1985).

(H) The amount by which the deficit for a fiscal year exceeds the maximum deficit amount for such fiscal year shall be treated as "statistically significant" if the amount of such excess is greater than 5 percent of such maximum deficit amount. For purposes of the fiscal year beginning October 1, 1985, the preceding sentence shall be applied by substituting "7" for "5".

(5) CONFORMING CHANGES.—

(A) RULES OF THE HOUSE OF REPRESENTATIVES.—

(i) Clause 1.(e)(3) of rule X of the Rules of the House of Representatives is amended—

(I) by striking out "and" at the end of subdivision (C);

(II) by redesignating subdivision (D) as subdivision (E); and

(III) by inserting after subdivision (C) the following new subdivision:

"(D) to report joint resolutions with respect to Presidential orders issued under subsection (d)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, and to take such other actions as may be required of it under that section; and".

(ii) Clause 4.(a) of rule XI of such Rules is amended by inserting after "Budget Act of 1974" the following: "and on joint resolutions under subsection (d)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(B) STANDING RULES OF THE SENATE.—Rule XXV(e)(2) of the Standing Rules of the Senate is amended—

(i) by striking out "and" at the end of subdivision (C);

(ii) by redesignating subdivision (D) as subdivision (E); and

(iii) by inserting after subdivision (C) the following new subdivision:

"(D) to report joint resolutions with respect to Presidential orders issued under subsection (d)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, and to take such other actions as may be required of it under that section; and".

(e) BUDGETARY TREATMENT OF SOCIAL SECURITY TRUST FUNDS.—

(1) FISCAL YEARS 1986 THROUGH 1992.—

(A) IN GENERAL.—Section 710 of the Social Security Act (as added by paragraph (1) of subsection (a) of section 346 of the Social Security Amendments of 1983) is amended—

(i) by striking out all beginning with "the" the first place it appears down through "Disability Insurance Trust Fund, the" and inserting in lieu thereof "The";

(ii) by striking out "sections 1401, 3101, and 3111" and inserting in lieu thereof "1401(b), 3101(b), and 3111(b)";

(iii) by redesignating all after the section designation as subsection (b);

(iv) by inserting after the section designation the following:

"(a) The receipts and disbursements of the Federal Old-Age, Survivors, and Disability Insurance Trust Fund, and the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954, shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government."; and

(v) by adding at the end thereof the following new subsection:

"(c) No provision of law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriates funds authorized under the Social Security Act as in effect on the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985) may provide for payments from the general fund of the Treasury to the Federal Old-Age, Survivors, and Disability Insurance Trust Fund, or for payments from such Trust Fund to the general fund of the Treasury.".

(B) APPLICATION.—The amendments made by subparagraph (A) shall apply with respect to fiscal years beginning after September 30, 1985, and ending before October 1, 1992.

(2) FISCAL YEAR 1993 AND THEREAFTER.—Section 710(a) of the Social Security Act (42 U.S.C. 911 note), as amended by section 346(b) of the Social Security Amendments of 1983 (to be effective with respect to fiscal years beginning after September 30, 1992) is amended by—

(A) inserting "(1)" after the subsection designation; and

(B) adding at the end thereof the following new paragraph:

"(2) No provision of law enacted after the date of the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than a provision of an appropriation Act that appropriates funds authorized under the Social Security Act as in effect on the date of enactment of the Balanced Budget and Emergency Deficit Control Act of 1985) may provide for payments from the general fund of the Treasury to any Trust Fund specified in paragraph (1) or for payments from any such Trust Fund to the general fund of the Treasury.".

(f) WAIVERS AND AMENDMENTS.—Notwithstanding section 904(b) of the Congressional Budget and Impoundment Control Act of 1974, any other provision of law, or any rule or standing order of the Senate or the House of Representatives, no provision of this section, or of any amendment made by this section, may be waived, amended, or otherwise modified except by a joint resolution that—

(1) does so in specific terms, referring to such provision by its designation and declaring that such joint resolution waives, amends, or otherwise modifies such provision; and

(2) is addressed solely to that subject.

(g) Section 1106(a) of title 31, United States Code, is amended by striking out "July 16" and inserting in lieu thereof "September 16".

(h) Notwithstanding any other provision of law, it shall not be in order in the Senate or House of Representatives to consider any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 301, 304, or 310 of the Congressional Budget Act of 1974, or any amendment thereto, or conference report thereon that contains recommendations with respect to the Federal Old-Age Survivors Trust Fund or the Federal Disability Insurance Trust Fund, with respect to revenues attributable to the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954, with respect to the old-age, survivors, and disability insurance program established under title II of this Act.

(i) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section and the amendments made by this section shall become effective on the date of the enactment of this section and shall apply with respect to fiscal years beginning after September 30, 1985, and before October 1, 1991.

(2) EXCEPTION.—The amendments made by subsections (b)(1), (b)(2)(A), (b)(3)(A), (b)(5)(A)(i), and (c) of this section shall apply with respect to fiscal years beginning after September 30, 1986, and before October 1, 1990.

(3) OASDI TRUST FUNDS.—The amendment made by subsection (e) shall apply as provided in such subsection.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, October 3, to hold a hearing to consider the nomination of Anthony G. Sousa, to be a member of the Federal Energy Regulatory Commission.

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

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, October 3, 1985, in order to conduct a hearing on nuclear winter.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 3, in closed session, to receive a briefing on chemical, biological, and radiological terrorism.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Thursday, October 3, to conduct a meeting on earthquake preparedness.

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

ADDITIONAL STATEMENTS

DEFENSE PROCUREMENT REFORM LEGISLATION FOR 1984

● Mr. QUAYLE. Mr. President, over the next 6 weeks, the Defense Acquisition Policy Subcommittee will be holding a series of hearings on the 1984 defense procurement reform legislation. The purpose of these hearings will be to take a preliminary look at the implementation of the amendments to title 10, United States Code, contained in the Competition in Contracting Act, the Defense Procurement Reform Act of 1984, and the Small Business and Federal Procurement Competition Enhancement Act of 1984.

Over the past 2 years, we have seen an unprecedented amount of legislation aimed at reforming the defense acquisition process. It is time that we began to review the status and impact of those legislative provisions that have already been enacted. Only by conducting oversight hearings on this issue can we have a proper understanding of the potential impact of future legislative proposals.

The subcommittee has scheduled a hearing on October 17 to receive the views of Hon. James P. Wade, Assistant Secretary of Defense for Acquisition and Logistics. We will follow with a hearing on October 29 in which the joint logistics commanders from the armed services and the Defense Logistics Agency have been asked to testify.

During November, we are planning three additional hearings on this topic. On November 5, we have asked the Director of the Strategic Defense Initiative Organization, Lt. Gen. James Abrahamson, to testify before the subcommittee. On November 7, we plan to receive testimony from the competition advocate generals of the services, as well as a representative of the Small Business Administration. Finally, on November 13, we will receive testimony from outside witnesses.●

THE SITUATION IN SOUTH AFRICA

● Mr. SARBANES. Mr. President, so long as news stories and pictures report the violent actions of the South African Government against South Africa's black population, public attention is understandably and rightly riveted on events in South Africa. But other actions of the South African Government, less easily photographed, deserve our attention as well. Among these is the speech which Prime Minister P.W. Botha gave to a Cape Province congress of the ruling National Party on September 30 in which he claimed to offer a "new manifesto for South Africa."

Despite the Prime Minister's assertion, there was nothing new in his speech. There was nothing in it that reflected willingness to confront the real nature of the crisis in South Africa, where black South Africans remain aliens in their own land, living under a brutal state of emergency that the government gives no indication of ending. The Botha speech does not hold out the prospect for the dismantling of the apartheid system, for the fundamental reforms that are the only remedy for the terrible injustice which persists in South Africa.

The true nature of the Botha speech has been described and commented upon this week in a news story and an editorial in the New York Times. I ask that both be printed in the RECORD:

The material follows:

[From the New York Times, Oct. 2, 1985]

APARTHEID EMBALMED

It is time to acknowledge a widespread misjudgment of South Africa's President, P.W. Botha. All year, with the storms of protest raging around him, he's been elaborating a blueprint for "reforming" the racist structure of apartheid. From afar he often seemed to be improvising, now soothing his nation's blacks, now rebuffing them, as if to stifle rebellion with ambiguity. But now that he has laid out his "manifesto for a new South Africa," only his foreign interpreters sound confused. For a man in his circumstance, he has been remarkably blunt, consistent and purposeful.

Mr. Botha is a semantic trickster. In one sentence he embraces "a united South Africa, one citizenship and a universal franchise." In the next, that becomes a South Africa of "units," with at least three categories of citizenship and a franchise that keeps voters a universe apart. With one breath, Mr. Botha describes black South Africans as a welter of distinctive tribes and "cultures." In the next, he calls them a single group that threatens to dominate the white minority.

Yet despite these obfuscations, Mr. Botha offers a program for reform that is totally coherent. It is also pathetic.

Implicitly, he acknowledges that his predecesors failed in their attempt to turn 23 million blacks into citizens of 10 barren, "independent" homelands. In the service of that scheme, millions have been uprooted or abused as aliens in their own land. Without abandoning this geographical apartheid, Mr. Botha would let the much-needed urban blacks remain in segregated townships and would invent new "group" boundaries to circumscribe their political rights and muscle.

The "homelands," four of which have been declared independent, could each become one or more "units" in Mr. Botha's reunited South Africa. So would the walled-off black townships. Blacks would then participate in political "structures" on a unit basis, managing "their own" affairs, like segregated education and housing, and having "a say at higher levels."

Even at higher levels, there could be no black chamber of Parliament alongside the new Asian and mixed-race chambers advising the white one. But a few blacks might be admitted to the still-more-advisory President's Council, to offer "inquiries and proposals,"

That is the Botha reform, unaltered by any of his moods over the year. Details to come. Black leaders who accept it might be consulted, but never those guided from "abroad" by the exiled leaders of banned black-power organizations.

No less devious than that apartheid of "homelands," Mr. Botha's scheme is even more explicit in its racism. And it is even more plainly designed to let whites divide and dominate blacks, without yielding any power or privilege. All this in the same week that South Africa's white business leaders publicly urge negotiation with acknowledged black leaders "about power sharing," full citizenship "to all our peoples" and restoration of the rule of law.

Anton Rupert, a leading Afrikaner businessman, says "Apartheid is dead, but the corpse stinks and it must be buried, not embalmed." President Botha remains, sly and stubborn, the embalmer.

[From the New York Times, Oct. 1, 1985]

BOTHA SETS OUT HIS "AGENDA" FOR RACIAL CHANGES

(By Alan Cowell)

PORT ELIZABETH, SOUTH AFRICA, September 30.—President P.W. Botha of South Africa, facing his Government's deepest racial crisis, delivered a speech tonight in which he set out what he termed an agenda for racial reform.

Hedged with qualifications, it offered political rights to black, including citizenship and an undefined vote. But it seemed to suggest that those rights would be exercised in complex and undefined political structures designed to "insure that one group is not placed in a position where it can dominate other groups."

The language is the Africaners' way of saying that white dominance in national affairs will be retained.

The "agenda," which restated in more detail some earlier proposals, also rejected the notion of a universal franchise in a unitary state and proposed continued segregation of schools, housing and "culture in the general meaning of the word."

Mr. Botha's speech was the fourth and last in a series of pronouncements on reform to party congresses, which he started in Durban on Aug. 15 with a bellicose rejection of eternal pressure on his Government to speed racial change. The Durban speech prompted a vast crumbling of international banking confidence, leading to a financial crisis that forced the authorities to suspend repayment of part of the foreign debt.

A UNITED SOUTH AFRICA

His speech tonight, at the start of the Provincial Congress of his ruling National Party, seemed to represent the most comprehensive statements he has made thus far on his intentions toward the voteless black majority of 23 million. It seemed certain, however, that many black activists would reject his proposals as falling far short of a political system reflecting South Africa's racial composition.

"I finally confirm," Mr. Botha said, "that my party and I are committed to the principle of a united South Africa, one citizenship and a universal franchise."

While the language seemed more dramatic and explicit than in the past, Mr. Botha clarified the statement by saying that his proposals—the practical implications of which are still unclear—foresaw "structures chosen by South Africans, not within structures prescribed from abroad."

The essence of his agenda, which represents a clear break from the traditional canons of apartheid, seemed to be a kind of federation or confederation of what he termed "units" based on geography and race.

"We are involved," Mr. Botha said, "in the mutual pursuance of both equal rights for individuals and security for each group."

CHANGES IN ADVISORY COUNCIL

To initiate negotiations with black personalities, he said, he was prepared to change the composition of the advisory President's Council to permit blacks to offer "inquiries and the submission of proposals" to him.

The President's Council is composed of representatives of political parties present in the segregated three-chamber Parliament and is supposed to advise Mr. Botha on policy issues and to break deadlocks in legislative debates.

A universal franchise in a unitary state, Mr. Botha said, "will cause a greater struggle and more bloodshed than we are experiencing today." More than 700 people, all but a handful of them nonwhite, have died in 13 months of protest and violence that prompted the authorities to declare a state of emergency in 36 districts on July 21.

Official security action to quell the protests, Mr. Botha said, was not "for purposes of oppression and maintaining the status quo" but "to protect the process of peaceful reform and to insure the necessary stability without which reform will be undermined by violence and revolution."

The reforms he mentioned seemed ambivalent. While Mr. Botha spoke of a "united South Africa," he made clear, for instance, that this did not mean the dismantling of the four so-called tribal homelands that have accepted a nominal independence from Pretoria and which are home to millions of blacks.

Similarly, when he spoke initially on Sept. 11 of the restoration of South African citizenship to millions of blacks, one of his senior lieutenants pointed out that citizenship did not imply South African political rights for those living the homelands.

Mr. Botha spoke tonight of a "wide spectrum of views" in South Africa that "recognizes the existence of minorities with their own language and culture, as well as an own way of life."

"It recognizes," he said, "the principle of self-determination of own community life such as education, residential areas and social welfare, local management and private ownership, in other words, in culture and the general meaning of the word."

COOPERATIVE COEXISTENCE

Much of what Mr. Botha said seemed a restatement and refining of ideas he has advanced since January for cautious political change designed, in his party's vocabulary, to replace traditional apartheid with what is called "cooperative coexistence."

His agenda, Mr. Botha said, foresaw a multiplicity of "units" that would be "recognized on a geographical and group basis," including the country's nine million urbanized blacks.

The intention, glimpsed through the code language of the dominant 2.8 million Afrikaners, seemed to be to offer some complex form of government to which the black majority, divided as before as ethnic minorities and between rural and urban dwellers, would have a say of some kind in central government that would not impinge on white life styles or on white power over white destinies and economic privilege.●

BILINGUAL EDUCATION

● Mr. QUAYLE. Mr. President, recently the Secretary of Education, William J. Bennett, announced that the Department of Education wanted to seek greater flexibility in the provision of services under the Federal Government's Bilingual Education Program. I am fully supportive of the Department's efforts and commend Secretary Bennett for putting forward this proposal.

The Bilingual Education Program has done a great deal of good over the years in helping thousands of schoolchildren learn English. However, many people associated with the programs, including teachers, parents, and school administrators, feel that the program could be improved by allowing greater flexibility in the teaching of English language skills. The Congress included a provision in last year's reauthorization of the Bilingual Education Act, to allow for a very small amount of innovation and freedom in providing bilingual education. I would have preferred to see greater reform of the act to allow local school districts much more discretion in selecting the most effective teaching method to meet the needs of their students. This is why Secretary Bennett's proposal is so commendable, and I am anxious to work with the Department of Education to give school districts more flexibility to help non-English-speaking children learn English as quickly as possible.

I would also like to include two editorials from the Washington Post. The more recent one, dated September 27, 1985, supports Secretary Bennett's recent recommendations for bilingual education. The older editorial, dated April 13, 1984, describes and is supportive of an experiment carried out by McAllen, TX, schools using the English-immersion teaching method. Language immersion is the preferred method used for teaching businessmen and women and diplomats who must learn languages quickly and thoroughly. If it works for them, we should allow our schools to use it to help our non-English-speaking children to learn English with the same quickness and efficiency. Mr. President, I ask that the two editorials be printed in the RECORD following my statement.

The editorials follow:

SECRETARY BENNETT MAKES SENSE

Students in the public schools of Fairfax County speak 70 different languages, among them Spanish, other more or less familiar European tongues and, most recently, the less familiar dialects of the Middle East, the Indian subcontinent and East Asia. School officials need federal help—and money—to teach children whose first language is a foreign one, and that help is available under the provisions of the Bilingual Education Act. Unfortunately, in recent years that program, devised to help children learn in school and become proficient in English, has placed far too much emphasis on teaching in the foreign language. It is hard enough for administrators to find qualified and dedicated teachers without having to worry about offering chemistry in Farsi or geometry in Hmong.

Secretary of Education William J. Bennett knows that the rigidity of federal policy is hampering this program, and he intends to do something about it. In a speech delivered in New York this week, Mr. Bennett announced that he will amend federal regulations to allow greater flexibility to local school districts in running bilingual programs. The law, he points out, only requires that instruction be provided in a child's native language *to the extent necessary* to allow him to achieve competence in English. Regulations mandating non-English instruction are intrusive and unnecessary, and he will revise them accordingly. The secretary will also ask Congress to eliminate the 4 per-

cent ceiling on funds for alternative instruction using only English. Some of these programs, carefully structured and staffed by multilingual teachers, have been very successful, and Mr. Bennett wants to give local school boards the right to use them.

There will be opposition of course, mostly from those who have a vested interest in continuing the exact form of instruction now mandated by Washington. Parents and students who realize that proficiency in English is an absolute prerequisite to economic advancement will differ. Children with language difficulties must be given special help, and the cultures of their native lands deserve respect and understanding. But we need not apologize, as Secretary Bennett points out, for offering assistance in a form that brings children more quickly into American language and culture and strengthens their ability to participate more fully in national life.

THE BEST WAY TO LEARN ENGLISH

On issues over which there is a great deal of "expert" disagreement, it's useful now and then to hear from people most directly involved. A story in Monday's paper, for example, reports the views of Hispanic students, their parents and teachers who are participating in an "English-immersion" project in McAllen, Texas. How does the approach compare with the more widely touted bilingual education? "When you get instruction in two languages, it's confusing," reports a parent whose older child has received bilingual instruction. "I say give them only English in school."

This will not come as welcome advice to those spokesmen for the Hispanic community who have, in all good faith, equated bilingual teaching with a proper regard for the concerns of students with limited English-speaking ability. But no one is talking about a return to the bad old "sink or swim" days when children were punished for speaking in a language other than English. Thanks to a Supreme Court decision, every child with limited knowledge of English is entitled to special help. The only question—and it is, for the sake of the children, a very important one—is how best to provide that help.

Although the McAllen experiment is far from completed, experience thus far suggests strongly that bilingual education is not the best approach. Kindergarten students in five classes using the immersion approach last year showed gains in English proficiency about a third higher than those in traditional bilingual programs. Most heartening is the fact that these students come from families that are among the poorest in the nation and that even the slowest learners seemed to benefit. That's especially important, because bilingual programs, which typically keep children from moving into all-English classes until their test scores are high enough, may simply reinforce the future disadvantages these children will face in school and the labor market.

The Wall Street Journal, in an earlier report on the Texas pilot projects, notes that Hispanic parents in several other states are beginning to question bilingual teaching. Certainly the results, measured by achievement test results, are not impressive. In rebuttal, critics of the immersion method will point out that its advantages have not been sufficiently tested. But remember that immersion—in a much harsher form—was the way most earlier immigrants learned English. And it is immersion—not the ineffective bilingual approach by which most Americans failed to learn a second language in school—that is now the preferred method used to teach businessmen and diplomats to speak foreign languages efficiently. If immersion is the method chosen by those who can afford the best, you might ask why it shouldn't be used to teach the nation's children.●

ORDERS FOR FRIDAY

RECESS UNTIL 10:30 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. on Friday, October 4.

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

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I ask unanimous consent that there be special orders on tomorrow in favor of the following Senators, for not to exceed 15 minutes each: Senator GOLDWATER, Senator NUNN, and Senator PROXMIRE.

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

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that on tomorrow, after the special orders just identified, there be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

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

PROGRAM

Mr. DOLE. Mr. President, following routine morning business on tomorrow, the Senate will resume consideration of House Joint Resolution 372, the debt limit extension, or any items on the Executive Calendar that may be ready for Senate action.

Rollcall votes will occur throughout Friday's session.

At some point, maybe prior to resuming or shortly after resuming action on the debt limit, we will consider the nomination of James Miller, the OMB Director, and I am guessing that a vote could occur on that nomination, and we will make that announcement tomorrow morning.

So there will be votes tomorrow. We are not certain how many. Perhaps we can limit the number of amendments to the debt ceiling measure. I say to my colleagues on the Democratic side that if we could have an agreement for one major amendment on each side, I believe we could complete action on this bill early tomorrow afternoon. Again I am speculating, but I think I can speak for most of my colleagues on this side of the aisle, and that we might be able to obtain that agreement.

If we can attain a similar agreement on the other side of the aisle, we can dispose of the debt limit extension early tomorrow afternoon, which would accommodate a number of Senators who have official commitments elsewhere.

RECESS UNTIL 10:30 A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 10:30 a.m. Friday, October 4, 1985.

The motion was agreed to; and, at 5:08 p.m., the Senate recessed until Friday, October 4, 1985, at 10:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 3, 1985:

IN THE NAVY

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 admiral

Vice Adm. Carlisle A.H. Trost, [redacted] /1120, U.S. Navy.