SENATE—*Thursday, October 24, 1985*

(Legislative day of Monday, October 21, 1985)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray.

"We the peoples of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom.

"And for these ends to practice tolerance and live together in peace with one another as good neighbors, and to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles, and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims."

Eternal God, Lord of history, on this 40th anniversary of the United Nations, forgive our human propensity for big words and small deeds. Be with the leadership of the nations gathered in New York today, and especially we pray for the President of the United States, that he may be endowed with an unusual measure of grace and wisdom as he addresses them. In the name of truth. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. MATTINGLY. Mr. President, under the standing order, the two leaders will have 10 minutes each.

There will be routine morning business for not to extend beyond 9:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business, the Senate will begin consideration of H.R. 2965, the State, Justice, Commerce appropriations bill. Votes can be expected prior to 12 noon in relation to the appropriations bill.

By unanimous consent, at 12 noon, the Senate will lay aside the pending business to turn to the joint resolution offered by Senators DOLE, BYRD, LUGAR, and PELL relating to the sale of arms to Jordan. There is a 1-hour time limitation on the resolution, and no amendments are in order. Also, the yeas and nays have been ordered on the resolution; therefore, a rollcall vote will occur on adoption of the resolution.

Following the Jordan resolution, the Senate will resume consideration of S. 1730, the reconciliation bill. Votes can be expected throughout the day and possibly into the evening in order to complete action on the reconciliation bill.

Following passage of the reconciliation bill, it will be the intention of the majority leader to turn to the Compact of Free Association, if time permits today.

Mr. President, I ask unanimous consent that after the recognition of the acting Democratic leader, the Senator from Rhode Island [Mr. CHAFEE] be recognized.

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

RECOGNITION OF THE ACTING DEMOCRATIC LEADER

The PRESIDENT pro tempore. The distinguished acting Democratic leader is recognized.

THE MYTH THAT ARMS SALES TO JORDAN CONTRIBUTE TO PEACE IN THE MIDDLE EAST

Mr. PROXMIRE. Mr. President, the administration is asking Congress to approve an arms sale package to Jordan totaling $1.9 billion. The justification for this sale rests on several points—all of which in my opinion are part of the mythology of arms sales.

First, the administration argues that this proposed sale is for the self-defense of Jordan and does not pose a new threat to Israel. How absurd! Provision of 40 advanced fighter aircraft, 12 mobile improved Hawk surface-to-air missile units, 108 Stinger handheld antiaircraft missiles, 300 Sidewinder air-to-air missiles, and 32 Bradley fighting vehicles can be nothing but an increased threat projection to Israeli planners. These weapons cannot and will not be placed in isolation to be used only under special conditions and by agreement never used against the Israelis. Nations at war use every available weapon even if prior assurances are given.

Second, this package is supposed to give King Hussein the incentive to enter into the peace process. Consider the logic here. Arms sales which threaten Israeli security are considered a positive development in the relations between these two nations. Not hardly. This sale will only provoke Israeli security concerns, which will lead to more arms sales to Israel and heightened tensions.

Third, it is suggested that this sale will protect Jordan from the Syrians. Here is another myth. Jordan simply does not have the military power, with or without this proposed sale, to withstand a war against the Syrians. Syrian air defenses and ground forces are substantially superior to Jordanian forces, no matter what comparison is made. The arms sale package will not alter this strategic disadvantage.

Taken in sum, Mr. President, the administration's arguments for the Jordanian arms sale package rest on such a weak foundation that they are more myth than reality.

WHY THE SUMMIT MEETING IN GENEVA WILL BE AN ARMS CONTROL FLOP

Mr. PROXMIRE. Mr. President, what would constitute a useful arms control agreement between the United States and the Soviet Union? What could the two superpower leaders begin to aim at in their Geneva meeting that could truly start to halt the nuclear arms race? President Reagan has suggested a sharp reduction by both sides in offensive nuclear missiles. Secretary Gorbachev has indicated that under the right circumstances, the Soviet Union might consider negotiating a 50-percent reduction in at least certain kinds of offensive missiles on both sides. Now, how about that? Does this mean that the superpowers may be on the verge of agreeing at Geneva to a 50-percent reduction in offensive nuclear missiles as a starter

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

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toward the goal President Reagan has frequently stated of eliminating all nuclear weapons?

The answer, Mr. President, is that there are enormous obstacles in the way of even beginning to reach any agreement on reducing offensive nuclear missiles at Geneva in November. The President has made it abundantly clear over and over and over again that he will not stop moving ahead as rapidly as possible with SDI or star wars, the antimissile defense. And Secretary Gorbachev has bluntly asserted that he will not agree to any reduction in offensive nuclear missiles by the Soviet Union as long as the United States is building a defense against Soviet intercontinental ballistic missiles. So the possibility of an agreement reducing nuclear missiles at Geneva seems remote.

But, Mr. President, that appearance of only a long shot chance of any agreement to reduce nuclear weapons may be deceptive. Both superpower leaders have much to gain by achieving some kind of agreement that could be dolled up with some cosmetic camouflage and sold as a real live arms control achievement. Both superpowers have plenty of unnecessary nuclear power. In fact, much of it has been aging for a few years and is about to be retired to the junk heap and replaced with far more devastating, more accurate, and more reliable new nuclear weapons.

Instead of quietly replacing the obsolete, old weapons why shouldn't both leaders agree to a ceremony at Geneva in which, with a fanfare of trumpets, they agree to retire much, or all, of the older nuclear weapons that were on their way to the scrap heap, anyway? Both could then claim worldwide credit for a successful agreement that diminished the terrible, threatening nuclear arsenals on both sides. Both leaders would appear to their countrymen and their allies as heroes of peace and sanity. Both could boast that, for the first time, the superpowers had made a real breakthrough for arms control and a peaceful world. They would claim that they had negotiated an arms control treaty that, unlike previous treaties, did not just set a limit on how much the respective nuclear arsenals could expand. Instead, they could have their agreement as a great historical first, the first great reduction of nuclear weapons in the nuclear age. There could even be ceremonies attended by both leaders in which millions of tons of TNT explosive weapons were visibly sterilized and destroyed.

Why wouldn't such an achievement actually advance the world toward peace? The answer is obvious. Such an agreement and such action under such an agreement would be absolutely meaningless. It would not advance arms control an inch. Why not? Because both sides could and would replace the obsolete, old nuclear weapons that had served such a spectacular political purpose for the two leaders. They would replace them with far more deadly new weapons that would be much surer to reach and demolish the targets in the adversary country.

Now let me point out why all this could happen. The Soviet Union is now fully aware that its present massive force of land-based stationary ICBM's could become worthless in a world in which their prime adversary, the United States, has determined to build a highly advanced antiballistic missile system. The U.S.S.R. would undoubtedly benefit by shifting massively to cruise missiles that could underfly any intercepting antimissile net.

Also the Soviet nuclear weapons labs are undoubtedly working as feverishly as those of the United States to develop nuclear weapons that can penetrate any SDI antimissile shield. As these new, penetrating nuclear weapons come on scene, the Soviet Union would, even absent an agreement, substitute the new penetrators for their old ICBM's that lack that penetrating capacity. On our side, the United States, with our remarkable technology will—as it has in the past—continue to pour out of our weapons labs constantly more lethal, reliable, accurate weapons to replace the old, nuclear weapons we had so spectacularly destroyed. So the immensely dangerous and costly nuclear weapons race would speed ahead, without a moment's hesitation after an agreement on both sides to destroy offensive nuclear weapons.

Isn't it clear, Mr. President, that the only kind of arms control agreement worth the paper its written on must stop the arms race by stopping the nuclear testing that is essential to bringing on these constantly more devastating weapons on both sides? It now seems clear that the Geneva summit conference will provide for no significant arms control agreement. Any agreement to cut back on offensive nuclear weapons on both sides will mean nothing, because it will simply permit both superpowers to claim credit for destroying obsolete weapons they would destroy anyway, and will replace with even more devastating weapons. The prime prerequisite to an arms control agreement that will truly advance peace is an agreement that would provide a verifiable end to nuclear weapons testing.

FRENCH EXPLORATON OF WISCONSIN

Mr. PROXMIRE. Mr. President, I do wish to mention one other matter, and that is that the Governor of Wisconsin has declared this to be the 300th anniversary of the French exploration of Wisconsin.

We have had some marvelous French explorers who did a great deal in opening up our State. We are very proud of them—Nicolet, Marquette, and others. They have given their names and the French names to many of the cities and to our great university, Marquette University in Milwaukee.

The Governor and Mayor Bittner of the city of Prairie du Chieu have issued proclamations on that day and I ask unanimous consent to have those proclamations printed in the RECORD.

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

A PROCLAMATION

Whereas, in 1673, explorers Louis Jolliet and Father Jacques Marquette traveled across the wild regions of our land from the French settlement at Green Bay to the confluence of the Wisconsin and Mississippi Rivers; and

Whereas, Nicholas Perrot followed the trail of Marquette and Jolliet in 1685 establishing a line of defensive forts to protect the French-Canadian fur traders operating in the region; and

Whereas, in that year Perrot ordered a fort erected on the prairie north of where the two rivers meet, naming the structure Fort Nicholas and thus beginning the settlement at what was to be called Prairie du Chien; and

Whereas, the 18th Century French voyagers who traveled this region and settled in Prairie du Chien are of great historical significance due to their many fine contributions of culture and tradition to the state of Wisconsin;

Now, therefore, I, Anthony S. Earl, Governor of the State of Wisconsin, do hereby proclaim 1985 "the Year of the French" in Wisconsin and urge the citizens of this state to join with the people of the City of Prairie du Chien in the celebration of the 300th anniversary of the building of Fort Nicholes.

PROCLAMATION BY MAYOR JAMES R. BITTNER

Whereas, In 1685 Nic(h)olas Perrot established a fort at Prairie du Chien, one in a series, to protect the French fur trade in the Upper Mississippi Valley, and

Whereas, this was the beginning of permanent habitation in Prairie du Chien, and

Whereas, In the 18th Century French Voyageurs from Canada, who used the prairie as a place of trade, began to make Prairie du Chien their home, and

Whereas, Throughout the second half of the 18th Century and into the 19th Century French Canadians settled on this prairie.

Now, therefore, I, James R. Bittner, Mayor of the historic city of Prairie du Chien, in honor of those first settlers, their culture and traditions which were the basis for the city, do hereby proclaim that 1985 shall be known to all who receive these presents as "the Year of the French".

Signed and sealed this 19th day of January, 1985 in the city of Prairie du Chien.

THE GENOCIDE CONVENTION WOULD NOT PLACE AMERICAN SOLDIERS AT RISK

Mr. PROXMIRE. Mr. President, today I want to consider a very serious criticism of the Genocide Convention.

Would ratification of the convention lead to trials of American soldiers for carrying out their orders? Would we be handing our enemies a weapon with which to pummel American POW's should—Heaven forbid—we find ourselves in another conflict?

The American Bar Association asked the people who are in the best position to know and the best position to care if the convention does pose such a threat. In 1976, the ABA asked the general counsel of the Defense Department and each branch of the Armed Forces if ratification of the convention would place service men and women at risk. The general counsel responded that the provisions of the Genocide Convention were wholly consistent with the domestic law that governs U.S. forces in wartime. Ratification of the convention would not put American soldiers at additional risk.

The legislative history of the Genocide Convention shows clearly that the convention does not apply to the combat actions between two soldiers. Excesses in wartime are lamentable—but they are governed by an entirely different bundle of international law and precedent that seeks to establish proportionality in warfare.

The convention would apply only to actions taken against civilian populations within the carefully drawn definition: actions taken with intent to destroy in whole or in part a national, ethnical, racial, or religious group. This definition clearly would exclude combat actions between soldiers.

Of course, hostile nations probably can be counted on to make life miserable for American POW's. Show trials and cooked-up charges pose a threat to American POW's regardless of Senate action on the Genocide Convention.

The Genocide Convention would not threaten Americans because we both live the peace and fight the war according to responsible guidelines. Ratification of the convention would threaten only those who flagrantly disregard those guidelines and commit genocide.

Mr. President, I reserve the remainder of the minority leader's time and yield the floor.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from Rhode Island is recognized.

PRESERVING THE ABM TREATY

Mr. CHAFEE. Mr. President, many of us were shocked 2 weeks ago when the administration announced its sudden reinterpretation of the ABM Treaty.

National security adviser Robert McFarlane's abrupt new interpretation insists that development and testing of exotic antiballistic missile systems, such as those planned for the strategic defense initiative, are permitted under the ABM Treaty. Such a viewpoint flies in the face of the legal interpretations of past administrations. It raises very troubling questions that go to the heart of whether or not the ABM Treaty can survive as an effective accord governing the control of ballistic defense systems.

Mr. President, Mr. McFarlane's sudden switch—I do not know whether he was on the way to Damascus or what occurred. It turns out he was on his way to "Meet The Press." His sudden switch caught all by surprise.

The administration's new position on the ABM Treaty proves the old adage, "You can always find a lawyer to give a new interpretation to anything."

Until the McFarlane statement, the U.S. interpretation of the ABM Treaty was that there were certain limits placed upon both sides regarding development, as well as testing and, of course, deployment of ABM systems based on other physical principles such as lasers, particle beams, and other exotic components.

Ambassador Gerard Smith, who negotiated the ABM Treaty in 1972, summarized the restrictions on development this way at Senate hearings on ratification of the treaty.

Let us listen to the man who was there who negotiated it. What did he say about all of this? It is very clear and unequivocal:

> The prohibitions on development contained in the ABM Treaty would start at that part of the development process where field testing is initiated on either a prototype or model. It is understood by both sides that the prohibition on development applies to activities involved after a component moves from the laboratory development and testing stage to the field testing stage, whenever performed.

That makes it very clear—the prohibitions on development mean that you can test in the laboratory but when you move out into the field testing stage that is prohibited. What could be clearer?

Here is from the man who was there. This is not some sudden reinterpretation 13 years later.

Mr. PROXMIRE. Mr. President, will the Senator from Rhode Island yield for a minute?

Mr. CHAFEE. I yield.

Mr. PROXMIRE. Mr. President, I wish to say that I wholeheartedly approve what the Senator from Rhode Island is saying. I am delighted that he has come to the Chamber because other Senators have taken a contrary position and no one can speak with greater prestige than the former Secretary of the Navy in this kind of area, and he is so right.

The ABM Treaty is essential. It is the best arms control treaty we have. It is in very serious jeopardy, and if it is repudiated in the way it may well be, it will be a real blow to arms control as a whole.

How can anyone trust the word of the United States of America when it is so clear that that treaty prohibits any kind of testing in space, and it seems to me there is no way they can trust us if we now repudiate that part of the treaty. That is so explicit. I thank my good friend from Rhode Island. He is making a real contribution here.

Mr. CHAFEE. I thank the distinguished Senator from Wisconsin because he has long been active in this field. He has paid attention to it. He is not a Johnny-come-lately. He has dealt with this for many, many years and reflects the concerns that all of us feel.

John Rhinelander, legal counsel to the SALT I team, in testimony before the House Foreign Affairs Committee on Tuesday, said:

> And reinterpretation of the ABM Treaty is patently absurd and would frustrate the stated premise of this treaty—to prohibit deployment of nationwide ABM systems or a "base" for such a system.

The importance of the ABM Treaty cannot be underestimated. And this follows up on the statement that the distinguished senior Senator from Wisconsin says. It is the only accord between the United States and the Soviet Union which, until now, has limited in any true sense the aresenals of either side.

In other words, this is a limitation treaty. This is not a treaty that you can build up to and eventually reach the maximum. This treaty imposes limitations and it has worked. It has worked for 13 years and there would be an ABM system around Moscow but the United States decided not even to go ahead with an ABM system.

Abandoning the treaty would elevate, by several orders of magnitude, the dangers we face.

The ABM Treaty is important not only to us but to our allies. Now there is a tendency around this place lately to pooh-pooh our allied, to say what do we care about them. Well, as we found out in NATO when it came to positioning those cruise missiles and those Pershing II's our allies are extremely important. British Prime Minister Margaret Thatcher has agreed to the principles of SDI—but with the understanding that strict compliance with the ABM Treaty will continue. In the Netherlands, where the political situation is extremely sensitive since that country must make a decision on cruise missile deployment by November 1, a reinterpretation of the ABM Treaty threatens to undermine Dutch confidence in the United States and could adversely influence that decision about the deployment of the cruise missile. Throughout NATO, the reaction to the administration's sudden abrupt reinterpretation of the ABM

Treaty has been negative to state it mildly.

The administration, in response to the NATO concerns, among others, has now agreed to continue abiding by the old, more restrictive interpretation of the treaty. But it continues to insist upon the correctness of the new reading of the treaty. As long as the new interpretation stands, we will continue to run the risk that at a given moment, the United States will suddenly switch gears again. The existing situation—that we read the treaty permissively in principle but not in practice—will continue to create friction with United States allies, as well as with the Soviet Union.

It may be, as some have suggested, that the new interpretation is a "bargaining ploy." If that is the case, it is risky business. If it is not a bargaining ploy, then the danger is greater, for it will complicate needlessly the entire future of arms control, diverting attention from more pressing concerns of arms reductions.

Let us not throw this into the pot all of a sudden when we are on our way to Geneva where hopefully we can achieve deep and stabilizing reductions in the offensive arms.

I hope the President, upon reflection, will reaffirm, in unambiguous language, the longstanding, traditional interpretation of the ABM Treaty which has held sway for 13 years through four administrations—including the President's own—and that he will reject the McFarlane view.

Now is not the time to tamper with the most successful arms control agreement of the postwar era.

Mr. President, on Wednesday, October 23, Ambassador Smith expressed his concerns over the new interpretation of the ABM Treaty in a thoughtful letter to the editor of the New York Times. As the principal negotiator of the treaty, his views are entitled to special weight. I ask unanimous consent that the text of his letter be printed in the RECORD.

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

[From the New York Times, Oct. 23, 1985]

HOW THE ADMINISTRATION AMENDED THE ABM TREATY

WASHINGTON, DC
1, October 18, 1985.

To the Editor:

Despite Secretary of State George P. Shultz's efforts to blunt adverse domestic and international political repercussions, it is clear that the Reagan administration has repudiated its former position, and that of all previous administrations, that the anti-ballistic-missile treaty bars development and testing of space-based strategic defenses or components of them that use lasers, particle beams and other types of nontraditional technology. This new version of the treaty has drastic implications for the survival of the treaty and indeed of the whole arms control process.

As head of the United States delegation to the strategic arms limitation talks that negotiated the ABM treaty, I would like to record that it was not our intention that any type of technology for space-based ABM systems could be developed or tested under the treaty. This has been the official view of the United States Government for more than 13 years. In my opinion, the Russians agree with this position, which is binding on both parties and have stated so on a number of recent occasions. The controlling provisions of the treaty (to which the Senate consented to ratification by a vote of 88 to 2) is Article 5. Section 1 reads, "Each party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based or mobile land-based."

The treaty does permit a small deployment of fixed land-based ABM missiles using traditional technology. It also permits development and testing of new technology for such fixed land-based defenses—but not deployment. The differences between the ban on deployment and testing of space-based systems, and the more limited constraints on fixed land-based systems is reflected in an agreed statement appended to the treaty (Agreed Statement D), which provides that if new type systems are developed, they cannot be deployed unless authorized by a treaty amendment. This agreed statement does not modify in any way the total ban on the development and testing of space-based systems.

The administration, after having accepted the official interpretation for more than four years, now has concluded that space-based systems or components using new technology may be developed and tested under the treaty, despite the ban in Article 5. The apparent rationale for this change is that the Russians never agreed to the broader historical American position.

This radical change in a central provision of the treaty, which is the supreme law of the United States, was apparently accomplished in secrecy without consultation with the Congress or United States allies for which this treaty has security significance.

While the Article 5 ban seems unambiguous to this writer, if the Administration is concerned about some ambiguity in the negotiating record, it should be recalled that the treaty anticipated this contingency and provided for consultational machinery to clarify any such situation. Would it not at least be prudent, as well as correct international procedure, to undertake such consultation with the other party to the treaty before the Administration implements this new interpretation in carrying out the "Star Wars" program?

GERARD C. SMITH.

Mr. CHAFEE. Mr. President, I have spoken here just as one Senator. I know there are others. There are others who if not available to speak have statements. But I certainly am delighted that the distinguished senior Senator from Maryland is here, a man who has given a lot of thought to this matter over many years and whose concerns about effective arms control are well known.

I yield to him whatever time he desires.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m. with statements therein limited to 5 minutes each.

Mr. CHAFEE. I yield any time that I might have to Senator MATHIAS.

Mr. MATHIAS. How much time does the Senator from Rhode Island have?

The PRESIDING OFFICER. There is no leader time left. We are in morning business time. The Senator has 5 minutes.

ABM TREATY INTERPRETATION

Mr. MATHIAS. Mr. President, the extraordinary internal debate within the administration over a departure from the 13-year-old interpretation of the ABM Treaty—an interpretation confirmed by Republican and Democratic administrations alike—has generated very deep concern throughout the Atlantic alliance.

Last week I had the privilege of attending a session of the North Atlantic Assembly, which convened in San Francisco. When the delegates from the national legislatures of all of the 16 NATO countries arrived in San Francisco, they were greeted by the news that the long-accepted interpretation of the 1972 Antiballistic Missile Treaty, which prohibits the development and testing of space-based missiles defenses, had apparently been recast by some administration spokesmen to permit such activities.

Such a definition would allow the strategic defense initiative, sometimes called star wars, to move automatically and without further consultation beyond the research phase.

This attempted unilateral reinterpretation of the ABM Treaty drew a very heated reaction from many of our European partners who have already questioned the depth of our commitment to arms control. They asked, not without some reason, how the President could expect to reach a new arms control agreement reducing offensive missiles if the Untied States should choose to conveniently reinterpret its existing obligations to accommodate the expansion of the SDI program.

It was against this background of concern that the North Atlantic Assembly began to debate the subject of whether or not the North Atlantic Assembly, the parliamentary voice of NATO, should commit itself and should give its support to a strategic defense initiative research program. That research program was consistent with the U.S. plans but not yet adopted by the North Atlantic Assembly.

When we scheduled the debate, it was, of course, with the concept that the research would be conducted in a

manner consistent with the limits set in the ABM Treaty. But as the debate opened with this uncertainty in Washington, we were literally at sea. And, as events unfolded, it was highly questionable whether such a proposition would be accepted by a majority of the delegates attending the assembly, because they could not be sure what the U.S. position would be on the ABM issue.

I must give great credit to the Secretary of State, George Shultz, because he came to San Francisco to address the assembly well aware of the fact that this debate had been set for many months on the topic whether or not the North Atlantic Assembly should support the SDI research program. He made it unmistakably clear that the original, widely accepted interpretation, as set forth in the report of the administration to the Congress on the 15th of March this year, would be the interpretation to be retained and executed by the administration. It was extremely important that he laid it out in those terms because he then was referring to the original orthodox interpretation of the ABM Treaty which was set forth in writing—not something that could be subjected to further reinterpretation, but which was set forth in writing in the report of the administration to Congress. That was an enormously helpful step in this debate within the North Atlantic Assembly, because it gave the delegates an anchor by which they could stop the drift in policy.

On the basis of Secretary Shultz' statement and on the basis of the further statement of Ambassador Paul Nitze, the delegates than began to find that they were in a firm position from which they could begin to form opinions.

Ambassador Nitze, of course, has a very high degree of credibility within NATO because of his long association with security issues at many levels. He was able to reinforce the message that had been given to the delegates by the Secretary of State.

As a result of these activities, and because of some very strenuous work done on the floor by members of the American delegation—and I would particularly single out for thanks and praise the Representative from Texas [Mr. BROOKS] and the Representative from Florida. [Mr. FASCELL] who worked tirelessly in the interests of the United States.

As a result of all these activities, the resolution calling for alliance support for research in strategic defense within the limits of the ABM Treaty as traditionally interpreted was adopted by a vote of 91 to 12 with 28 abstentions, a remarkable resounding victory for American policy.

The resolution calls upon the United States and the Soviet Union to draw the line between research and development and development in accordance with a strict interpretation of the Antiballistic Missile Treaty.

Mr. President, I am glad that the Senator from Rhode Island has begun this discussion today because it is important that this whole matter be placed on the record. The episode which occurred at San Francisco at the session of the North Atlantic Assembly is just one example of the kind of disruptive effect that the attempt to reinterpret the Antiballistic Missile Treaty unilaterally can have upon our alliance and upon our whole security structure.

I think it would be useful to place in the RECORD—and if the Senator from Rhode Island has no objection, I will do it at this time—a copy of the resolution adopted by that vote of 91 to 12 in San Francisco because that illustrates what can be done when we are dealing on a consistent basis and with full consultation with our allies. It is essential to follow lines of policy that do not mindlessly deviate and lines of policy that are maintained with consistency and continuity.

So I ask unanimous consent that a copy of the North Atlantic Assembly resolution be printed in the RECORD.

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

STRATEGIC DEFENCE AND THE ALLIANCE[1]

The Assembly,

Recalling resolution 132 on arms control in outer space (1982) and resolution 145 on ballistic missile defence (1983);

Reaffirming deterrence based on retaliatory offensive systems as an essential component of Alliance security;

Concerned by the increase in numbers and capability of offensive strategic weapons, and the consequent implications for crisis stability;

Underlining that the existing strategy of flexible response must remain in force as long as there is no more efficient alternative;

Convinced that the 1972 Anti-Ballistic Missile (ABM) Treaty continues to make a fundamental contribution to strategic stability;

Aware that differing interpretations are placed on the forms of research permissible under the terms of the ABM Treaty;

Concerned by evidence of Soviet violations of the ABM Treaty and continued Soviet research in, and modernization of, strategic defence technologies;

Concerned that advanced Soviet surface-to-air missile (SAM) systems may impinge on the ABM Treaty regime;

Recognizing some similarities between anti-satellite (ASAT) and strategic defence technologies; and, therefore,

Concerned that some aspects of advanced future ASAT development may undermine the ABM Treaty regime;

Acknowledging the need for the United States to pursue research in defensive technologies as a hedge against a potential Soviet breakout from the ABM Treaty;

Supporting, therefore, the United States' commitment to continue research into strategic defence technology within the provisions of the ABM Treaty;

Welcoming the statement of the United States that their research efforts are not directed towards gaining superiority;

Noting that disagreement exists within the Alliance over the technical and financial feasibility, military utility and political desirability of deployment of large-scale ballistic missile defences;

Convinced that negotiated constraints on offensive and defensive arms represent the preferred means of achieving greater stability;

Welcoming the United States' commitment to consult fully on the Strategic Defense Initiative with its Alliance partners;

Convinced that decisions about the potential development and deployment of defensive systems can only be made after the Alliance partners have been consulted and negotiations with the Soviet Union on co-operative solutions have taken place, i.e., that there must be no automatic sequence of research, development and deployment;

Urges member governments of the North Atlantic Alliance:

1. to recognize the close relationship between strict adherence by all parties to existing arms control agreements and the construction of a framework for mutual restraint between East and West;

2. to support every effort to enhance Western security through negotiated limitations and mutually verifiable reductions of offensive nuclear forces;

3. to encourage agreement between the Soviet Union and the United States on the technical definitions of the forms of research permissible under the terms of the ABM Treaty;

4. to ensure that any future arms control regimes covering strategic defence contain provisions which preclude circumvention by advanced ASAT development;

5. to support United States research into strategic defence consistence with the provisions of the ABM Treaty;

6. to assess what forms, if any, of ballistic missile defence would allay fears about "decoupling" and would contribute to the security of the Alliance as a whole;

7. to ensure that any Alliance participation in the Strategic Defence Initiative complies fully with the terms of the ABM Treaty; and

8. to ensure that the aim of extending the transatlantic two-way street must also be pursued with regard to research efforts by the United States.

Mr. MATHIAS. I would also, Mr. President, ask unanimous consent to have printed in the RECORD copies of certain press reports which may be helpful to those who have not followed on a day-to-day basis the unfolding of this story: One which appeared in the Washington Post on the 17th of October, a story written by Don Oberdorfer; one which appeared in the Washington Post on the 18th of October, with respect to the ABM missile interpretation; and, finally, one which appeared on the 22d of October, also written by Don Oberdorfer.

[1] Presented directly to the Plenary Assembly at the request of the President by Mr. John Cartwright (SDP, United Kingdom) and Senator Charles Mathias (Republican, United States), amended, and adopted.

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

[From the Washington Post, Oct. 17, 1985]

TOP-LEVEL FIGHT LED TO ABM POLICY SHIFT—SHULTZ PREVAILED IN "KNOCK-DOWN, DRAG-OUT MEETING" ON MISSILE DEFENSE TREATY

(By Don Oberdorfer)

Secretary of State George P. Shultz persuaded President Reagan to preserve key limits of the Antiballistic Missile Treaty in an emotionally charged meeting with a few top officials at the White House last Friday, administration sources said yesterday.

Reagan's decision, announced by Shultz in San Francisco on Monday, partially reversed a shift in policy announced a week earlier by White House national security affairs adviser Robert C. McFarlane and strongly advocated by Secretary of Defense Caspar W. Weinberger.

Shultz, McFarlene, Weinberger and Director Kenneth L. Adelman of the Arms Control and Disarmament Agency are reported to have been the only officials present with Reagan when a new ABM policy was formulated in what one administration source called a "knock-down, drag-out meeting."

CBS News reported last night that Shultz won the day after "a subtle threat of resignation" by the secretary of state was conveyed to the White House. A State Department spokesman quoted Shultz as saying the CBS account was "nonsense."

Backing up Shultz's appeal to Reagan, official sources said, were diplomatic messages of sharp concern on the ABM issue from the West German and British governments and the argument of Paul H. Nitze, the U.S. special arms control adviser, that a shift in U.S. policy on the ABM Treaty at this time would cause a storm among U.S. allies and arms control advocates in Congress on the eve of the U.S.-Soviet summit meeting.

The topic at issue was the legal interpretation of the 1972 ABM Treaty, which the United States for 13 years has construed as limiting testing and development of antiballistic missile systems based on exotic technologies such as lasers and directed energy weapons. Many elements of Reagan's Strategic Defense Initiative, or "Star Wars" program, are based on such exotic technology.

A new Pentagon legal study, endorsed by State Department legal adviser Abraham D. Sofaer, argued that the Soviet negotiators in 1969-72 never accepted the limits on exotic technology as they would apply to Star Wars and that therefore the United States was not bound to do so. This position, which has not yet been formally accepted within the administration, was unexpectedly made public by McFarlane on NBC's "Meet the Press" Oct. 6 and affirmed as administration policy in a White House background briefing two days later.

Retired ambassador Gerard C. Smith, who negotiated the ABM Treaty for the Nixon administration, charged that the new interpretation was erroneous and would make "a dead letter" of the treaty.

Friday's White House meeting took place as Shultz prepared to speak Monday to the San Francisco meeting of legislators from NATO countries, who had sharply questioned NATO Secretary General Lord Carrington and Lt. Gen. James A. Abrahamson, director of the SDI program, about the ABM shift. Shultz was also preparing to fly from San Franciso to Brussels to see NATO foreign ministers, who were showing signs of dismay about the new ABM stance.

As a result of the White House meeting, Shultz was able to tell both gatherings that Reagan had decided to continue to conduct the SDI program "in accordance with a restrictive interpretation" of the ABM Treaty even though the administration believed the new interpretation advanced by the Pentagon was "fully justified."

In effect, Shultz said that Reagan agreed with the new legal interpretation, which would allow virtually unrestricted testing and devleopment of Star Wars, but would continue to pursue the program under greater restrictions as a measure of voluntary self-restraint.

Shultz did not specify how long the self-restraint would continue, though he suggested it would not end soon. He told a Brussels press conference, for example, that "we have designed our research program to fall within the narrower definition of the ABM Treaty's provisions, and we intend to keep it that way."

Assistant Secretary of Defense Richard N. Perle, whose office originated the new legal interpretation of the treaty, indicated yesterday that Reagan's decision to abide by the previous restrictive interpretation was temporary.

Perle told reporters that "with respect to the future, it remains to be seen" whether the United States will continue to accept an interpretation of the treaty that rules out full-scale testing and development of space-based antimissile systems.

Asked if the Soviets would be "well within their legal rights" to proceed with research, testing and development of exotic ABMs now that Reagan has decided that restrictions on such activity have no legal standing in the ABM Treaty, Perle replied, "That's correct." When a reporter asked if this were a desirable position from the U.S. standpoint, Perle replied, "It's a realistic position."

[From the Washington Post, Oct. 18, 1985]

REAGAN FINESSES CONFLICT OVER SDI, MISSILE TREATY

President Reagan, glossing over an apparent policy conflict between two top advisers, said yesterday that the objective of his missile-defense plan can be achieved without violating the 1972 Antiballistic Missile Treaty.

"Everything we're doing is within the context of the treaty," Reagan said while posing for pictures in the Oval Office with Israeli Prime Minister Shimon Peres.

The declaration came amid apparent differences between national security affairs adviser Robert C. McFarlane and Secretary of State George P. Shultz over what limits, if any, the United States accepts on its Strategic Defense Initiative, popularly known as "Star Wars."

At the center of the controversy was an Oct. 6 statement by McFarlane that the administration, relying on a broad intrepretation of the treaty, believed SDI testing and development are authorized by the ABM pact. Reagan has made similar statements on numerous occasions.

Eight days later, Shultz assured North Atlantic Treaty Organization allies that SDI work would "be conducted in accordance with a restrictive intrepretation of the treaty's obligation." He did not explain what restrictions were recognized.

However, White House spokesman Edward Djerejian yesterday denounced "inaccurate reports in the press" that McFarlane and Shultz have been at odds over interpretation of the treaty.

Reagan's interpretation of the ABM Treaty provoked outrage yesterday from a cluster of Senate conservatives, who said the administration's narrower view would prevent full development of the U.S. strategic defense program. Several suggested that they might withdraw support from SDI unless full research, development, testing and deployment is permitted.

Arms control advocates, including ABM Treaty negotiator Gerard Smith, say the pact imposes clear limitations on testing and development—the phase between basic research and deployment.

In a related development, Djerejian added a new dimension to the debate and then came back later to try to clarify it.

He first appeared to link congressional support for the SDI program and the ability to adhere to treaty obligations in its development.

Three hours later, Djerejian said that while funding from Congress "is not a condition for U.S. treaty interpretation," adequate support from Congress would render moot the concern on Capital Hill and among U.S. allies about treaty compliance.

As now structured, Djerejian told reporters, the course charted by Reagan "can permit us to answer the technical questions necessary while being accommodated under even the more restrictive interpretation of the treaty."

[From the Washington Post, Oct. 22, 1985]

ABM REINTERPRETATION: A QUICK STUDY—YOUNG LAWYER'S NEW LOOK AT 1972 PACT TRIGGERS CONTROVERSY

(By Don Oberdorfer)

Early last month, in what might have seemed just another document review by just another government lawyer, the Defense Department asked former New York assistant district attorney Philip Kunsberg to read the fine print of one of the most important arms control agreements between the United States and Soviet Union—the Antiballistic Missile Treaty of 1972.

Kunsberg, 35, whose background includes battles against "pornographers and the Mafia but no arms control experience, spent less than a week studying secret records of the ABM negotiations. His conclusions, outlined in a 19-page report, have triggered an uproar in Washington and Moscow by leading to a reinterpretation of the treaty—and reversing the legal positions of four U.S. presidents, including President Reagan—to allow nearly unlimited development and testing of the components of Reagan's Strategic Defense Initiative, the so-called "Star Wars" shield against nuclear missiles.

What seemed at first glance to be an obscure issue of treaty interpretation—intriguing mostly to lawyers—has become a central question affecting the future of U.S. arms policy, Star Wars and the summit meeting next month between Reagan and Soviet leader Mikhail Gorbachev.

The Kunsberg conclusions, modified and embraced as administration policy, strikes at the heart of the Soviet Union's preeminent objective at the summit and arms talks under way in Geneva—curbing the U.S. strategic defense program. The Soviets have described such curbs as their essential requirement for any superpower agreement in limiting offensive nuclear missiles.

Kunsberg's unlikely entrance into global power politics began last spring when he was hired as a Pentagon staff lawyer by Fred C. Ikle, undersecretary of defense for policy, and Richard N. Perle, assistant secre-

tary for international security policy, both Star Wars advocates. One of his first tasks in early May was to analyze the ABM Treaty to gauge its impact on strategic defenses.

The traditional interpretation of the treaty accepted by the United States since its signing and ratification by the Senate during the Nixon administration—and repeated in reports to Congress by every administration since—had been that the pact bans "testing" and "development" of mobile and space-based ABM weapons based on "new physical principles" such as laser beams, directed energy weapons and the other exotic technology of Star Wars.

The ban is not flatly stated in the treaty but is based on the cumulative evidence of several phrases and statements, some ambiguous. Reagan, in unveiling his SDI dream on March 23, 1983, had promised that Star Wars would be conducted "consistent with our obligations" under the ABM Treaty.

Nevertheless, trying to fit Star Wars within the treaty restrictions had became increasingly problematic as the U.S. program moved closer to a phase requiring technical testing of potential components. In April the administration offered an interpretation of the treaty that distressed arms control advocates. In a report to Congress, the Pentagon argued that major Star Wars tests planned in coming years would involve only restricted "subcomponents" of systems, or would be tested against satellites in space instead of incoming rockets, and thus not violate ABM stipulations.

As Kunsberg began his review, however, he was "astonished by the rather large gap between what the treaty said and what was attributed to it," according to a source familiar with Kunsberg's thinking. His suggestion that the treaty might allow even more room for Star Wars was followed by a request from Perle in early September to have Kunsberg examine more closely the record of treaty negotiations in order to evaluate the backing for the widely accepted restrictions on "exotic" ABM systems such as those now contemplated for U.S. strategic defenses.

There was no doubt, according to Kunsberg's subsequent report, which included extracts of the negotiating record, that the United States had sought a tight ban on "exotic" ABM systems of the future except for those (unlike Star Wars) in a fixed land-based mode. But Kunsberg concluded that the Soviets had never agreed and, to the contrary, consistently rejected the broad ban advocated by the United States. Kunsberg did not interview any of the U.S. negotiators, but drew his conclusions from the written record.

Perle "almost fell off the chair" when presented with Kunsberg's report, the assistant secretary later remarked. Suddenly most of the problems posed for future Star Wars "testing" and "development" by the ABM Treaty seemed of doubtful validity, and Kunsberg's analysis even questioned whether Star Wars "deployment" would be curbed by the treaty.

Perle and the Defense Department lost no time in presenting their dramatic new findings about the ABM Treaty restrictions to an interagency committee. The new Pentagon position seized the attention of officials concerned with arms negotiation policy, who quickly understood the large-scale significance of the "new interpretation" for SDI, the ABM Treaty and U.S.-Soviet relations on the eve of the summit.

Secretary of State George P. Shultz called in the newly installed State Department legal adviser, Abraham D. Sofaer, 47, who came to Washington this summer after six years as a U.S. District Court judge in New York City. Charged by Shultz with studying the issue, Sofaer began his review of the negotiating record as maintained in Foggy Bottom. In addition, he held lengthy discussions with Paul H. Nitze, the administration's senior arms control adviser and the only senior member of the 1972 ABM negotiating team still in government.

Sofaer found the Pentagon report to be more opinion than analysis but, after several all-night bouts of study, reached a conclusion close to that of the Defense Department. He concluded that the U.S. negotiating team had tried—but failed—to convince the Soviet Union to ban future "devices" which might be invented to do the antimissile job.

Sofaer also concluded that while the treaty does not ban testing or development of space-based futuristic ABM systems, unlike the Pentagon he concluded it does ban their "deployment."

Sofaer's conclusions were reported to Nitze and Shultz in a series of memos, the most extensive and authoritative of them on Thursday, Oct. 3.

The following day, Oct. 4, the administration's high-level Special Arms Control Policy Group (SAC-G) met to discuss the issue at the White House under chairmanship of White House national security affairs adviser Robert C. McFarlane. During this meeting, according to informed sources, Pentagon representatives accepted Sofaer's position, rather than their broader one.

The discussion moved toward acceptance of the Sofaer position as new government policy, several sources said, though no formal agreement was reached. There are conflicting reports about whether there was a consensus around the table.

Toward the close of the late-afternoon meeting. McFarlane ordered a new position paper written to discuss a new legal position on the ABM Treaty that relieves the United States of most of the restrictions on Star Wars. At least some of those present expected to thrash out the issues further in connection with preparation of this paper.

All this had taken place in secret, without the knowledge of even well-informed people outside government. Last month, when the former counsel to the ABM Treaty negotiations, John D. Rhinelander, was asked by a journalist about rumors of a new treaty interpretation, he advised his caller that "this is too ridiculous to take seriously" and promptly forgot about it.

The shift became public in a way that is still a puzzle to many in government, on a "Meet the Press" interview with McFarlane Oct. 6. In response to a question from Marvin Kalb which did not mention the ABM Treaty, McFarlane volunteered the view that "testing" and "development" of ABMs based on "new physical concepts" is "approved and authorized by the treaty" rather than banned.

This startling pronouncement by a high official, almost a 180-degree reversal of the longstanding U.S. position on the treaty, was a shock to the ABM Treaty's negotiators and other arms control advocates, to U.S. allies in Europe and arms control-minded members of Congress.

When Gerard C. Smith, chief negotiator of the 1972 treaty and a well-respected veteran of six administrations, learned that McFarlane's pronouncement was a serious expression of policy rather than a mistake, he denounced the new interpretation as erroneous and said it would "make a dead letter" of the ABM Treaty.

In an interview, Smith questioned "the whole idea of searching the [negotiating] record" for the meaning of the treaty. He said that, while some of the final language was "not the best," it was clear to him and other U.S. negotiators that the Soviets explicitly agreed to tight limits on future "exotic" ABM systems such as those envisaged in the Strategic Defense Initiative.

Smith said the most important negotiations on this point took place in a "working group" headed by Sidney Greybeal for the United States and a then little-known Soviet official named Viktor Karpov, who went on to be chief strategic arms negotiator for Moscow in 1979-83 is chief Soviet negotiator at the current offensive and space arms talk in Geneva.

Greybeal was reported by Smith and others to be certain that the Soviets clearly agreed in the working group to ban "testing" and "development" of space-based and other "mobile" ABMs based on exotic technology. (Greybeal declined to be interviewed on this matter.) Prof. Albert Carnesale, a dean of the John F. Kennedy School of Politics at Harvard University, who was a member of the Greybeal-Karpov working group, said in an interview that his understanding at the end of the negotiations was that space-based exotic weapons could not be tested or developed.

"Any other interpretation doesn't make sense," Carnesale said.

Retired Lt. Gen. Royal B. Allison, who was the senior military official on the U.S. ABM negotiating delegation, said in an interview he was deeply involved in the discussions of this issue because the Joint Chiefs of Staff were determined to leave room for "research and research-testing" in case "exotic" ABMs such as lasers could someday be developed.

"Nowhere did I understand that we retained the right to development and full-scale testing of new systems," Allison said. He added, "I didn't have any doubt in my mind as to what the Soviets had approved. If there had been any doubt you can be sure we would have announced it."

Of the members of the former U.S. negotiating team, only Nitze was consulted by Kunsberg, Sofaer or other U.S. officials in connection with the reinterpretation of the ABM Treaty. Sofaer's position is that the U.S. negotiators may have sincerely believed they had a Soviet agreement, but that the record is devoid of evidence to that effect.

Sofaer has also said, though, that the record is incomplete: new documents were still coming to light even after his report that galvanized the government.

Nitze's position, as a senior official of the Reagan administration, was the most important to the internal deliberations. Nitze declined to make a public statement of what he believed the treaty to provide when it was signed in 1972 or what he has come to believe now.

However, sources close to him said Nitze is now convinced that the Soviet delegation rejected U.S. efforts to ban "testing" and "development" of exotic ABMs, though they did agree that "deployment" would have to be negotiated by the two sides.

From the beginning of the internal debate six weeks ago, Nitze is reported to have taken the position that, legalities aside, the most vital job of the administration was to "keep faith" with the interpretation of the treaty previously presented to U.S. allies, Congress and the public. Nitze appears to

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have been the driving force behind Shultz' proposal, ultimately accepted by Reagan in a showdown White House meeting Oct. 11, that the "new" ABM interpretation be accepted by the administration as a matter of law, but that the "old" ABM interpretation restricting Star Wars testing and development be retained as a matter of administration policy.

The final decision, signed by Reagan according to official sources, did not say how long he would continue to observe the "old interpretation." Since it is now judged to be valid only as a matter of presidential policy, rather than as treaty law, it could be presumably be abandoned whenever convenient.

The Soviet Union, which had little to say as the "new interpretation" of the ABM Treaty became a matter of public debate in Washington, began to warm to the subject late last week.

The chief of the Soviet general staff, Marshal Sergei F. Akhromeyev, accused the Reagan administration of "deliberate deceit" in reinterpreting the ABM Treaty. In a Pravda article, Akrohmeyev charged McFarlane with having "distorted the essence of the treaty" by "trying to substantiate the lawfulness of experiments" that would lead to a space-based ABM.

Among the several mysteries remaining about the administration's reinterpretation of the 1972 treaty is why the issue came to the fore now, when the Star Wars program is still about five years away from breaking though the bounds of the treaty as previously interpreted, at least as the treaty's prohibitions have been applied by the Reagan administration.

Some of the advocates of the new interpretations said the timing was essentially a coincidence caused by the "fresh look" at the evidence by the two new government lawyers. Others, including a senior White House official, said the issue arose now because "people are staking out their gound" for the long term before the Reagan-Gorbachev summit.

Some in the administration are "very nervous" that Reagan might agree to some restraints on SDI in his meeting with Gorbachev and are moving to forestall such a possiblity by reinterpreting the ABM Treaty now, this official said.

On the other, and at the moment the losing side, the official said, are those who still hope for compromise with Gorbachev on SDI as the essential building block of a broad U.S.-Soviet agreement.

WARSAW PACT LEADERS GATHER

(By Jackson Diehl)

SOFIA, BULGARIA, October 21.—Soviet leader Mikhail Gorbachev and other top Eastern European officials arrived here today for a Warsaw Pact summit meeting Tuesday and Wednesday that is expected to produce an endorsement of Soviet arms control proposals prior to Gorbachev's talks next month with President Reagan.

Official reports said the meeting would focus on arms control and might produce new proposals by the Warsaw Pact.

"The session will adopt decisions that will strengthen the constructive stands of the socialist countries for a new, powerful and irreversible revival of detente in international relations," a dispatch of the official Bulgarian news agency said.

Western diplomats here said the session was expected to produce a communique endorsing recent Soviet arms proposals and echoing Moscow's call for a ban on space-based weapons. It may also take up the issue of economic relations, including Soviet demands for closer cooperation and larger economic contributions from its allies, western sources said.

Mr. MATHIAS. Mr. President, I think the Senator from Rhode Island has called attention to an extremely important chapter in the evolving history of American security policy and our entire international relationship within NATO.

And it is an instructive story. It is happily a story that has a successful ending. I think that is one of the reasons we ought to call attention to it although it was a story which did not need to be written. But we can derive some good from it. It has a successful and a happy ending because we returned to our firmly set lines of policy. The lesson that we can draw is that we should not deviate in such an impulsive manner again and without consultation within the Alliance because we may not be as lucky the next time.

I thank the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first of all, I would like to thank the distinguished senior Senator from Maryland for that excellent statement. The Senator was at the NATO Assembly meeting in San Francisco, and I think modesty on his part caused him not to mention his role in reassuring the delegates to that Assembly regarding the U.S. position. Whereas, the Senator mentioned two Members of the House of Representatives—the Senator is one of the delegates—and, of course, from the Senate, did an excellent job in San Francisco as well.

Mr. President, I would like to say that those of us who had the chance to meet with the Foreign Minister of West Germany, Mr. Genscher, personally heard from him his concerns about this new interpretation, and his relief that the administration is sticking by the old interpretation. Let me just say that while I share the joy of the Senator from Maryland that this close call was averted, and we returned to the old interpretation, nonetheless, I do want to express once again my concern that there exists hanging out there the idea that the correct interpretation is the broad interpretation, but in practice we will come back to the old and restrictive interpretation.

It is my hope that this thing will be put to rest once and for all by the President, and the new sudden remarkable interpretation of Mr. McFarlane be rejected in its entirety.

Mr. MATHIAS. Mr. President, will the Senator yield for a moment?

Mr. CHAFEE. Yes.

Mr. MATHIAS. I agree with the Senator that there should be no doubt that the broader interpretation should be scotched right now. In one of the news reports which I just put into the RECORD there is a rather interesting history of how it came about largely as a result of the efforts of a young lawyer who never even discussed it with any of the veterans within the Government who participated in the negotiation of the treaty. I think it shows what shaky ground it is on.

I think that the San Francisco earthquakes that resulted from it should be a warning that we need to stick to our settled policy and not try these impulsive innovations.

Mr. CHAFEE. I could not agree with the Senator more.

Mr. President, there are others who will have statements. I ask unanimous consent that when those statements are submitted during the course of the day they could be placed in the RECORD along with a colloquy which the Senator from Maryland and I have participated in.

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

Mr. STAFFORD. Mr. President, I am drawn to join with my colleagues in this colloquy over the interpretation of the 1972 ABM Treaty by my concern for the survival of this planet and of all who live on it.

I want once again to urge my President and the Congress to pursue every possible way of ending the global and suicidal arms race that threatens our very existence.

In particular, I want to reaffirm my support for the strict and traditional interpretation of the 1972 ABM Treaty that has been taken by every administration—including the administration of President Reagan—regarding the limitation of antiballistic missile weapons.

Detailed interpretations of the treaty and of the missile systems have been discussed at length this morning by several of my colleagues, who have made the arguments against a reading of the treaty that would be more permissive than the past policies of this Nation. I join with them in opposition to that more permissive reading.

Americans across this great land want an end to nuclear madness. They have been sending that message to Washington over the years, and with increasing urgency. Once again, the people are ahead of the politicians and it is about time for the politicians to pay heed.

It has been more than a third of a century since the first nuclear cloud cast its long and terrible shadow across our Earth. Somehow, we have managed to avoid global disaster, but our luck could run out any minute.

As our military technologies become more dependent upon the uses of computers and as they venture farther into the distant areas of outer space, our survival becomes more and more hostage to computer error and to the limits of our knowledge.

We already know that U.S. computer malfunctions have erroneously signaled a Soviet strategic attack hundreds of times in past years. Some of those errors reached the point where our strategic forces were ordered to increase their state of alert.

The threat of nuclear destruction by design, miscalculation, or accident grows with each passing moment. That is why I have supported a wide variety of nuclear arms control proposals over the last decade.

Our planet has become an endangered species. The two most powerful nations have the power not only to destroy each other, but also to wipe out all of our past achievements and to leave the future to a blackened, incinerated world.

Still, each side continues to add to stockpiles that already are many times greater than required to destroy each other.

As an American, I continue to believe that we must maintain a national defense inferior to no other—a military strength powerful enough to deter any attack from any adversary.

But a senseless arms race will not provide us with national security. Instead we are weakened by the terrible cost of these weapons, in terms of our tax dollars and of our sense of well-being.

The recently revealed more permissive interpretation of the ABM Treaty threatens not only that treaty, it threatens the entire network of arms control agreements between the United States and the Soviet Union.

It also threatens to harden—perhaps to poison—the important circumstances under which we seek to work out new arms control agreements.

No one has to convince me that arms control will not produce disarmament—not tomorrow or, probably, not a decade from now.

Arms control will not eliminate the need for our Nation to maintain a strong defense. It will not eliminate the need for military forces second to none. It will not eliminate the need for massive defense spending.

Nor will an arms control agreement end the international distrust and competition—real and imagined—between the United States and the Soviet Union.

But those prospects should not diminish our determination to seek effective arms control agreements. Such agreements are in our own self-interest.

We should seek to end the arms race because that goal serves our interests, not because we seek to serve any Soviet interests.

I have the sense that the people of America understand this better than American leaders do. I have the sense that Americans want our President to be serious in his quest to seek arms control agreements with the Kremlin.

It seems to me that a conviction is growing that since we have developed an ability to destroy all mankind, we should also be able to develop the ability to save mankind.

This issue is too important to be left to international lawyers looking for loopholes in treaties.

The ABM Treaty is of vital importance to peace on this planet.

The United States is strong enough and secure enough to continue its strict interpretation of that treaty. It is in our interest to stick to that interpretation because it is the one treaty that has helped to limit the arsenals of war of each side.

We must stick by the treaty. We must not abandon that treaty.

Common sense requires that we dare to reduce—and not to increase—the dimensions of the dangers we all face.

PRESERVING THE ABM TREATY PRESERVES U.S. SECURITY

Mr. BUMPERS. Mr. President, it was 23 years ago this week that the United States was in the midst of the most serious crisis of the postwar era. The Cuban missile crisis was our closest brush with the threat of thermonuclear war. I know I speak for all in this Chamber when I say that we fervently hope that this country we all love never comes that close to catastrophe again.

It is often true in life that good can come from terrible events, as mankind learns from such experiences. And so it has been in the nuclear age. Reeling from two atomic bombs, Japan sued for peace, sparing the lives of many hundreds of thousands of American and Japanese lives alike. Our nuclear deterrent has helped keep the peace in Europe. And the Cuban missile crisis galvanized the superpowers into a burst of arms control activity that has benefited the world. In 1963, the United States and Soviets signed the limited test ban. In 1970, the Nonproliferation Treaty went into effect. And there were many more agreements. But of all these, perhaps the most important achievement was the Antiballistic Missile, or ABM, Treaty.

The ABM Treaty was and is of preeminent importance for U.S. security. It recognizes what experience has taught us, that attempts to defend against nuclear weapons, no matter how well-intentioned, only result in greater insecurity. Just look at the Soviet experience in strategic defense. After spending many billions on a primitive ABM system in the 1960's, they found themselves far worse off.

For a fraction of what the Soviets spent, the United States developed multiple warhead missiles that could overwhelm the capabilities of that early ABM system; and it can overwhelm its present-day successor. The United States also developed other penetration aids to further increase our capabilities. And just to be sure, we developed a maneuvering reentry vehicle, or MARV, warhead for our Trident I missiles. This Mark 500 Evader MARV, which we have not deployed but can if we believe it necessary, gives us further insurance against Soviet ABM developments. And this year, as in past years, we are authorizing many tens of millions of dollars on new penetration aid techniques for our strategic missiles.

Look at Soviet efforts in bomber defenses. After spending literally hundreds of billions on strategic air defense over the last couple of decades, the Soviet air defense system still cannot stop the great majority of our bombers and cruise missiles from reaching their targets, as our Strategic Air Command officials attest. New Soviet air defense developments will be more than met by new U.S. cruise missiles, Stealth technology, new radar jammers, and a host of other countermeasures.

Look at the Soviets' own offensive programs. As we increasingly become able to target fixed Soviet ICBM's, they are now moving toward mobile ICBM's. As U.S. antisubmarine warfare technology improved, the Soviets developed longer range submarine-based missiles and base them in safer waters closer to home.

Even the other nuclear powers have gotten into the act. The British responded to a possible Soviet ABM with their chevaline penetration aid package. The French are deploying more survivable submarine-based missiles, and putting multiple warheads on their newest M-4 submarine missiles. Indeed, just recently, the director of France's Atomic Energy Commission, Jacques Chevalier, stated that France can develop warheads in the 1990's that will be able to defeat strategic defenses. And now the Chinese are deploying submarine-based missiles, and I'm sure that multiple warheads for them are not far behind.

In short, measure begets countermeasure. This is as true in the nuclear era as it was in eras past. The ABM Treaty recognizes this fact of life and embodies the only sensible formula for stability. If we had not signed the ABM Treaty with the Soviets in 1972, we would today be engaged in an arms competition that would make today's situation look tame by comparison. Those who believe that we would sit quietly by while the Soviets tried to develop and deploy a defense against our missiles and bombers are ignoring 40 years of experience in the nuclear age. Likewise, I have no doubt that the Soviets will spare no expense to counter a United States ABM system to assure the credibility of their deterrent.

There are those who argue that the ABM Treaty is immoral, that it sactions the holding of populations hos-

tage to nuclear annihilation. I would respond that their quarrel is not with the ABM Treaty, but rather with 40 years of U.S. policy, the foundations of the NATO alliance, and with simple strategic realities. Until we can find a very high confidence defense against nuclear weapons, it would be immoral to consign the world to the kind of horrendously destabilizing arms race that we just barely chocked off in 1972.

The desire to defend against nuclear weapons is understandable. It is a natural human reaction to a threat. But the nuclear threat is different than any mankind has ever faced. As Einstein put it many years ago,

> The unleashed power of the atom has changed everything save our modes of thinking, and we thus drift toward unparalleled catastrophes.

Mr. President, the Senate should take note of the statement made recently by six former Secretaries of Defense, representing both Democratic and Republican administrations, to "avoid actions that would undermine" the ABM Treaty. Harold Brown, James Schlesinger, Eliot Richardson, Melvin Laird, Clark Clifford, and Robert McNamara stated that "this international agreement of unlimited duration makes an important contribution to American security and to reducing the risk of nuclear war."

There is broad, bipartisan support in the Senate for a prudent level of research on ballistic missile defense technology, including on exotic technologies. I support such research. But it makes no sense to undo the ABM Treaty, especially when the research needed to achieve a high-confidence defense against Soviet missiles and bombers has not been identified, much less studied.

It was particularly disturbing when the President's National Security Adviser, Robert McFarlane, recently announced that the United States had the right under the ABM Treaty to conduct not only research but also development and testing of exotic new weapons, contrary to over 13 years of U.S. policy pronouncements on the matter. I am pleased that President Reagan has decided to conduct the SDI Program "in accordance with a restrictive interpretation" of the ABM Treaty. Amazingly, however, the administration asserts that the interpretation advanced by McFarlane was fully justified.

This stance shows disregard for the Senate and damages U.S. security interests. It shows disregard for the Senate because the Senate clearly understood, when it ratified the ABM Treaty in 1972 by the overwhelming vote of 88-2, that exotic technologies would be subject to the same general limitations as conventional ballistic missile defense technologies. Indeed, one of the two dissenting Senators, Senator James Buckley, based his opposition to the treaty precisely on the fact that exotic technologies such as high energy lasers would be too limited under the treaty, as he stated on this very floor on August 3, 1972.

This stance damages U.S. security because it leaves the door wide open for the Soviet Union to develop, flight test, and thereupon even produce exotic technology systems. We have now provided the Soviets with the justification to take actions which a year ago we would have branded as treaty violations. If we are going to continue as we have in the past, let's at least force the Soviets to do the same.

This strange stance also hurts our security because it puts added strain on our NATO alliance. The administration's position has caused consternation in the capitals of our NATO allies, who strongly support the ABM Treaty. We could do little more damaging to the NATO alliance than to disavow the ABM Treaty, and those who seek to weaken or even junk the treaty are dealing a grievous blow to NATO.

For these reasons, I call upon President Reagan to elicit from Soviet General Secretary Gorbachev a similar statement of understanding regarding testing and deployment of exotic ABM systems at the summit next month. Let's close this gaping loophole now, before damage is done to our security.

Mr. President, the ABM Treaty has been an important pillar of U.S. and NATO security for over 13 years now. It has prevented the Soviets from a major deployment of ABM systems, which we would have been forced to both counter and match at great cost. It has enhanced the credibility of our strategic deterrent, and those of Britain and France, thereby safeguarding the peace. It is crucial that the United States continue both its adherence to and support of the vitally important ABM Treaty and thus enhance our security in the uncertain years ahead.

THE UNITED STATES AND ABM TREATY

Mr. LEAHY. Mr. President, within 1 month, President Reagan and Mikhail Gorbachev will meet in Geneva to discuss the fate of nuclear and space arms negotiations.

It is by now no secret to anyone that the basis of a deal in Geneva rests on the willingness of the United States to trade the potential deployment of star wars systems for deep cuts in Soviet offensive forces.

The greater meaning of such a deal would be the preservation of the Anti-Ballistic Missile Treaty [ABM] and its strict limitations against deployment of mobile space-based, sea-based, air-based or ground-based systems.

Rather than accept such an outcome, star wars advocates within the administration have now begun to wage a guerrilla war against the ABM Treaty. Consistent with their efforts to have the United States abandon the provisions of the ratified SALT I and unratified SALT II treaties, they now insist that under the terms of the ABM Treaty, the United States can take unilateral action to develop and test space-based defensive systems.

The opening shot in the war of attrition against the ABM Treaty was fired by President Reagan's National Security Adviser, Robert McFarlane, on Sunday, October 6, when he appeared on NBC's "Meet the Press." During the course of the interview, he stated:

> . . . research, testing, and development of new defensive weapons involving new physical concepts are approved and authorized by the treaty. Only deployment is foreclosed.

Mr. President, Bud McFarlane's statement represented a fundamental departure of what we, in the Senate, have understood the administration's position to be with regard to the relationship between SDI and the ABM Treaty.

Last year, in a formal statement, the administration stated:

> The ABM Treaty prohibition on the development testing and deployment of space-based ABM systems or components for such systems applies to directed energy technology or any other technology used for this purpose. Thus when such directed energy programs enter the field-testing phase, they become constrained by these ABM Treaty obligations.

Mr. President, let's take a moment to examine the specific provisions of the ABM Treaty.

Article 3 of the 1972 treaty allowed a limited number of fixed land-based ABM's. Article 5 banned the development testing and deployment of "sea-based, air-based, space-based, or mobile land-based systems." the in "Agreed Statement D," the parties said they would discuss "specific limitations" on exotic new ABM systems if they were "created in the future."

Administration proponents of a broader interpretation of the treaty contend that Statement D permits new kinds of ABM systems unless the parties now agree to limit them.

Yet the American diplomats who negotiated the treaty have stated that "Agreed Statement D" provides the United States with no such rights.

In fact, according to Gerard Smith, the U.S. ABM negotiator, such a reading would make the ABM Treaty "a dead letter."

It is worth pointing out that Agreed Statement D itself begins by saying that its purpose is "to insure fulfillment of the obligations not to deploy ABM systems and their components except as provided in article 3."

Mr. President, it is fair to say that subsequent to Bud McFarlane's statement, a furor erupted within the administration and among our NATO allies about our intentions.

A week later, Secretary of State Shultz clarified the administration's

thinking by stating that the United States will continue to limit testing and development of our star wars program according to a "restrictive interpretation" of the 1982 ABM Treaty, even though it has decided that "a broader interpretation of our authority is fully justified."

Mr. President, just what does the Secretary mean by a restrictive interpretation? Are we going to strictly abide by the terms of the ABM Treaty or are we going to exploit its loopholes for our advantage? How long will the administration be bound by a restrictive interpretation? These are questions that deserved to be answered.

In my view, these ambiguities must be forcefully resolved. The United States should formally commit itself to continue to observe the spirit and letter of the ABM Treaty so long as the Soviet Union does the same.

The Geneva summit will be doomed to failure if the United States does not clearly signal its willingness to trade SDI deployment for deep cuts in Soviet offensive forces.

Such an offer cannot be treated seriously if the integrity of the ABM Treaty is jeopardized.

Mr. KERRY. Mr. President, 13 years ago, this body voted to ratify the ABM Treaty by a vote of 88 to 2. Since that time, the ABM Treaty has been the cornerstone of arms control.

As I have said many times before in this Chamber, I believe it is as clear as day that the President's Star Wars Program is absolutely incompatible with the continuation of the ABM Treaty and indeed is on a collision course with both that treaty and any limits on the nuclear arms race between the United States and the Soviet Union.

However, the recent attempt by some in the Reagan administration to radically redefine the ABM Treaty to permit the testing and development of laser, particle beam and other developing ABM technologies would accomplish the demise of the ABM Treaty with greater speed and certainty than I think any of us could have anticipated as recently as this spring when we considered limits on the SDI Program.

Indeed, I believe the demise of the ABM Treaty is exactly what those who seek to reinterpret the treaty at this time seek to accomplish. It is absolutely clear that the treaty cannot fairly be read in the way that some within the Reagan administration are urging it be read. Any fair reading of the legislative and negotiating histories of the treaty make it unambiguously clear that it absolutely bars the development, testing, and deployment of all nonfixed land-based ABM systems and components.

The United States has followed that interpretation of the treaty since the day it was signed by President Nixon. It was that interpretation of the treaty that was presented to the Senate Foreign Relations and Armed Services Committees by the Government of the United States.

It was that interpretation of the treaty that was relied on by the U.S. Senate when it ratified the ABM Treaty by a vote of 88 to 2.

That interpretation of the treaty remains the only interpretation accepted by NATO allies, and they remain firmly opposed to any other interpretation of the treaty.

The Soviet Union has unambigiously stated that it recognizes that the treaty prohibits the development and testing of nonfixed land-based ABM systems of all kinds.

The chief negotiator of the SALT I Treaty, Gerard Smith, has stated that any other interpretation of the treaty is erroneous. Other U.S. officials directly involved in negotiating and drafting the treaty, including John D. Rhinelander, former counsel to the ABM Treaty negotiations, Prof. Albert Carnesale of Harvard, who was a member of the ABM working group that drafted the language of the treaty, and retired Lt. Gen. Royal B. Allison, the senior U.S. military official on the ABM negotiating delegation, have agreed that they had no doubt that the United States and the Soviet Union gave up the right to testing and development of all nonfixed land-based ABM systems, including those based on new physical concepts other than those used by existing systems.

Even the Reagan administration has issued numerous statements agreeing with this interpretation of the treaty.

The following is from the 1982 Arms Control Impact Statement of ACDA:

> The ABM Treaty bans the development, testing and deployment of all ABM systems and components that are sea-based, air-based, space-based, or mobile land-based. In addition, although the Treaty allows the development and testing of fixed, land-based ABM systems and components based on other physical principles (such as lasers or particle beams) and including such fixed, land-based components capable of substituting for ABM intercept missiles, ABM launchers, or ABM radars, the Treaty prohibits the deployment of such fixed, land-based systems and components unless the Parties consult and amend the Treaty.

As ACDA recognized in 1982, "unless otherwise amended, the ABM Treaty prohibition applies to directed energy technology, or any other technology, used for this purpose. Thus, when such DE programs enter the field testing phase they become constrained by these ABM Treaty obligations."

This statement was reiterated by ACDA in its 1983 arms control impact statement and its 1984 arms control impact statement.

It is understandable that ACDA has interpreted the treaty this way. Gen. Bruce Palmer, acting Army chief of staff told the Senate Armed Services Committee in 1972 that the treaty "did not prohibit the development of new technologies in the fixed, land-based ABM systems. We can look at futuristic systems as long as they are fixed and land based."

As General Palmer recognized, the ABM Treaty permitted further developments in fixed, land-based development and testing by both sides, short of deployment, but explicitly banned such developments in nonfixed land-based systems and components in article V, section 1, which contains the prohibition.

As Secretary of State Rogers told the House Foreign Affairs Committee in its hearings on the treaty in 1972:

> We and the Soviet Union have agreed not to develop, test our deploy: First, ABM systems or components that are sea based, air based, space based, or mobile land based; second, automatic or semiautomatic or other similar systems for rapid reloading of ABM launchers; third, an intercepter missile with more than one independently guided warhead; and fourth, an ABM launcher capable of launching more than one interceptor missile at a time from each launcher, or to modify launchers to give them such a capability.

Secretary Rogers told the committee:

> Such undertakings are important. It may be of ever greater importance that both sides have agreed that future types of ABM systems based on different physical principles, for example, systems depending on such devices as lasers, that do not consist of ABM interceptor missiles, launchers, and radars, cannot be deployed even in permitted areas. So there is a limitation on what may be employed in the ABM systems now in operation and it prohibits the deployment of new esoteric systems in these areas.

As Senator James Buckley told his colleagues in this body on August 3, 1972:

> The agreement goes so far as to prohibit the development, test or deployment of sea, air or space based ballistic missile defense systems. This clause, in article V of the ABM treaty, would have the effect, for example, of prohibiting the development and testing of a laser type system based in space." According to Senator Buckley, who favored the development and testing of such systems, the technological possibility has been formally excluded by this agreement.

So I think it is pretty clear, based on the statements of Ambassador Smith, ACDA, Secretary Rogers, Senator Buckley and so many others intimately involved with the process of negotiation and ratifying SALT I that the treaty did in fact ban development and testing, as well as deployment, of nonfixed based systems regardless of the nature of the technology involved.

It is important this body declare itself firmly opposed to those in the Reagan administration who have advanced the proposition that the United States should suddenly adopt a different interpretation—contrary to the negotiating history and contrary to the common understanding

through five administrations, including this one prior to the month of October 1985.

What would be the results if the new reinterpretation sought by some members of the administration were to be adopted by the United States?

First, the treaty's ban on a nationwide ABM defense, a base for such defense, and a regional ABM defense would remain for traditional ABM technologies, but would be eliminated for exotic technologies. This is because some members of the administration have interpreted that article V(1) and other articles in the treaty do not apply to exotic systems, and that only agreed statement D blocks their deployment. But agreed statement D only requires the United States to discuss exotic systems. Hence, if one concluded that agreed statement D was the only part of the treaty covering exotic systems, one logically has to decide that the United States and the Soviet Union have the right under the treaty to go ahead and deploy exotic systems any time they want to, so long as they "discuss it" first.

Second, the language "currently consisting of" in article II(1), to describe what ABM systems and components are covered by the treaty, would have to be ignored as surplusage, words with no meaning, since the treaty had now been read to refer only to those types of ABM systems that existed at the time it was signed.

Third, the United States could test mobile or space based exotic systems at its will, without any restrictions, since the restrictions on ABM testing which limit those tests to the designated test sites—for the United States, the Kwajalein site—only would apply to fixed, land-based ABM launchers, missiles and radars.

Fourth, the United States could transfer exotic ABM technologies to other States, such as our NATO allies, and deploy them in Europe, since the prohibitions in article IX of the ABM Treaty against transfering such systems to other States would apply only to traditional technology and not to exotic systems.

This is a dramatic shift from what had always been understood by both the United States and the Soviet Union as what was permissible under the ABM Treaty. Indeed, even the Reagan administration had always acknowledged that we could not test ABM components or systems except within the limits of fixed, land-based testing at the ABM test sites. For this reason, the SDI Program has been designed ostensibly to avoid such tests. Instead, the SDI Program has identified its demonstration projects as constituting tests of subcomponents and adjuncts—terms which have never been publicly defined, and which are not used in the treaty.

Last May, during consideration of an amendment to the DOD authorizations bill to stop funding for the demonstration projects, I articulated why I believe that many of these demonstration projects erode or violate the treaty—chiefly because the tests of subcomponents and adjuncts appear to constitute tests of prototypes of nonfixed land-based ABM components. The Department of Defense has acknowledged that tests of prototype ABM components of these types are prohibited by article V(1) of the treaty, forbidding testing and development of such components.

The new interpretation of the treaty, however contrary to the treaty's legislative and negotiating history, would eliminate the problems of treaty compliance I discussed by doing an end run around them and asserting that the treaty prohibitions just don't cover these new types of ABM's.

This demonstrates great creativity on the part of those in the Reagan administration who have no use for the ABM Treaty, and is evidence of their recognition that the SDI Testing Program as currently constituted and the ABM Treaty are fundamentally incompatible.

The new interpretation of the treaty is creative enough, but it is also unjustified by history, logic or good faith, and the Senate should demonstrate its desire that the fixed interpretation of the treaty adopted by President Nixon, and retained under Presidents Ford, Carter, and over the first term of President Reagan remain the national policy of the United States.

We must stand up in support of the treaty as it has always been understood, because if we fail to do this we undermine not only the ABM Treaty but the process of arms control and our national security. It is ludicrous to believe that the Soviet Union will sign another treaty with the United States to limit offensive weapons while we retain the right to go ahead with unlimited testing and development of star wars components in the air, on the sea, and in space. It is also dangerous to assume that our vital relationships with our NATO allies will also be unaffected.

We have all read the reports about the devastating reaction in Europe to the proposed reinterpretation of the treaty. Our allies recognize the value of the ABM Treaty—they have profound fears about the effect of the deployment of star wars systems on their own security—and I fear deeply for the strain on the alliance if we continue to go forward full speed ahead with this program regardless of the limitations contained on the face of the ABM Treaty.

Since SDI's inception, the program has caused serious strains on the NATO alliance. These strains began when our allies were not told about the President's speech of March 23, 1983 ahead of time. They continued as Europeans wondered what the effect of defensive systems would have on the NATO nuclear umbrella, the French and British nuclear forces, and the doctrine of flexible response.

If one assumes that SDI can produce a 99-percent effective defense of the United States, one must assume that the Soviets will also be able to develop or steal a 99-percent effective defensive system.

If both sides have a shield that protects the population, that means that both sides will have a shield to protect against tactical or intermediate range nuclear weapons as well. And Secretary of Defense Weinberger has testified that our SDI Program will indeed protect our European allies against tactical or intermediate range nuclear weapons.

So in a world where star wars systems were 99 percent or more effective, nuclear weapons would have little or no military use. At that point, we no longer have either a nuclear umbrella or an option of flexible response—Europe can only deter the Soviets from conventional attack through strength in conventional forces.

Presidential Science Advisor and SDI advocate George Keyworth has been quoted as saying that:

> A high probability conflict with acceptable consequences is preferable to a low probability global conflict with unacceptable consequences.

I think there are some questions we should be asking ourselves about such a statement.

Do we agree with Presidential Advisor Keyworth that increasing the probability of a conventional war in Europe by eliminating the United States nuclear umbrella is preferable for West Germany, or for any of our allies in Europe?

Is the United States prepared to increase its standing forces in Europe to help our allies defend themselves in a conventional war, if necessary? How will we pay for this, along with the major costs of deploying and maintaining all the star wars systems?

If Europe is threatened by conventional attack, and has no nuclear umbrella to protect it, doesn't this encourage attitudes among our allies which favor neutrality? If Europeans are forced to choose between the massive destruction of fighting World War II all over again, or neutrality, won't some in Europe make the choice to become neutral? Neutrality is cheap, neutrality reduces risks, even if it isolates the United States from Western Europe.

It seems to me that the solution to the problem of the Soviet conventional threat does not lie in star wars—

that star wars only makes the problem worse by eliminating the doctrine of flexible response developed by Secretary Schlesinger as a modernization of previous doctrines of deterrence. The solution, it seems to me, is twofold: on the one hand, NATO must be strong enough in its conventional forces to deter Soviet attack without requiring an early resort to nuclear weapons; and second, the United States should seek policies which reduces the tensions likely to bring about a land-war in Europe. Among those policies would be increasing our efforts to bring about mutual and balanced force reductions in Europe through negotiating a treaty or even through informal, but conscious parallelism.

Finally, it seems to me that European security is best served not by star wars systems with a combination of defense and offense, but by an ABM Treaty that is reinforced at the same time that offensive systems are vastly reduced. This is the choice that appears to be available to the United States in the current Geneva negotiations.

It is clear to this Senator that the reinterpretation of the ABM Treaty sought by some members of the Reagan administration is a potential national security and arms control disaster for the United States, as reckless as it is dangerous.

The ABM Treaty means what we have always understood it to mean—and means what we understood it to mean when this body ratified it.

The United States and the Soviet Union undertook to stop the development, testing, and deployment of ABM systems, except under the very limited conditions set forth in the treaty. That treaty has served us well over the past 13 years, and done much to promote nuclear stability.

Instead of eroding that treaty further, our Government should be seeking to strengthen it.

NATIONAL BUSINESS WOMEN'S WEEK

Mr. DOLE. Mr. President, 57 years ago, the National Federation of Business and Professional Women's Clubs began National Business Women's Week, calling it a time "to dramatize women's contributions to the economic, social, and political life of the community, State, Nation, and the world." Each year since then, BPW has observed the week with special activities, seminars, and ceremonies in honor of women's contributions to the Nation's business and economic development. In recent years, the President has officially proclaimed the third full week of October as National Business Women's Week. Governors and mayors throughout the country have followed suit with similar proclamations at the State and local level.

The number of women in the work force has increased dramatically since the first observance of the week over half a century ago—it currently exceeds 47 million. Though barriers still remain for women entering the marketplace, many doors previously closed to them have been opened. Women's expanded opportunities in the business arena have been encouraged by the important work carried out by BPW in educating employers and the public in general about women's talents, abilities, and accomplishments. BPW continues this work through, for instance, its national council on the future of women in the workplace, which honors employers who are particulary responsive to the needs and aspirations of their women employees.

This year, as in years past, BPW is joined by other women's organizations and businesses in paying tribute to women in the business sector. I join these groups in saluting these women and the vast contributions they have made to America's economy and work force.

NICARAGUA

Mr. LEAHY. Mr. President, on Tuesday, October 15, the Government of Nicaragua announced the imposition of severe restrictions on the civil liberties of the Nicaraguan people.

Mr. President, this is a regrettable action. It will have the effect of further legitimizing the Reagan administration's dubious efforts to support the so-called Contras in their efforts to overthrow the government of Nicaragua. More importantly, it will strip the Nicaraguan people of the rights they fought so hard to attain for so many years during the dictatorial rule of Anastasio Somoza.

Among the rights suspended were free expression, public assembly, the right of workers to form unions or go on strike. Also suspended was the right of habeas corpus and the rights to appeal convictions and refusal of self incriminating testimony. News censorship was also strengthened with the press required to submit material to the Government before publication or broadcast.

Particularly disturbing are reports relating to the increased harassment of the Catholic Church. It has been reported that the Nicaraguan security forces seized all copies of a new church newspaper, Iglesia, as well as its press and printing equipment.

Mr. President, it is no secret to my colleagues that I have consistently opposed aid to the Contras in any form. My opposition to this policy is as firm today as it has always been.

At the same time, I believe it is absolutely essential that Senators on all sides of this issue speak out to condemn the action taken by the Nicaraguan Government. Indeed we must speak out to condemn the suspension of basic democratic values whenever and wherever such action is taken, whether it be by friend or foe, by dictatorships or freely elected governments.

The outcome of this action by the Nicaraguan Government can only be to increase violence and undermine any hope of a negotiated solution.

While support of the Contras continues to be inimical to the long-term interests of the United States, the suspension of democratic rights by the Nicaraguan Government will have the effect of isolating thousands of Nicaraguans who oppose the methods both of the Contras and the Sandinistas.

Once again, as is so often the case in Central America, a solution to a crisis will be left in the hands of the extremes, on the right and on the left, while the Nicaraguan people are left to pay the heavy price inflicted by their violence.

Mr. President, it is my hope that the Nicaraguan Government will come to its senses and reverse this decision.

At the same time, let me make it clear to the Reagan administration that this act does not justify any attempt to supply lethal aid to the Contras or take more blatant military action against the Government of Nicaragua. The terms of permitted U.S. humanitarian assistance to the Contras are clearly spelled out in the law. I intend to ensure that the spirit and letter of the law are carried out.

DANIEL PATRICK MOYNIHAN AND THE AMERICAN IRISH FOUNDATION

Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to the impressive recent address last month by our colleague, Senator DANIEL PATRICK MOYNIHAN, before the American Irish Foundation, which honored him with its Distinguished Leadership Award at its annual dinner in New York City.

On his famous visit to Ireland in 1963, President Kennedy and President Eamon de Valera of Ireland founded the American Irish Foundation. In his address last month, Senator MOYNIHAN quoted President Kennedy's words in Dublin:

> Democracy is a difficult kind of government. It requires the highest qualities of self-discipline, restraint, a willingness to make commitments and sacrifices for the general interest, and also it requires knowledge.

As Senator MOYNIHAN points out in his address:

> Ireland and the Irish have lived up to President Kennedy's standard. In order for our democracy to be able to undertake commitments to Ireland, we in the United States need to fulfill the responsibilities President Kennedy described so well at

Dublin Castle, responsibilities which, above all, "require knowledge."

For the past two decades, the American Irish Foundation has generously fulfilled that goal, through its many successful efforts to encourage the people of the United States to learn about the accomplishments of democracy in Ireland, Its failures in Northern Ireland—and the hopes we all share that the current historic negotiations between Ireland and Great Britain will mark the long-awaited turning point toward true democracy for the peoples of both communities of Northern Ireland.

Mr. President, I commend the American Irish Foundation for its extraordinary record of achievement, and I ask unanimous consent that Senator MOYNIHAN'S eloquent address may be printed in the RECORD.

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

REMARKS OF SENATOR DANIEL PATRICK MOYNIHAN

Twenty-two years ago, at the conclusion of his historic state visit to Ireland—that voyage in June 1963 during which he and President Eamon de Valera founded this American Irish Foundation—President John F. Kennedy said:

"Ireland is an unusual place. What happened 500 or 1000 years ago is yesterday, where we on the other side of the Atlantic 3000 miles away, are next door. While there may be those removed by two or three generations from Ireland, (and) they may have left 100 years ago, . . . when I ask how many people have relatives in America, nearly everybody holds up their hands."

Ireland remains an unusual place, not least because it is a free country. We in the United States perhaps do not fully appreciate the extraordinary achievement of the Irish people in creating and sustaining a democratic system in the years following independence and the civil war that ensued. There was once a time when decolonialization was thought to be synonymous with democratization, but that time has long passed. It is, in fact, the rarest of events for a democracy to have emerged and endured in our century, a century that has seen a great deal more of independence and civil war than it has of freedom.

While I am optimistic, indeed confident, that the future will bring a freer, more democratic world—as the false promises of totalitarians and petty tyrants alike become ever more apparently so—for the present we should recognize and take some satisfaction in the survival of democratic societies where they are to be found. Ireland is such a place, despite continuing, though still very much containable, threats to democracy there. The situation in the North remains unresolved, and provides fertile ground for the alienated and the impoverished to tolerate—and even themselves to turn to—political violence, which is vastly revived from President Kennedy's time, and is recurring. Nevertheless, today Ireland is a vibrant and thriving democracy.

Those 139 of us in the United States Congress who have organized ourselves into the group "Friends of Ireland" think this is significant. We who are ourselves involved in an electoral process—we who know firsthand the ordeal and the triumph of that process—find especially compelling the proposition that the people best qualified to speak for a society are the men and women who have been elected by it. We therefore choose to believe that the elected leaders of Ireland speak for the Irish people. And in this moment of greatest opportunity, we stand with them.

Foreign Minister Peter Barry, who is with us tonight, is a member of that elected government of Ireland. Mr. Barry can speak to the details if it is appropriate, but I can say (because it is generally known) that his government is now engaged in what may prove to be historic negotiations with the government of Great Britain, similarly an elected, democratic government, about a new arrangement for Northern Ireland. One which will, it is hoped, provide significant guarantees of the rights of the minority, nationalist community in the North, and pave the way toward an enduring, peaceful and just reconciliation there. It would be difficult to overstate the importance of this enterprise, for it represents an effort to resolve one of the more ancient of the world's quarrels: the overlapping and conflicting nationalisms that are the result of England's settlements in Ireland over so many centuries. It has proved to be among the most intractable of disputes.

I would offer the thought that the most enduring and destructive of human divisions are those of race and religion and ethnicity. A quarter-century ago Nathan Glazer and I finished *Beyond the Melting Pot*, our first book on ethnicity as a post-modern phenomenon. Never mind about me; Glazer was trying to figure out something more complicated and important than why we have 'ethnic' mayors. If we were right, especially in the more general subsequent work, *Ethnicity* (1975), then quite simply Marx was wrong. Blood will tell, said we, and I have observed little else since. Look around the world today: the most violent quarrels (being waged with the most modern arsenals) are fights about the most ancient of grievances: 'the sons of my father's enemies are my enemies.'

Northern Ireland provides ample illustration of just how enduring such conflict can be. Driving through a Protestant slum in Belfast not too long ago, I came across a peeling red brick wall across which was painted, in large black block letters: "Remember 1689!" A measure, if you will, of the depth of the passions involved, and the distance today's diplomats must traverse.

Beyond all reasonable expectation, however, these Anglo-Irish talks are rather far along just now. We find ourselves, in fact, at a moment of promise—promise of settlement and accommodation and reconciliation—not seen since before the First World War. There is on the horizon at the same time the precarious prospect of internal conflict not witnessed in Ireland since the Civil War. For there are those who have a stake in political stalemate, economic misery, and the violence that they bring. These people will not easily abide peaceful, democratic solutions to age-old grudges.

It is thus an important moment. America, and America's Irish, face the question of how to respond. There will surely be a formal role for governments if Ireland and Britain are able to announce an agreement. The Friends of Ireland have begun to anticipate that. There is also an informal, though not less important, role for the Irish in America to play in supporting and sustaining the process of peace and reconciliation. (JFK again: ". . . we on the other side of the Atlantic 3000 miles away are next door.")

Yet there exists now a breach between Ireland and portions—I want to emphasize that it is with only some portions—of Irish America. Because of this rift it is not at all clear that we in the United States will be able to contribute to the peace process as much as we might. Thus, almost incredibly, it is the fact that representatives of the Irish Government have been all but banned from participating in New York City's St. Patrick's Day parade—not just the largest celebration of the feast of Ireland's patron saint, but the oldest public event of its kind in North America, older even than the United States government. I am sure this situation will not persist indefinitely. I am aware of serious concerns about it within the Ancient Order of Hibernians. But my goodness—that it should ever have begun! I have been watching or marching in the St. Patrick's Day parade for getting on to half a century now. In all that time no event has been more dramatic or painful than those which have forced the Irish Government to absent itself. An elected, democratic Irish government convinced it could not participate in our great observance.

The quarrels here are numerous, and complex; some significant, some quite petty. Without wanting to embark on a discussion of these differences, I would suggest that they derive ultimately from a certain impatience on this side of the Atlantic with the democratic and diplomatic process of peace in Ireland. President Kennedy said at Dublin Castle, on June 28, 1963, that:

"Democracy is a difficult kind of government. It requires the highest qualities of self-discipline, restraint, a willingness to make commitments and sacrifices for the general interest, and it also requires knowledge."

Ireland and the Irish have lived up to President Kennedy's standard. It is time more Irish-Americans knew this—knew more about the accomplishments of democratic Ireland and about its work on behalf of its kinsmen in the North.

Perhaps a little more plain-speaking is in order all around. From the Irish Government itself, which I know is sensitive to the problem I describe. Perhaps also from the American Irish Foundation, founded, as I said at the outset, by Eamon de Valera, the American-born Irish President who was baptized just 18 blocks from where we are tonight (at the Church of St. Agnes). In order for our democracy to be able to undertake commitments to Ireland, we in the United States need to fulfill the responsibilities President Kennedy described so well at Dublin Castle, responsibilities which above all, "require knowledge."

Earlier tonight, Fr. O'Hare made a very sensitive and thoughtful reference to "Ireland's very sad wars." I take him to have been referring to those lines from G.K. Chesterton:

For the great Gaels of Ireland
Are the men that God made mad,
For all their wars are merry,
And all their songs are sad.

Well there are no merry wars in Ireland (or anywhere). Only an unreal sentimentality suggests that destructive, divisive violence can bring peace to Ireland. I choose the democratic alternative, and I look forward to the day, no longer far off, when we may all celebrate an historic dawn in a new Ireland.

SHEP LEE OF AUBURN

Mr. COHEN. Mr. President, I rise to pay tribute to one of my State's most successful entrepreneurs, Shep Lee of Auburn.

Shep has been a key figure in the automobile industry in Maine for nearly 40 years, and has seen his empire expand from a single dealership to a string of seven throughout the State.

Beyond his success in business, which has been considerable, Shep has devoted enormous amounts of time to bettering his community of Lewiston/Auburn and to statewide political activity. For as long as I have known Shep, he has maintained an abiding belief that friendship transcends party lines, which explains the high esteem in which he is held by Democrats and Republicans alike.

I ask unanimous consent that a recent profile of Shep be inserted in the RECORD from the Lewiston Sunday Sun-Journal of October 20, 1985.

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

[From the Lewiston (ME) Sun-Journal, Oct. 20, 1985]

SHEP LEE: CAR DEALER PUT HIS FAITH IN PEOPLE, TOOK A CHANCE AND MADE IT WORK

(By Joe O'Connor)

AUBURN.—Shep Lee says he has "always resented the sterotype image that car salesmen have."

Going against stereotypes has been a lifelong pastime for Lee. In some 38 years of selling cars, he has gone from one dealership in downtown Auburn to one of the largest auto sales operations in northern New England—putting the road known as "Automobile Row" on the map along the way.

In partnership or alone, Lee operates seven dealerships—five of them in Auburn—that sell Dodge, Chrysler, Plymouth, Cadillac, Oldsmobile, Subaru, Honda, Nissan/Datsun, and BMW, as well as GMC trucks.

As a successful businessman in what he admits is a much-maligned business, Lee has brought modern management techniques to what until recently was a fragmented, learn-as-you-go industry.

Contending that his employees are the cornerstone of his success, Lee has initiated extensive in-house training programs. And, through a strict promote-from-within policy, employees are offered the opportunities to work their way up through the organization—even to co-ownership of a dealership.

At the same time, Lee has gone against the common stereotype of the conservative businessman with his longstanding involvement in the Democratic Party and Maine and American Civil Liberties Unions.

At 59, Lee is still looking ahead. The owner of about 20 acres along Auburn's Automobile Row (a term he coined for advertising purposes), Lee now plans to develop Maine's first "autopark," where people can drive around to look at cars without fighting traffic.

Shepard Lee has been in the automobile business "all my life." Almost immediately after he graduated from Bowdoin College in 1947, he went to work at Advance Auto Sales, founded by his father, Joseph Lifshitz, in 1936.

When Lee entered the business, he said, there were three Plymouth dealers in Lewiston-Auburn, two Chevrolet dealers, and two Ford dealers. In addition, many small towns also had new car dealerships.

Nationwide, there were about 50,000 dealers; today there are 24,000.

To some extent, the reduction was caused by auto manufacturers' efforts to consolidate their dealerships, giving support to those who could build the best facilities. The tightening of the auto market in the 1970s—particularly for large American cars—also pushed many marginal dealers out of business.

In the past 10 years or so, Lee said, he has observed another new development: the growth of multi-dealership operations, in which one company sells a number of competing car makes.

Lee acknowledges that the Lee Group, a prime example of a multi-dealership, gives him far more leverage with the automakers than a dealer whose fortunes are tied to only one manufacturer.

To keep his nearly 400 employees working toward the same goals, Lee established a management company, which employs a full-time trainer, full-time director of parts and services, and other personnel whose jobs are "to provide a whole bunch of support services" to the various dealerships.

Even though he employs an elaborate organization and planning mechanism, Lee says the key to a successful operation is finding the best people—and keeping them.

"If you have a good record and good credit, you can always borrow money for land or a new building," Lee says. "But if you don't have the people, new buildings won't help you.

"I have always resented the stereotyped image that car salesmen have, but dealers have contributed to that themselves by hiring anybody off the street," he says.

"It's amazing how badly treated a customer can be at a car dealer, and how indifferent most salespeople—who depend on selling to make their living—are."

So jaded is Lee about most car salespeople that as a rule his dealerships will not hire anyone who has sold cars before.

To make sure employees know what to expect—and what is expected of them—the Lee Group issues a 16-page operating standards booklet, which covers everything from hiring and promotion policies to customer satisfaction to advertising.

Prospective employees undergo at least two interviews, part of a rigorous selection process that is necessary, Lee says, because the company spends a lot of money both on salaries while new employees are in training, and on the training itself.

"I am sure that we have the most expensive training program in New England," Lee says. "And I am sure that it is worth it."

To retain good people, Lee promises that all promotions to management within the dealerships and the Lee Group as a whole will be made from within the organization.

For about the past five years, Lee said, he has gone beyond simply promoting from within, by seeking out "ambitious, intelligent young people who want to end up owning something for themselves."

While no promises are made, Lee said if a person works his way through all the positions available and still shows promise, "We will buy you a dealership and allow you to buy into that business out of your bonus."

That offer is particularly attractive given the cost of starting a new dealership, which Lee estimates would take about $500,000 cash for operating costs plus loans of $2 million to $3 million for inventory and facilities.

"If you want to see someone work hard, just give them the opportunity to own something," Lee says. Of the Lee Group's seven dealerships, "five have young partners," he said—and he hints that he would like to add a few more dealerships to the group.

In the early 1960s, Auburn underwent urban renewal, and Advance Auto was on the hit list.

Lee had been pleased with his downtown location, and he agonized over where to move before he purchased a parcel of land on Center Street.

Advance succeeded at its new site, and in 1974, when the gas crisis made big American gas-guzzlers as popular as a harborful of dead fish, Lee put his faith in the economic might of General Motors and purchased the local Cadillac-Oldsmobile dealership and moved that up to Center Street also.

Then came Datsun World, in 1975, and Subaru, whose four-wheel-drive economy cars delighted Maine drivers. Last year, Lee added a GMC truck dealership to his Center Street lot, and then came Honda, the Japanese-owned company which also happened to be a fourth-largest American automaker—thus eliminating any potential problems with import quotas.

Lee says this concentration of ownership doesn't mean any drop in competitiveness among the dealerships, because his partners know that "their income is derived from the profitability of their operation," and because salespeople know that promotions to management are based on sales prowess.

After formally dedicating the Honda dealership last week, Lee is now looking at moving Datsun World to Center Street, between Cadillac-Olds-Honda and Subaru, in a year or so.

In the long term, he has started filling behind the Cadillac building with plans to build the areas first autopark.

There, shoppers will be able to cruise along a landscaped driveway running the quarter mile from Stetson Road behind the Lee dealerships, stopping perhaps for lunch at picnic tables along Bobbin Mill Brook.

The purpose of an autopark is simple, Lee said: "To create a pleasant environment in which people can drive around and look at cars."

Although such a park would be a first for Maine, they are in evidence nationwide.

"To say that they are relatively common might be overstating the case, but it is something that is happening more and more throughout the country," he said.

One quality that sets Lee off from many others in the business community is his longtime participation in the Democratic Party.

As a Democrat, he admits, he is in a minority among business-people: "My business friends always tell me that I'm 'well-intentioned but misguided,'" he laughs.

Then he adds: "I am a Democrat because I believe in Democratic principles."

Lee's involvement with politics goes back to the 1950s, when he served as a manager for Frank M. Coffin's (now federal Judge Coffin) successful congressional campaigns and became acquainted with Gov. Edmund Muskie, now a close friend as is his successor, Sen. George Mitchell.

But, despite his long involvement with politics, and his practiced ease in front of television cameras, the former Auburn

School Committee member has no intention of going after elective office.

"My wife would divorce me if I did, and I've been married 35 years, much too long for that."

As early as the 1950s, Lee also was involved in the Androscoggin Valley Mental Health Association and the local chapter of the NAACP. Then there is his long service on the board of the Maine and American Civil Liberties Unions; he was elected national vice president of the ACLU in 1982.

Questioned about his involvement with these groups, Lee says simply, "If you believe in something, you should do something about it."

He recalls that shortly after his college graduation, he often wondered if he wouldn't be happier as a college professor. One day he had a customer of the type salesmen have nightmares.

"I was trying to sell him a $100 car and he kicked the tires, slammed the doors, and used incredibly foul and abusive language. And he didn't buy the car. I asked myself, 'Is this really what I want to do for the rest of my life?' "

Lee returned to Bowdoin and discussed his indecision with a former professor.

"You think that being a professor means spending all your time reading good books and talking with smart students—it's not," the professor said, and proceeded to offer some revelations about academic politics.

Then the professor mentioned a prominent businessman in Brunswick. "If I go to a selectmen's meeting and say something, I can see them thinking, 'He's never met a payroll, or balanced the books, or hired and fired.' But when that businessman gets up and says the same thing I said, they sit up and listen, because he has done these things."

So Lee went back to Advance Auto, and now he says, "I believe that you can still be successful in business and make a contribution in other areas too."

He says he still sees customers on the showroom floor who bought their first car from his father, or from him when he was just starting out.

The importance of returns and referrals is greater here than in a more metropolitan area, Lee says.

"Certainly, in a small town in a small state, you have to have a good reputation if you're going to succeed in the long run."

SHOES AND TEXTILES

Mr. EAGLETON. Mr. President, not so long ago, it was said Missouri was first in shoes, first in booze, and last in the American League.

Today, we are first in the American League but last in shoes. Only booze seems to be holding its own.

To some people, that may sound like a fair trade. But I guarantee you it is anything but fair to the thousands of Missouri shoe and textile workers who have seen their jobs exported to the factories of Taiwan, Hong Kong, Korea, and Brazil.

It is anything but fair to an industry which undertook a massive modernization program only to find itself still swamped by foreign competitors who enjoy the benefit of sweatshop wages. It is anything but fair to the rural areas of Missouri where a shoe factory is often the backbone of a town's economy.

The textile and apparel industry has changed dramatically in Missouri during my Senate career. When I came to office there were a booming 33,600 textile and apparel jobs in Missouri. I have watched that employment sector erode down to 30,000 in 1972, and it has fallen to nearly 22,000 jobs today. In this period employment has dropped 33 percent. As the imports come pouring in the jobs have flooded out the door. Import penetration into the textile market has gone wild. In 1968, import penetration was 14.5 percent. The statistics now put import penetration at just over the 50-percent mark.

The less than illustrious record of textile and apparel industry during my Senate career is only beat by the bottoming out of the footwear industry. When I came to office, Missouri produced 56.5 million pairs of shoes. We now produce only 36.5 million pairs, marking a change of minus 35.4 percent. Missouri in 1968 employed 24,000 people in footwear products and now there are less than 15,000 of those existing jobs; a drop of negative 36.4 percent. Since 1968, 55 footwear plants have shut their doors in Missouri; 7 have closed in the past year alone.

We have heard a lot in this debate about retaliation from our trading partners. We are told we can't take action to save American jobs and basic industries for fear the nations which are reaping huge benefits from free access to the U.S. market will somehow retaliate against our exports.

Who is kidding whom? We are the ones who are getting killed in this free-trade marketplace with a trade deficit approaching $150 billion. When is it our turn to retaliate against unfair, unbalanced and unrestrained exploitation of our domestic market? Are foreign countries the only ones allowed to take action in their self interest?

The United States is by far the largest and richest marketplace in the world. Foreign producers will go to any lengths to gain a foothold here for their products. We are the one with the leverage to deemed fair terms in our trade relations. And yet we cower before the threat that some foreign nation is going to risk its lucrative position in our marketplace by retaliating against U.S. exports.

I think it is time this country served notice that while it is dedicated to the growth of the freest possible world trade, it will not play patsy to nations which observe no restraint, no limits in their push to exploit our market. It is time we exercised the tremendous strength we possess as the world's premier trade market to demand that free and fair trade go together.

CHILDHOOD VACCINES—WE NEED IMPROVEMENTS

Mr. HATCH. Mr. President, over the last 2 days, the Senate has discussed and debated, and passed an appropriations bill for the Department of Health and Human Services. During the proceedings of October 21, the Senate agreed to an amendment offered by Senator BUMPERS, to add funds for our childhood immunization programs. I want to commend Senator BUMPERS for his continuing support for these programs—the most successful disease prevention this country has ever known. Senator BUMPERS recently testified before the Labor and Human Resources Committee about his longstanding commitment at both the State and National levels to childhood immunization.

On the Senate floor, as in his testimony before the committee, Senator BUMPERS hit the nail on the head, and got to the heart of a complex conundrum: we must continue to immunize our children against diseases which would otherwise take—and have in the past taken—an enormous toll. Yet we are being told by the private sector vaccine manufacturers that they may be unable to continue in the market because of their increasing and increasingly unpredictable liability costs. It seems to me that the unacceptable alternative is Government-supplied vaccines. But what are the acceptable alternatives and options? How and to what extent are the astronomical increases in vaccine costs—increases which necessitated Senator BUMPERS' amendment, and may necessitate even a supplemental appropriation—related to the industry's liability problems? And what is the resolution of the problem?

Senator BUMPERS noted that the Committee on Labor and Human Resources is working toward markup of appropriate legislation that will accomplish these critical goals: Continuation of our essential childhood immunization programs, with an adequate supply of vaccines; compensation for victims of vaccine-related injuries; education of health providers and parents about possible risks associated with some vaccinations; and application of the latest in science and technology to the development of the best possible vaccines for our children.

With respect to that last goal, I agree completely with the questions raised by Senators HAWKINS and WEICKER about the priority being placed on development of new and improved pediatric vaccines. In our conference report on H.R. 2409, the NIH authorization bill recently passed by the Senate and the House, we noted specifically the conferees' intent that the new Associate Directors for Prevention at NIH should assure that Congress is informed about immuniza-

tion research, particularly about research toward developing an improved pertussis vaccine.

Mr. President, I strongly support the childhood immunization programs of this country. I am pleased that both HHS and Lederle Laboratories have a new pertussis vaccine ready to enter clinical trials. I understand that the new Government vaccine will be tested this winter, and Lederle's vaccine will be tested as soon as an appropriate test population is determined. Nevertheless, I am convinced that we cannot rest until we have the best that science can produce. I continue to urge HHS to place the highest possible priority on the development of better and safer vaccines—especially a better and safer pertussis vaccine. In no way do I presume to second-guess the experts at HHS about alining research priorities. But this is important—indeed, it is essential. We are facing a potential crisis in public health. Is there anything more important than solving it?

CONCLUSION OF MORNING BUSINESS

(The following proceedings occurred during the foregoing colloquy:)

The PRESIDING OFFICER (Mr. ANDREWS). The hour of 9:30 having arrived, routine morning business is closed.

Mr. CHAFEE. Mr. President, I ask unanimous consent that we may proceed as if in morning business for 5 minutes.

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

(Conclusion of earlier proceedings.)

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1986

Mr. RUDMAN. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order No. 338, H.R. 2965, the State, Justice, Commerce, the Judiciary, and Related Agencies Appropriations Act, 1986.

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

The legislative clerk read as follows:

A bill (H.R. 2965) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, 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.)

H.R. 2965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, [$31,609,000] *$32,343,000.*

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, [$88,662,000] *$90,400,000.*

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, [$105,111,000] *$105,687,000,* to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, [$30,543,000] *$30,168,000.*

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, [$180,000,000] *$160,000,000: Provided,* That during fiscal year 1986 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorney's fees in connection with grants and contracts made by the Economic Development Administration.*

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, [$26,000,000] *$24,450,000: Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1986.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; [$196,472,000] *$192,980,000, of which $7,090,000 is for the Office of Textiles and Apparels, including $3,500,000 for a grant to the Tailored Clothing Technology Corporation,* to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. [During fiscal year 1986 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $3,500,000. During fiscal year 1986, commitments to guarantee loans shall not exceed $10,000,000 of contingent liability for loan principal.]

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, [$44,802,000] *$45,090,000,* of which $31,495,000 shall remain available until expended: *Provided,* That not to exceed [$13,307,000] *$13,595,000* shall be available for program management for fiscal year 1986[: *Provided further,* That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprograming procedures].

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of aliens by

contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $12,000,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; [$1,121,228,000] *$1,131,699,000*, to remain available until expended, and in addition, $28,000,000 shall be derived from the Airport and Airways Trust Fund; and in addition, [$30,000,000] *$35,700,000* shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $8,000,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided*, That [unobligated] *unexpended* balances in the account "Coastal Zone Management" are merged with this account on October 1, 1985: *Provided further*, That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further, That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.*

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $750,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $4,500,000, to remain available until expended.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,800,000, to be derived from the receipts collected pursuant to that Act, to remain available until expended.

[FISHERIES LOAN FUND

[For expenses necessary to carry out the provisions of section 221 of the American Fisheries Promotion Act of December 22, 1980 (Public Law 96-561), there are appropriated to the Fisheries Loan Fund, $2,500,000 from receipts collected pursuant to that Act: *Provided*, That during fiscal year 1986 not to exceed $300,000 of the Fisheries Loan Fund shall be available for administrative expenses.]

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, [$84,739,000] *$88,535,000* and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, [$123,985,000] *$125,916,000*, to remain available until expended, of which not to exceed $3,708,000 may be transferred to the "Working Capital Fund".

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, [$13,186,000] *$13,686,000*, of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $24,000,000, to remain available until expended: *Provided*, That not to exceed [$750,000] *$1,200,000* shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.*

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

This title may be cited as the "Department of Commerce Appropriation Act, 1986".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, [$72,533,000] *$71,200,000.*

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, [$9,681,000] *$9,836,000.*

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; [$200,277,000] *$205,400,000*, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1987[; and of which $3,088,000 shall be for the Office of Special Investigations].

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, [$43,476,000] *$44,520,000.*

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; [$700,000] *$850,000.*

[SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

[For necessary expenses of the offices of the United States attorneys, marshals, and bankruptcy trustees; including acquisition, lease, maintenance, and operation of aircraft, $471,500,000.]

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND TRUSTEES

For necessary expenses of the Offices of the United States attorneys and bankruptcy trustees, $335,000,000: Provided, That not less than $450,000 shall be used for the investigation and prosecution of individuals indicted for violations of obscenity statutes.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft, $149,000,000.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, [$53,240,000] *$52,000,000*[; and in addition, $9,000,000 shall be available under the Cooperative Agreement Program until expended for the purposes of renovating, constructing, and equipping State and local correctional facilities]: *Provided,* That amounts made available for constructing any local correctional facility *pursuant to the Cooperative Agreement Program* shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any Federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; [$47,900,000] *$47,400,000,* to remain available until expended, of which not to exceed $550,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites: *Provided, That restitution of not to exceed $25,000 shall be paid to the estate of victims killed as a result of crimes committed by persons who have been enrolled in the Federal witness protection program, if such crimes were committed within two years after protection was terminated, notwithstanding any limitations contained in part (a) of section 3525 of title 18 of the United States Code.*

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, [$33,217,000] *$31,000,000,* of which [$26,583,000] *$24,366,000* shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984, such sums as may be necessary to be derived from the Department of Justice Assets Forfeiture Fund: *Provided,* That in the aggregate, not to exceed $10,000,000 shall be available for expenses authorized by subsections (c)(1)(B), (c)(1)(E), and (c)(1)(F) of that section.

INTERAGENCY LAW ENFORCEMENT

PRESIDENTIAL COMMISSION ON ORGANIZED CRIME

For expenses necessary for the Presidential Commission on Organized Crime, $1,000,000.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed one thousand six hundred forty passenger motor vehicles of which one thousand four hundred fifty will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; [$1,194,132,000] *$1,209,468,000,* of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1987; of which $3,000,000 for research related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than $13,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further, That $13,120,000 shall remain available until expended for constructing and equipping new facilities at the FBI Academy, Quantico, Virginia: Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed [five] *seven* hundred fifty-two passenger motor vehicles of which four hundred eighty-nine are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; [$353,421,000] *$380,000,000,* of which not to exceed $1,200,000 for research shall remain available until expended and not to exceed $1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1987.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred ninety, all of which shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; [$577,510,000] *$600,000,000,* of which not to exceed $400,000 for research shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of [$20,000] *$25,000* except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further, That no funds appropriated in this Act may be used to implement Immigration and Naturalization Service reorganization proposals which would have the purpose of or would result in the closing of the Northern Regional Office of the Immigration and Naturalization Service at Fort Snelling, Minnesota.*

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed one hundred nine, of which ninety-four are for replacement only) and hire of law enforcement and passenger motor vehicles; [$550,334,000] *$554,360,000*: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, [$12,226,000] *$12,000,000,* to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and

correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $46,063,000, to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles, except as hereinafter provided.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed [$2,070,000] *$2,102,000* of the funds of the corporation shall be available for its administrative expenses, and not to exceed [$6,920,000] *$7,018,000* for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, [$135,197,000] *$130,000,000* to remain available until expended; and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, [$70,282,000] *$62,100,000*, to remain available until expended. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1985 through September 30, 1986 following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided*, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1986 a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1986, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law or this Act, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States [Attorneys and] Marshals *Service*", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1986, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1986, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1986, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1986,

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(I) all criminal proceedings (other than appeals) are concluded, or

(II) covert activities are concluded, whichever occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

This title may be cited as the "Department of Justice Appropriation Act, 1986".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; [$1,452,689,000] *$1,459,000,000.*

[REOPENING CONSULATES

[For necessary expenses of the Department of State and the Foreign Service for reopening and operating certain United States consulates as specified in section 103 of the Department of State Authorization Act, fiscal years 1982 and 1983, $1,700,000.]

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,700,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 605 of Public Law 98-164, and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, [$9,900,000] *$9,500,000.*

ACQUISITION[, OPERATION,] AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), [$341,992,000] *$336,600,000,* to remain available until expended*: Provided, That balances of previous appropriations for "Acquisition, operation, and maintenance of buildings abroad" shall be transferred to and merged with this appropriation.*

[ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD (SPECIAL FOREIGN CURRENCY PROGRAM)

[For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for the purposes authorized by section 4 of the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 295), $2,707,000, to remain available until expended.]

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service to be expended pursuant to the requirement of 31 U.S.C. 3526(e), $4,400,000.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), [$10,000,000] *$9,800,000.*

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $118,174,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, [$460,235,000] *$475,000,000: Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, [$47,400,000] *$36,400,000.*

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $6,839,000, to remain available until expended, of which not to exceed $207,000 may be expended for representation as authorized by law.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, [$11,392,000] *$10,340,000: Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further,* That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State[: *Provided further,* That not to exceed $1,800,000 of the amount appropriated in this paragraph shall be available for reimbursement of the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico].

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, to remain available until expended, $2,257,000.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $3,755,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $11,300,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia $2,000,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $10,000,000, to remain available until expended.

[SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

[For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $5,000,000.]

GENERAL PROVISION—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, *for salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980 (94 Stat. 2071); allowances and differentials as authorized by subchapter 59 of 5 U.S.C.;* for services as authorized by 5 U.S.C. 3109; *expenses as authorized by section 2 (a), (c), and (e) of the State Department Basic Authorization Act of 1956;* and hire of passenger or freight transportation.

SEC. 302. None of the funds appropriated in this title shall be used (1) to pay the United States contribution to any international organization which engages in the direct or indirect promotion of the principle or doctrine of one world government or one world citizenship; (2) for the promotion, direct or indirect, of the principle or doctrine of one world government or one world citizenship.

SEC. 303. Funds appropriated under this title shall be available for expenses of international arbitrations and other proceedings for the international resolution of disputes arising under treaties or other international agreements, including international air transport agreements, and arbitrations arising under contracts authorized by law for the performance of services or acquisition of property abroad.

This title may be cited as the "Department of State Appropriation Act, 1986".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $15,000,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); [$2,200,000] *$2,275,000,* of which [$200,000] *$275,000* shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $5,500,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $6,400,000: *Provided,* That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF JUDGES

For salaries of circuit judges; district judges (including judges of the district courts of the Virgin Islands, Guam, and the Northern Mariana Islands); judges of the United States Claims Court; bankruptcy judges; and justices and judges retired from office or from regular active service under title 28, United States Code, sections 371, 372, and 373; $103,000,000.

SALARIES OF SUPPORTING PERSONNEL

For the salaries of secretaries and law clerks to circuit, district, and bankruptcy judges, magistrates and staff, circuit executives, clerks of court, probation officers, pretrial service officers, staff attorneys, librarians, the supporting personnel of the United States Claims Court, and all other officers and employees of the Federal Judiciary, not otherwise specifically provided for, [$480,000,000] *$472,690,000: Provided,* That the secretaries and law clerks to judges shall be appointed in such number and at such rates of compensation as may be determined by the Judicial Conference of the United States: *Provided further,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; [$64,000,000] *$61,830,000,* to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; [$45,000,000] *$43,400,000,* to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

For necessary operation and maintenance expenses, not otherwise provided for, incurred by the Judiciary, including the purchase of firearms and ammunition, [$139,000,000] *$136,000,000,* of which $6,000,000 shall be available for contractual services and expenses relating to the supervision of drug dependent offenders.

SPACE AND FACILITIES

For rental of space, alterations, and related services and facilities for the United States Courts of Appeals, District Courts, Bankruptcy Courts, and Claims Court, [$150,000,000] *$148,000,000.*

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; [$32,000,000] *$33,500,000,* to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, [$30,000,000] *$29,200,000,* of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, [$9,700,000] *$9,600,000.*

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Administrator of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1986.

This title may be cited as "the Judiciary Appropriation Act, 1986".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $299,500,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development activities, as authorized by law, $9,900,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, [$69,812,000] *$68,736,000*, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $43,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), [$25,614,000] *$26,100,000.*

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., [$98,000,000] *$106,822,000*, of which not to exceed $52,000 may be made available for official reception and representation expenses.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $775,000, to remain available until expended.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, [$12,061,000] *$12,320,000.*

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For expenses necessary for the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $550,000 to remain available until expended: *Provided*, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

COMMISSION ON THE UKRAINE FAMINE

For necessary expenses for the Commission on the Ukraine Famine, as provided for in section 136 of Public Law 98-473, $400,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed [$19,500,000] *$20,500,000* for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; [$165,000,000] *$163,240,000.*

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $700,000 for land and structures; not to exceed $200,000 for improvement and care of grounds and repair to buildings; not to exceed $3,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; [$92,285,000] *$94,400,000.* Not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1987, for research and policy studies.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; [$11,606,000] *$11,873,000*: *Provided*, That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of [$63,900,000] *$65,500,000: Provided, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).*

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, [$28,900,000] *$28,060,000.*

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,550,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: Provided, That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, [$305,500,000] *$306,400,000*[: *Provided*, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

[(1) Public Law 98-411 and Public Law 98-396 unless paragraph (2) or (3) applies;

[(2) authorizing legislation for fiscal year 1986 for the Legal Services Corporation as passed by the House of Representatives unless paragraph (3) applies; or

[(3) authorizing legislation for fiscal year 1986 for the Legal Services Corporation as enacted into law]

: Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each such client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: Provided further, That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: Provided further, That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this title shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations

the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $900,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For expenses necessary for the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $13,158,000: *Provided*, That not to exceed $72,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $2,000 for official reception and representation expenses, [$109,767,000] *$110,355,000.*

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, [$170,000,000] *$174,360,000*; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, [$35,000,000] *$30,000,000, to remain available until expended.* In addition $80,000,000 for disaster loan making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

For necessary expenses of the White House Conference on Small Business as authorized by Public Law 98-276, [$3,000,000] *$2,700,000*, to remain available until expended.

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", [$80,400,000] *$73,400,000*, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", [$121,000,000] *$76,000,000*, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $7,000,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute authorized by the State Justice Institute Act of 1984 (Public Law 98-620; 98 Stat. 3336-3346), [$8,883,000] *$5,000,000, of which not to exceed $550,000 shall be available for administration.*

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928; and entertainment, including official receptions, within the United States, not to exceed $20,000; [$569,672,000] *$569,000,000, of which not to exceed $2,000,000 shall be available for the worldwide book program initiative notwithstanding section 205 of Public Law 99-93*: *Provided*, That not to exceed [$734,000] *$800,000* may be used for representation abroad: *Provided further*, That not to exceed $5,704,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That receipts not to exceed $500,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of Public Law 80-402, as amended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), [$144,412,000] *$128,106,000*, [of which $8,982,000 is for] *For* the Private Sector Exchange Programs, *$12,894,000, of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program.*

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, [$124,310,000] *$124,000,000*, to remain available until expended.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, [$8,500,000] *$11,500,000*, to remain available until expended.

CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, [$19,000,000] *$21,000,000*: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, [$19,300,000] *$10,000,000, notwithstanding section 506(c) of the National Endowment for Democracy Act, as amended.*

GENERAL PROVISIONS—UNITED STATES INFORMATION AGENCY

SEC. 501. None of the funds provided in this Act for the United States Information Agency shall be awarded to the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, or any other organization connected in any manner with any political party operating in the United States.

SEC. 502. Notwithstanding the provisions of 31 U.S.C. 3302(b) or any law or limiation of authority, the Eisenhower Exchange Fellowship Program may retain and use for program purposes interest and dividends earned on funds granted to it under or pursuant to this or any previous or subsequent Act.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided*, That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate: *Provided further, it is the sense of the Congress that—*

(1) the antitrust enforcement policy guidelines stated in 'Vertical Restraints Guidelines', published by the Department of Justice on January 23, 1985—

(A) are not an accurate expression of the Federal antitrust laws or of congressional intent with regard to the application of such laws to resale price maintenance and other vertical restraints of trade;

(B) should not be accorded any force of law or be treated by the courts of the United States as binding or persuasive; and

(C) should be recalled by the Attorney General for review and should not be reissued before providing fair procedures for public participation in the formulation of such policy guidelines, including public notice and hearings;

(2) any antitrust enforcement policy guidelines formulated or adopted by the Department of Justice—

(A) cannot and do not have the force of law; and

(B) cannot modify or supersede the antitrust laws, regardless of the fact that public participation may be permitted in the formulation or adoption of such policy guidelines.

[SEC. 606. None of the funds appropriated by the Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion.]

SEC. 606. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

This Act may be cited as "the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986".

Mr. RUDMAN. Mr. President, I am pleased today to present H.R. 2965, the fiscal year 1986 appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary and related agencies. The bill totals $11,900,660,000 in new budget authority. While this amount is over the administration's requests, it is $365.6 below the total appropriations for the same agencies in fiscal year 1985.

The committee has made every attempt to find all the savings possible in drafting this bill. I have received the assurances from the Budget Committee that this bill is in substantial compliance with the budget ceilings, both for budget authority and outlays, and will not be subject to an across-the-board reduction amendment. I would like to explain to my colleagues that in order to achieve this result, Senator HOLLINGS and I fashioned a package of $68 million in cuts which we offered to the recommendations made by the Commerce, Justice, State Subcommittee. This package, while distasteful, was developed to insure that the Senate version of H.R. 2965 will meet the most stringent budgetary requirements.

In order to maintain the bottom line of the bill, Senator HOLLINGS and I are requesting today that every amendment adding outlays to the bill be accompanied by an offsetting decrease. We have worked with a number of our colleagues to develop such amendments. We simply cannot allow the bill to significantly exceed the outlay totals as are now in the bill.

Despite the reductions from the current year's totals, H.R. 2965 contains enhancements for a number of important programs. The bill continues the drug law enforcement initiative first developed by the committee and the administration last summer. In addition, over $30 million is provided to the State Department for additional overseas security. Also, we added $9.5 million to the Department of Commerce to carry out the provisions of the United States-Canada Salmon Treaty.

In short, Mr. President, this is a bill of which the Senate can be proud. We have lived with a ceiling while at the same time adjusted accounts to enhance priority programs.

None of this would have been possible without the cooperation and help from my good friend and colleague, the Senator from South Carolina, Senator HOLLINGS. As the former chairman of the subcommittee, his assistance has been invaluable. All the other members of the subcommittee have also provided important support, guidance, and input. H.R. 2965 is truly a bipartisan bill, thanks to the efforts of every member of the committee. The eventual success of the bill is a tribute to each of them.

I now yield for any comments Senator HOLLINGS may have.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from New Hampshire, who has led the way on this bill and brought us into balance in conformance with the Budget Act. We have had to necessarily make some very serious cuts. It is always a pleasure and a privilege to work with Senator RUDMAN. He is a real professional. His staff is professional also.

Incidentally, Mr. John Shank, a member of the staff, lost his mother over the weekend. We regret that and sympathize with him at this particular hour. I understand why he cannot be here, and want him to know how much we appreciate his help on the bill.

Mr. President, in 1980, when I last chaired the Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Subcommittee, we recommended a total of $9,053,168,000 to the Senate for fiscal year 1981. In this bill, H.R. 2965, the committee is recommending a total of $11,900,660,000, for fiscal year 1986, a net increase of $2,847,492,000 over the last 5 years.

Please note that I said "a net increase," as the changes in this bill have not been uniform. For instance, the Department of Justice has increased by $1,744,110,000, or 79 percent over the last 5 years, as we have provided the resources required by the FBI, DEA, Immigration Service, the U.S. attorneys, marshals, and kept up with the 49-percent population increase in Federal prisons since 1980.

Those increases are for law enforcement, and I have been pleased that my Republican successors, Senator WEICKER and Senator LAXALT, as well as our acting chairman, Senator RUDMAN share my high priority for maintaining our internal defenses. In the recent supplemental, Senator LAXALT and I worked out major increases for the DEA and U.S. attorneys to step up the apprehension and prosecution of illegal drug traffickers, and this bill includes some $41 million to annualize that increase.

I should note to my colleagues that the Reagan administration actually budgeted a decrease of 22 positions for the Drug Enforcement Administration for fiscal year 1986. That tells you something about someone's priorities, and most of those someones have now departed the administration.

This bill also includes an unbudgeted increase of $8,468,000 and 191 positions for the FBI's terrorism program. While I know there are some that advocate a larger increase, this is as much as Senator RUDMAN and I could squeeze out of our overall allocation to increase the FBI's work in terrorism. The FBI has also indicated informally that this is a reasonable increase.

The Department of State has increased by $908,668,000 since 1980, or an increase of 57 percent. This reflects the worsening situation overseas with regard to the security of our personnel and facilities. We have also provided major increases over the last few years for additional reporting and analysis personnel, as well as meeting the great workload in the passport offices as more and more Americans travel abroad.

The judiciary appropriation has also expanded by some 68 percent since 1980, primarily due to the additional judgeships that have been authorized. In 1980, there were 648 district and circuit judgeships; now there are 731. In addition, there are 69 more senior judges now active than we had in 1980. That is fine with me as there is no use fighting crime unless you have judges to try the cases. Incidentally, the judiciary budget now exceeds $1 billion.

This year the related agencies are back in title V of the bill, where they used to be when I was chairman. We have a few of them that have grown a lot: The U.S. Information Agency is up by 96 percent, Arms Control and Disarmament up by 41 percent, and the International Trade Commission by 66 percent, because of the administration's terrible trade policies.

Mr. President, as I said at the outset, there has been a net increase of more than $2.8 billion in this bill since 1980. I have mentioned some of the increases, so where are the decreases? Well, the Department of Commerce is down by 9 percent after allowing for the $146 million we recommended for the tabulation of the 1980 census.

Since 1980, the EDA has been reduced by $500 million and the Direct Business Loan Program has been eliminated. The Secretary of Commerce talks of the general national economic health trickling down, but nothing has trickled down to Marlboro County, SC, here the unemployment rate is 15.2 percent.

The trade adjustment assistance to import impacted firms has been reduced by nearly $35 million. I do not know why Secretary Baldrige does not take credit for the reforms he has instigated in this program. He keeps talking about the sour loans made by the Carter administration but you cannot hardly get a trade adjustment loan out of the Commerce Department anymore.

I want to especially thank the acting chairman for the earmarking of $7,090,000 to underwrite the Office of Textile and Apparel which provides the surveillance of textile imports through the Tims computer system. We have also maintained the Federal grant to the Tailored Clothing Technology Corporation [TC²], a joint industry, union, and Government innovation to fight back against rising apparel imports.

Within the overall commerce decrease, the appropriations for the National Oceanic and Atmospheric Administration are $340,234,000 over the amount in 1980 but most of that has gone to the insatiable appetite of the National Weather Service and the ever-hungry satellites. Those of us who appreciate the vast potential of the oceans, have had to fight a rearguard action just to hold the gains made in the 1970's in oceans research and development. We certainly have lost much of the momentum we built up to explore and develop the oceans.

Lastly, but by no means least, the Small Business Administration is substantially below the 1980 levels. Our recommendations for 1986 track S. 408, the SBA authorization bill that I joined Senators WEICKER and BUMPERS in sponsoring. A chief casualty is the business loan and investment fund which has declined by $439,100,000 over the last 5 years. It should be noted that in fiscal 1986, we have taken advantage of the huge carryover from 1985 due to the administration's shutting down of the Direct Loan Program for awhile last year.

However, we have also experienced a great erosion of the program level. The direct loans are down by $314 million, which is the general direction that the Senate has been heading for sometime in just maintaining the direct loans for the handicapped, veterans, and minorities. However, the guaranteed loans—which were supposed to balance off the reduced direct loans—have also decreased by $420 million from the level we recommended in 1980.

Mr. President, there is talk from time to time about having an omnibus appropriations bill and combining the present 13 separate appropriations bills into one grand package. If that was the present situation, there would be a Hollings amendment pending to cut the foreign aid account by whatever it takes to restore the EDA, trade adjustment and SBA business loans to their 1980 levels. The President has got to get out from behind the bunting and parades and out to the America you cannot see from the tarmac. We need those SBA loans to rebuild our cities and the EDA to provide the facilities our rural and urban areas need to develop the necessary base to restore their economies and retain their youth.

Mr. President, there has indeed been a significant shift over the last 5 years. As the ranking minority member, I have taken the time to outline the consequences of these shifts. However, as a responsible ranking minority member, I must also say that the overall budget constraints do not allow us to do much about the problem. Our acting chairman, Senator RUDMAN and I, with the great help of our staff, have worked together to fashion this bill. We have a few small differences—such as the $10 million that still remains for NED—but, basically, we did the best we could under the circumstances and I am ready to proceed with the bill.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the committee amendments, with the exception of committee amendments on page 33, line 1; page 66, lines 4 and 5, and page 68, line 22 through page 69, line 24 be considered and agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment, with the understanding that no points of order shall be waived by reason thereof.

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

The excepted committee amendments are as follows:

On page 31, line 1, strike "OPERATION,"

On page 66, inserting lines 4 and 5; as follows:

GENERAL PROVISIONS—UNITED STATES INFORMATION AGENCY

On page 68, strike line 22, through and including line 25, and insert the following:

SEC. 606. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the pending committee amendment be laid aside for the purpose of considering an amendment by the distinguished senior Senator from Vermont.

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

AMENDMENT NO. 862

(Purpose: To appropriate subject to authorization, $2 million for the study, design, and engineering of a building to serve the judicial system)

Mr. STAFFORD. Mr. President, I have an amendment at the desk. I ask

that it be stated and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD], for himself, Mr. BENTSEN, and Mr. MOYNIHAN, proposes an amendment numbered 862.

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

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

The amendment is as follows:

On page 42, line 24 strike "$136,000,000" and insert in lieu thereof "$135,000,000"; on page 43, line 7 strike $148,000,000" and insert in lieu thereof "$147,000,000"; and on page 40, after line 10 insert the following:

CONSTRUCTION

For necessary expenses of the Architect of the Capitol to carry out, in cooperation with the Union Station Redevelopment Corporation, feasibility studies, design, and engineering for the construction of a building on the United States Capitol Grounds to provide office space for the judicial branch of the Federal Government and for other purposes, to become available upon enactment of S. 1706 or similar legislation authorizing such appropriations, $2,000,000, to remain available until September 30, 1986.

Mr. STAFFORD. Mr. President, this is an amendment to appropriate $2 million, contingent on authorization, to begin work in the design of a building to house the Administrative Office of the U.S. Courts.

I am pleased that Senators BENTSEN and MOYNIHAN are cosponsors of this amendment.

This amendment is quite straightforward. It appropriates $2 million to pay for work required in S. 1706, once that bill, or similar legislation, becomes law.

S. 1706 will direct the Architect, working with the Union Station Redevelopment Corporation, to initiate planning, design, and engineering for a building that would serve the Administrative Office and related judicial functions. This building would be located adjacent to Union Station, north of Massachusetts Avenue, here on Capitol Hill.

In order to assure that this amendment poses no adverse cost impact on the Federal taxpayers, this amendment includes offsetting cuts totaling $2 million: A reduction in operations and maintenance for the courts of $1 million, plus a cut of $1 million for space and facilities for the courts.

Before outlining the specifics of the work that would be funded by S. 1706 and this amendment, I would like to discuss some of the background.

For quite some time, Congress has sought to redevelop Washington's Union Station. Prior to the creation of Amtrak, Congress enacted legislation to convert Union Station to a National Visitors Center. Tens of millions of dollars were spent to begin construction on a parking garage and the conversion of the station. Following a series of cost overruns and other problems, the project was abandoned and the structure closed.

In 1981, Congress passed the Union Station Redevelopment Act as Public Law 97-125. The concept of that law was to revive Union Station as a station for Amtrak, while attracting commercial development into the building.

As a part of Public Law 97-125, Congress included a provision allowing the Department of Transportation, which is in charge of the revival of Union Station, to obtain from the Architect of the Capitol the use of two squares—721 and 722—on the north side of Massachusetts Avenue. For the past decade, these two squares have been used as open, ground-level parking for Senate staff.

In that 1981 law, Congress took the position, which remains valid today, that development on these squares must occur in a manner that complements the revival of Union Station.

But because the Department of Transportation has not requested use of that land, control over those two squares remains somewhat uncertain. While the land continues to be a part of the Capitol Grounds, yet it is also subject to an option that has not been exercised.

When it became clear that both the Union Station Act and the master plan for Capitol Hill projected construction of some sort of Federal building on squares 721 and 722, discussions began to focus on the opportunity to locate there the Administrative Office of the U.S. Courts and related judicial activities.

The Administrative Office faces a severe housing problem. In this fiscal year, its 635 employees, along with another 122 persons assigned to the Federal Judicial Center, will be scattered among eight buildings in Washington, many of them several miles from the Supreme Court, to which they are responsible ultimately.

In July, the Committee on Environment and Public Works conducted a hearing on the options for squares 721 and 722. It is worth noting that each witness favored, to one degree or another, the use of the site for the Administrative Office. Three basic alternatives were presented:

The first would have authorized the Architect of the Capitol to spend $70.5 million in Federal money to build the building.

Second, there was the option, which still exists in the law, allowing the Department of Transportation to exercise its rights to develop the site for the Administrative Office, in connection with Union Station.

Third, a private developer suggested a public-private partnership, permitting private interests to develop and lease the property to the Administrative Office.

Each of these approaches contains opportunities and flaws. For example, I doubt that we can, or should, appropriate $70 million for another Federal building. I also doubt we should simply turn over the use of Capitol Grounds to a private developer. Nor is DOT likely to have the needed development skills.

In an effort to resolve this question, we developed what I consider a rational alternative, one that will move the project forward, while retaining the proper and effective degree of public control. This alternative is S. 1706, which has been reported by the Committee on Environment and Public Works and is now on the calendar.

This amendment provides $2 million to the Architect of the Capitol, then directs that he work with DOT's Union Station Redevelopment Corporation, to make a 10-month study to produce the following information for the Congress:

First, an assessment of the size of a building that would be suitable for this site, while meeting the needs of the Administrative Office and other potential uses. For example, the best proposal might be a building far larger than needed simply to accommodate the Administrative Office. Such a building could include restaurants, shops, and other offices. This would be in line with the goals of the Public Buildings Cooperative Use Act (Public Law 94-541).

Second, a national architectual competition on the building's design. Such a competition, as I see it, would involve selection of half a dozen or so leading architects, each of whom would be paid a sum, possibly $10,000 or $25,000, to develop a basic design. The building's ultimate design would be selected from these submissions, with work on the drawings to begin immediately, using much of the $2 million appropriated in this amendment. It is important that the design fit the magnificance of the setting next to Union Station.

Third, and, finally, an assessment, including solicitation of actual proposals, for financing the building or buildings. We should expect to receive plans for alternative financing that would lessen or eliminate any need for a direct Federal capital investment. While the study is undertaken by the Architect, in cooperation with DOT's Union Station agency, it is intended to be sufficiently flexible so that developers can bid at a later date to participate in the financing and construction.

This is a sound approach. But I must stress three points:

This is a cooperative venture, between the Architect and the DOT's Union Station Redevelopment Corporation.

This amendment is intended to assure that as much of the construction financing as possible comes from non-Federal sources.

This amendment is intended to meet the spirit of mixed use in the Public Buildings Cooperative Use Act, enhancing Union Station both visually and economically.

Mr. President, I move the adoption of the amendment.

Mr. President, I believe this legislation has been examined by the managers for the bill and that it is acceptable to them.

Mr. RUDMAN. Mr. President, the Senator from Vermont is correct. Let me simply state that this has been cleared on both sides. We have some concern about starting work even as small as this appropriation will be for yet another building up here on the Hill at this time in light of all the budgetary constraints, but we understand that there has been a great concern on the part of the U.S. Supreme Court about this issue. The Senator from Vermont has concern for it because of the position of the authorizing committee. I understand this amendment is being offered subject to authorization. I simply state that by accepting it we in no way indicate how we might be feeling about future appropriations at this time.

Mr. STAFFORD. Mr. President, the Senator from Vermont understands that. This is to consolidate the administrative office of the Federal court system. The Chief Justice has, on several occasions, indicated his desire that we get this done so the Federal court administrative offices can be in one place, instead of scattered all over the city of Washington.

Mr. HOLLINGS. Mr. President, this proposal has been presented by the Chief Justice and the administrative office of the Court over the last several years. We feel it should be done and join without objection on the amendment.

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

The amendment (No. 862) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 863

Mr. HATFIELD. I send an amendment to the desk and ask for its immediate consideration. I ask unanimous consent that the committee amendments be temporarily laid aside for the purpose of considering this amendment.

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

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 863.

On page 66 after line 17 insert:

"SEC. 503. Both the United States and Soviet Union, as signatories of the United Nations Declaration of Human Rights and the Helsinki Accords, are pledged to allow information to flow freely across their national boundaries;

Allowing information to flow freely across their national boundaries is in the best interest of the people of the United States and the Soviet Union, and is a necessary response to the times;

Increased communications between the United States and the Soviet Union reduces the risk that misunderstandings will cause conflict; and

The Director of the United States Information Agency, Charles Z. Wick, has extended to the Chief of International Information Department of the Soviet Union, Mr. Leonid M. Zamyatin, an invitation to participate in reciprocal exchanges using the medium of television: Now, therefore, be it

Declared by the Senate (the House of Representatives concurring), That the Congress, recognizing the significant potential for improving communications, enhancing mutual understanding, and aiding the free flow of information through the medium of television, supports the initiative of the Director of the United States Information Agency to

(1) Arrange for a high level official of the Soviet Union to appear on American television if the Soviet Union reciprocates by arranging for a high level official of the United States to appear for an equal time on Soviet television; and

(2) Plan for participation by the United States and the Soviet Union in a worldwide discussion using the WORLDNET international satellite television transmission network, and giving journalists an opportunity to ask uncensored questions of such officials."

Mr. HATFIELD. Mr. President, before I take up the amendment which I understand has been cleared on both sides, I should first of all like to say a word of commendation to the managers of the bill pending. Senator RUDMAN has taken on the role of acting chairman of this subcommittee, with the long-time expertise and leadership of the Senator from South Carolina, Mr. HOLLINGS, as the ranking member of the subcommittee.

This bill is like any other, but it still has uniquely difficult problems to begin with and they have moved this bill through the subcommittee, the committee, and now to the floor with remarkable, outstanding skill. I especially want to take this moment to commend them on this great performance of legislative responsibility. They have both served with great distinction in this role.

Mr. President, this amendment is a sense-of-the-Senate amendment. It will have no budgetary impact to the bill but merely expresses a view that the Soviet Union and the United States, should arrange for a joint television exchange involving the leadership of the two countries.

Specifically my amendment asks the United States Information Agency and their Soviet counterpart, the International Information Department, to arrange for a high-level United States official to appear on Soviet television and for a high-level Soviet official to appear on the United States sponsored Worldnet Satellite Television Network.

In recognition of the significant potential for improving communications between our two countries, recognizing also the upcoming summit in Geneva, it seems highly appropriate and timely for the Senate to express its interest in such an exchange.

Much has been said about the propaganda war between the Soviet Union and the United States, but I for one believe a reciprocal arrangement such as a television exchange will remove any manipulation, yet allow for a free and frank exchange of goals and ideology.

I offer thanks to my colleagues, Senator SIMON and Senator GRASSLEY, who have helped sponsor a similar resolution, Senate Concurrent Resolution 74 and I ask for the support of my other colleagues on this amendment I am offering today.

Mr. President, I merely add that I think there is no question that television is one of the most significant modes of communication, not only within our country but also between nations. I can recall when President Nixon appeared on Soviet television a number of years ago, it had tremendous impact at that time and I think probably solidified the whole policy of détente.

I say this merely represents the sense of the Senate. Charles Wick of the USIA has been proposing this to the Soviet Union and I think a sense-of-the-Senate amendment will strengthen his hand in proposing it.

Mr. RUDMAN. Mr. President, the Senator from Oregon has discussed this with both the ranking member and me. We not only agree with it but enthusiastically support it. I yield to my friend from South Carolina.

Mr. HOLLINGS. I thank the distinguished chairman of our full committee for his very generous remarks. We join in this wholeheartedly.

Mr. HATFIELD. I thank the Senator.

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

The amendment (No. 863) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, will the Senator from Oregon yield for a moment?

Mr. HATFIELD. I am happy to yield.

Mr. RUDMAN. It is my understanding that the distinguished chairman of the Judiciary Committee has an amendment that will take just a few moments. I know the Senator from Oregon has another amendment which might take a bit longer. I inquire of the distinguished chairman of the Appropriations Committee whether we might deal with the amendment of the distinguished chairman of the Judiciary Committee first.

Mr. HATFIELD. Mr. President, I should be happy to yield to the chairman of the Judiciary Committee for the purpose of offering an amendment. I ask unanimous consent that I may not lose my right to the floor following his presentation.

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

Mr. RUDMAN. Mr. President, if the Senator will yield to me for one moment, I ask unanimous consent that the pending committee amendment be laid aside in order to proceed to an amendment to be offered by the senior Senator from South Carolina.

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

The Senator from South Carolina is recognized.

AMENDMENT NO. 864

Mr. THURMOND. Mr. President, I rise to introduce an amendment to H.R. 2965.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 864.

On page 16, line 1, strike "$31,000,000" and insert in lieu thereof "$29,900,000"; on page 16, line 2, strike "$24,366,000" and insert in lieu thereof "$23,266,000"; and on page 66, after line 17, insert the following:

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $1,100,000, to remain available until expended.

Mr. THURMOND. Mr. President, this amendment to H.R. 2965 provides the $1.1 million necessary for the salaries and operation of the U.S. Sentencing Commission.

The Commission was created by the passage of the Comprehensive Crime Control Act in the 98th Congress. Its function is to redefine the Federal criminal justice sentencing procedures.

The original allocation of $2.3 million in funds to the Commission as part of the supplemental was limited to an estimated 6-month budget. The members of the Commission were recently confirmed and are now ready to begin their important work. H.R. 2965 provides no funds for the Commission's operation in fiscal year 1986. Accordingly, without my amendment, it is anticipated that there will not be sufficient funds for operation beyond May 1986.

The additional $1.1 million will permit the Commission to move forward in designated function, albeit on a modest budget.

In order to maintain our fiscal responsibility, I have offset my request for these funds with a corresponding decrease. It is never easy to propose such cuts. In this case, I have relied on the recommendation of the Department of Justice. I have been informed that the funds can be taken from the Community Relations Service with no negative impact on their projected program. This reduction has the approval of the Appropriations Committee.

I urge my colleagues to support this amendment. It is necessary to the important task of the U.S. Sentencing Commission and maintains the projected needs of the Community Relations Service.

Mr. President, what we are doing is providing the necessary funds for the Sentencing Commission but in order not to increase the deficit, we have taken away funds with the approval of the Justice Department from another section of the Justice Department.

I ask the approval of the amendment.

Mr. RUDMAN. Mr. President, I thank the distinguished chairman of the Judiciary Committee. The managers have considered the amendment and are ready to accept it. We are particularly pleased that the distinguished chairman of the Judiciary Committee has found an offsetting amount within the bill that has been cleared and is acceptable because we are very pleased that this bill will not be the subject of an amendment for an across-the-board cut by the Budget Committee, we understand, because we are within our targets both in outlays and, of course, budget authority.

So we are pleased the Senator from South Carolina has made our job easier.

I yield to my friend from South Carolina.

Mr. HOLLINGS. Mr. President, the U.S. Sentencing Committee is headed by our distinguished Judge Wilkins, of South Carolina.

The original request was $2,650,000. We have found that it can be reduced to $1,100,000, and with the offset from the Community Relations Service, we are delighted to join in the amendment of our distinguished colleague. I urge its adoption.

The PRESIDING OFFICER (Mr. ARMSTRONG). Is there further discussion of the amendment?

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senator from Delaware [Mr. BIDEN], the ranking minority member of the Judiciary Committee, be added as a cosponsor of this amendment.

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

Mr. THURMOND. I thank the able chairman of the subcommittee, the Senator from New Hampshire [Mr. RUDMAN], who is handling the bill this morning, for his fine cooperation and the able Senator from South Carolina for his splendid cooperation.

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

The amendment (No. 864) was agreed to.

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

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

The motion to lay on the table was agreed to.

LUXURY TRAVEL BY FOREIGN SERVICE PERSONNEL

Mr. HOLLINGS. Mr. President, on October 8 I introduced an amendment to this bill that would prohibit Foreign Service personnel, or any other Government officials from using approriated funds to take trips on the *Queen Elizabeth II* and the *Delta* and *Mississippi Queens*. As reported by Jack Anderson and others, an employee of the U.S. Information Agency had arranged for his family to return to Burlington, IA, on home leave from Montevideo, Uruguay, by way of 16 days on the *Delta Queen* up the Mississippi, from New Orleans to Burlington. The General Accounting Office has reported that 260 employees of the Department of State and the USIA—including 120 on the *Queen Elizabeth II*—booked taxpayer-paid trips aboard ships in fiscal years 1982 through 1984. The cost of the sea voyages was $556,232, more than $400,000 higher than airline tickets would have cost.

Needless to say, my amendment has prompted considerable concern at Foggy Bottom. In fact, my own inquiries have found that USIA was not the only agency funding trips up the Mississippi, as the State Department itself paid for two of its employees, Michael and Claudia Skol, to ride on the *Delta Queen* on the same trip that the USIA employee and his family took in July 1982. USIA has filed suit in Federal District Court for the District of Columbia to recover the $12,760 that the GAO has instructed the agency to recoup from the employee, only to be overturned by a decision of the Foreign Service Grievance Board. I am informed that State will expect their employees to make similar restitution if the court decides in favor of USIA.

Mr. President, on October 21, 1985, I received a letter from the Under Sec-

retary of State for Management, Ronald I. Spiers, informing me that:

The Department has changed its Foreign Service travel regulations to prohibit travel by ship at Government expense if the cost of such travel exceeds the cost of the authorized air travel for the same trip unless the traveler pays the difference. In that case, the traveler could also be charged annual leave for any travel time in excess of the time which it would have taken had the traveler used the authorized air travel.

Mr. Spiers goes on to say that the only exception to this rule would be when air transportation would be detrimental to the traveler's health.

Mr. President, I ask unanimous consent that Mr. Spiers' letter and the new travel regulation be printed in the RECORD at the conclusion of my remarks.

Since the Department has made the necessary change in the regulations to restrict travel by ship, it is no longer necessary to press my amendment. However, the Department, USIA, and the other agencies with personnel abroad, are on notice that I will closely monitor the exceptions granted for medical reasons. If there is any significant number, I will ask the GAO to review each and every one of them for medical sufficiency.

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

UNDER SECRETARY OF STATE
FOR MANAGEMENT,
Washington, DC, October 21, 1985.

Hon. ERNEST F. HOLLINGS,
U.S. Senate.

DEAR SENATOR HOLLINGS: This is to inform you that the Department has changed its Foreign Service travel regulations to prohibit travel by ship at government expense if the cost of such travel exceeds the cost of the authorized air travel for the same trip unless the traveler pays the difference. In that case, the traveler would also be charged annual leave for any travel time in excess of the time which it would have taken had the traveler used the authorized air travel. The sole exception to this rule is if ship travel be authorized for medical reasons.

Sincerely yours,

RONALD I. SPIERS.

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131 ROUTING OF TRAVEL

*131.1 MODES OF TRAVEL

a. Use of air transportation is encouraged.

b. Surface transportation or a combination of air and surface is authorized, subject to the provisions of section 131.1-*1* and 133.

c. Use of ship transportation is authorized when use of air transportation by the traveler would be detrimental to his or her health or well-being (see 133.2-3b).

d. Travel by ship is permitted, provided travel expenses (including per diem, incidental expenses, fare, and travel time) are limited to those which would accrue by authorized air travel. Leave is charged for excess travel time.

e. Ferry travel is authorized when expedient and necessary to the mission.

f. Travel by privately-owned vehicle is governed by section 145.*

131.1-1 Same except for cite.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. RUDMAN. Mr. President, will the Senator from Oregon yield for one moment?

Mr. HATFIELD. Yes.

EXCEPTED COMMITTEE AMENDMENTS

Mr. RUDMAN. Mr. President, we now have a unanimous-consent request on the committee amendments which I would like to state.

Mr. President, I ask unanimous consent that the committee amendments, with the exception of the committee amendment on page 68, line 22, through page 69, line 24, be considered and agreed to en bloc and that the bill, as amended, be considered original text for the purpose of further amendments, with the understanding that no points of order shall be waivered thereon.

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

Mr. RUDMAN. I thank my friend, the distinguished chairman of the Appropriations Committee.

The PRESIDING OFFICER. The Senator from Oregon may proceed.

AMENDMENT NO. 865

(Purpose: To withhold funding of international organizations while the United States is not subject to the compulsory jurisdiction of the World Court)

Mr. HATFIELD. Mr. President, I send an amendment to the desk on behalf of myself, Senators MOYNIHAN, WEICKER, and SIMON and ask for its immediate consideration.

The PRESIDING OFFICER. The committee amendment must now be laid aside.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily set aside the committee amendment so that I might offer my amendment.

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

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself, Mr. MOYNIHAN, Mr. WEICKER, and Mr. SIMON, proposes an amendment numbered 865.

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

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

The amendment is as follows:

On page 34, line 20, before the period insert a colon and the following: *"Provided further,* That none of the funds appropriated under this heading may be made available while the United States is not subject to the compulsory jurisdiction of the International Court of Justice (as described in Article 36(2) of the Statute of the International Court of Justice and in the United States declaration thereto)".

Mr. HATFIELD. Mr. President, on behalf of my colleagues, Senators MOYNIHAN, SIMON, and WEICKER, I offer this amendment on the World Court today, and I suppose in some ways one might say it will not stir too much interest.

It has been rather interesting to observe in the last few weeks since the incident arose with which this amendment deals, that very few people in the press or elsewhere have really commented a great deal about it, and perhaps that is precisely why the administration, acting in the name of the President, acted the way it did and got away with the action that was consummated. I refer to the American foreign policy decision made by the President to withdraw from the compulsory jurisdiction of the International Court.

I view this as a grave decision with all kinds of perceptions from unconcerned and concerned people alike. I think it is somewhat the result of a dangerous ideological agenda, and that agenda holds that nothing should stand between the United States and the pursuit of its goals by whatever means it deems necessary. I need not cite many examples. There are some very obvious ones that involve overthrows of governments and covert activity and funding organizations to overthrow governments.

But I want to say, Mr. President, this withdrawal for the World Court does not represent an action that is derived from a Repubican agenda.

I want to use that term wisely and with care. I think when one looks at the history of the founding and the early support of the World Court, one cannot help but run into the extraordinary, outstanding work of Republican statesmen like Elihu Root, like Charles Evans Hughes, and Robert A. Taft. And even for those who are given a lesser standing in the Republican lexicon of names and leaders, it has the support of every Republican President since Warren G. Harding. I think it is remarkable when you call upon the name of Warren G. Harding to support a noble and purposeful cause, not in any way to demean the individual but from the ranking that he has received from most political experts on his status as President of the United States he does not rank amongst the top five on anybody's list. I think also we have to remember that a war was fought, World War II, for the principle embodied in the World Court. We sought to prove that sheer might does not equate with justice and that the rule of law is more than a definition of victory on a battlefield.

The International Court of Justice has served us well far more frequently than it has worked to our detriment. I think it is rather ironic as a further observation that an administration which took office the day the United States hostages were released from Iran would abandon its support for an institution which was so vital to the realization of that goal.

The World Court remains an important mechanism for forging world opinion in support of United States objectives, the most basic of all, the rule of law as against the rule of the jungle. Terrorism and other unique circumstances which confront the United States today should compel us to lend encouragement and patience to an international jurisprudence as the preferred method of resolving conflict and furthering justice. In my view, this action taken by the President was a step back into the jungle rather than a step forward into enlightenment. While perpetrators of terrorism are often faceless or difficult to identify, terrorism is also sanctioned and executed by governments. The International Court of Justice may be an imperfect means of combating terrorist governments but it remains one of the only means, short of armed force, with which to challenge those countries that refuse to play by the rules of the civilized world.

Let me quote from the words and wisdom of President Richard Nixon on this subject when he recently stated:

> We will only eliminate terrorism if we choke it off by drawing the dark curtain of international condemnation around its sponsors. * * * Unless they are willing to live peacefully in the community of nations, we cannot allow them any of the privileges of membership.

Mr. President, I believe that acceptance of the compulsory jurisdiction of the International Court of Justice is an important litmus test of a nation's willingness to meet the standards of that membership. Let me be very objective and say I share the administration's frustration over the use of the World Court as a propaganda forum, and that is what we will hear today from anyone who is interested enough to even discuss the subject.

But let me say, too, that the world is better served through exposure to our values than insulation from the propaganda designs of nations which fear freedom and which do not support or represent open societies. The only appropriate national posture given the current world situation is to advance the rule of international law. The other option is the jungle, and terrorism is the great weapon of the jungle. Instead, the world's greatest constitutional democracy has turned the clock of civilized international behavior back 40 years by denying the International Court of Justice the prestige its support brings to that institution.

Mr. President, international law was an inconvenience which stood between the United States and the forceful overthrow of the Sandinista regime in Nicaragua.

Whether it be on the national, local, or international level, the rule of law is not a matter of convenience. It does not lend itself to selective adherence and application. The law is useless when it is applied selectively. The law has to be applied in all instances across the board, and we are denying that kind of universal application by our action.

We would not submit to the test of international law in the case against Nicaragua because we were not assured of a favorable decision in advance. There is no difference between this approach and the approach Iran took during the hostage crisis. Fundamentally, it is the same kind of reaction—no difference whatsoever, even though we could always justify things when we do them and always find opportunity for condemnation when someone else does them.

Earlier this year, after we had refused to defend ourselves in the Nicaragua case, the New York Times, a newspaper with which I do not always agree, certainly put the issue most eloquently in this case when it said:

> At the borders where our laws stop and someone elses begin, there is a dangerous legal gap. Whatever its size the gap is a realm of anarchy (and) barbarity—*except* as nations voluntarily write contracts, or treaties and submit to a higher order. Nations aspiring to live less like beasts in the jungle hesitantly submit to the court and try, by the force of their example, to prove that rational argument and codes of conduct can, to some extent, become a substitute for international pilage, piracy, and murder. Until last week, the United States was one of this minority of nations. And being the most powerful beast in the jungle, it thinks it loses little by thus diminishing the World Court.

Mr. President, the most powerful beast in the jungle is not necessarily the most vicious or the most agile under all circumstances. It, too, can benefit from the protection of the law, probably when it leasts expects it.

We think we are denying countries which fear freedom a propaganda forum with which to challenge us. This is illogical. We are denying an institution which, however imperfect, holds out some promise of a future system by which nations can resolve their differences peacefully.

There is only one reason why the most powerful beast in the jungle would refuse to tangle in an international courtroom with a powerless and in some ways morally bankrupt small animal, and that reason is that, without violence, the beast will lose the battle.

The assumption, Mr. President, is that we can never afford to lose because our perceived power to work our will in the world will diminish. What is totally lost here is that the ability of the Qadhafis and the Khomeinis and the Pol Pots to work their will in world of lawlessness is enhanced. The ability of the Soviet Union to work its will in an environment of lawlessness is also enhanced.

The same country that just pulled out of the World Court was standing on the soapbox, not so long ago, expressing its disgust and indignation because the Soviet Union had just blown a commercial airliner out of the sky.

Mr. President, I do not entertain any illusions about the opportunity of this amendment to be adopted. This amendment would simply say, in effect, that we would fence the language of the appropriations bill dealing with international organizations until the United States reconsidered and accepted the jurisdiction of the International World Court. It is very simple and straightforward.

Mr. President, I have seen a copy of a letter sent to Congress and the chairman of the subcommittee, signed by William L. Ball III, Assistant Secretary for Legislative Intergovernmental Affairs. I ask unanimous consent that the letter be printed in the RECORD.

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

U.S. DEPARTMENT OF STATE,
Washington, DC, October 23, 1985.

Hon. WARREN RUDMAN,
U.S. Senate.

DEAR SENATOR RUDMAN: It has come to my attention that an amendment may be introduced to H.R. 2965 which would have the effect of withholding our contributions to international organizations.

The amendment would prohibit the payment by the United States of its assessed contributions to international organizations of which it is a member, so long as the United States does not accept the compulsory jurisdiction of the International Court of Justice under Article 36(2) of the Court's Statute.

The Department of State opposes this amendment and would recommend the bill be vetoed if the amendment is included. The United States is obliged to pay its proportionate share of the regular budgets of organizations to which it belongs. Failure to pay such contributions would violate our legal obligations and could result in loss of our vote or exclusion from participation in the organization.

By contrast, the President's action in terminating our acceptance of compulsory jurisdiction, effective six months from October 7, is entirely consistent with international law, the terms of the U.S. acceptance itself, and his constitutional powers in respect of the conduct of foreign affairs.

The consequence of this amendment would be that the United States would be compelled to violate its international legal obligations as the price for having taken a completely legal step with respect to the Court.

This amendment would not reverse the President's action. It can only call into question our commitment to our legal obligations to the organizations that would be affected, and penalize those organizations financially for reasons entirely unrelated to them.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report and that enactment of this amendment would not be in accord with the program of the President.

With best wishes,
Sincerely,

WILLIAM L. BALL III,
Assistant Secretary,
Legislative and Intergovernmental Affairs.

Mr. HATFIELD. Mr. President, the third paragraph of this letter reads:

The Department of State opposes this amendment and would recommend the bill be vetoed if the amendment is included. The United States is obliged to pay its proportionate share of the regular budgets of organizations to which it belongs. Failure to pay such contributions would violate our legal obligations and could result in loss of our vote or exclusion from participation in the organization.

Mr. President, if that is the sole reason why the administration is opposing this amendment, that can be answered and rebutted very easily.

Let me remind the Senate that our obligations are contractual and part of our whole concept of an order based upon law. They therefore carry a certain sanctity which we must always observe, whether it is contracts with parties or treaties. However, we have some 6 months to work out the arrangements that this kind of amendment, if adopted, would impose. Adopting this amendment in October 1985 would in no way forestall the responsibility and the performance of that responsibility to fulfill our contractual obligations to these international organizations in the meantime.

I hope that the least that could be said about this amendment is that it may focus a little public attention on the severity of the situation and the seriousness of the action taken by the administration, which has received so little response, so little comment. Therefore, I offer this amendment today for that particular purpose.

Mr. RUDMAN. Mr. President, I inquire of my friend, the chairman of the full committee—we have not had a chance to clear this—whether or not there might be an opportunity to obtain a time agreement on this amendment in order to move the bill along. Does the Senator have any views on what might be a reasonable time on this, if it could be cleared?

Mr. HATFIELD. I respond to the chairman of the subcommittee by saying I am in a somewhat difficult situation, in that the major cosponsor on the Democratic side, Mr. MOYNIHAN, is arriving back in the city from New York at 10:45.

I ask the Senator, in order to accommodate him, whether we could have an agreement to vote at a time certain. That would give us a little more flexibility for him to pursue other matters, or if Senators wish to speak on this amendment as they might be able to obtain the floor. Say, a time certain at 11:30.

Mr. RUDMAN. Let me respond to the distinguished chairman of the committee by saying that, No. 1, I hope that at some point during this discussion we might be able to dissuade the distinguished Senator from Oregon and the distinguished Senator from New York from bringing this to a rollcall vote. We would like the opportunity to discuss that. Failing that, we will have a vote.

I wonder if it might not be more efficient, if it is possible procedurally, to protect the rights of the Senator from Oregon, that, since the other principle cosponsor is not in the city, we temporarily lay this amendment aside, with the unanimous-consent agreement that it would immediately be the pending business.

The Senator from Rhode Island has an amendment which will take about 45 minutes to an hour. The Senator from New Hampshire, my senior colleague, has an amendment. We could start through those and have the Hatfield-Moynihan amendment reappear as the pending business at the conclusion.

Mr. HATFIELD. Mr. President, I would acquiesce to the request of the chairman by making this as the pending order of business and that upon the arrival of the cosponsor or others who may wish to speak that they would be given that privilege of raising this back for a few brief remarks.

I say to the chairman I do not know of any extended debate. There is no effort to delay the ultimate decision on this amendment. We want to expedite. I must leave here from this particular point at 12 noon anyway. I want to be here to either cast a vote or to make some ultimate decision on it.

I would say that we could dispose of this at 11:20 a.m. I would say that we do want to vote. I would eliminate that particular contingency. We do want a vote. We would like to be able to have a vote up or down on the amendment if that is possible to work out.

I think under the circumstances of protecting Senator MOYNIHAN and Senator SIMON, and Senator WEICKER, if we could agree to say a vote at 11:30 a.m. or 12 o'clock that would work. I want to give the Senator the flexibility to move ahead with these other amendments because as chairman of the full committee I want to get this bill off the floor.

Mr. RUDMAN. Let me respond to the Senator from Oregon, the chairman of the full committee, by suggesting that it might be more efficient then to do that by simply asking unanimous consent that that amendment be temporarily laid aside and that it be the pending business at the conclusion of the next amendment which I believe will be an amendment offered by the Senator from Rhode Island.

The PRESIDING OFFICER. If this amendment is laid aside the pending business will be the committee amendment.

Mr. HATFIELD. Mr. President. reserving the right to object, I understand it will be the pending business after each succeeding amendment will be offered by individual Senators such as the Senator from Rhode Island and the Senator from New Hampshire. Would that be the understanding?

Mr. RUDMAN. The Senator is correct. It is my understanding that the Senator from Rhode Island has an amendment that is going to take somewhere about 1 hour of time. There is going to be a vote on that amendment.

My unanimous-consent request, if I put it to the Chair, would be that when the Chafee amendment is disposed of the pending committee amendment then be laid aside which would then be the recurring business under the order and that we turn back to the Hatfield-Moynihan amendment.

Mr. HATFIELD. Mr. President, as I understand the schedule more clearly, let me say that if that is the case and the hour is, say, 11:20 a.m. or 11:30 a.m. and then we have a vote which now takes about a half hour, that would preclude any opportunity for me to have a chance to vote on this amendment by having to remove myself at 12 noon in order to catch a plane.

I am not asking the Senate to accommodate to my schedule but I see Senator SIMON here on the floor. He wishes to be heard. I would like to then provide whatever time may be necessary for others to speak on this amendment and continue on this amendment until we dispose of it.

Otherwise, I would be willing to have a vote at a time certain on the amendment which would then bring it down to an actual conclusion.

Mr. RUDMAN. The Senator from New Hampshire, the manager of the bill, is not sure he can offer that assurance because of the nature of the amendment that is pending. I have already had a number of Senators who have contacted me since the amendment was introduced saying that if there is going to be a vote, they may want to have an extended discussion on this because obviously, as the Senator from Oregon recognizes, this is not what would be called around here a noncontroversial amendment.

So I think we better just then proceed as we are proceeding and hopefully get to some resolution.

Mr. HATFIELD. Mr. President, I notice one of my chief cosponsors has arrived on the floor who wishes to be heard, I am sure, on this amendment which is now the pending order of business.

Mr. SIMON. Mr. President, I strongly support the amendment of my colleague from Oregon and my colleague from New York on this.

It just seems to me that the United States ought to be leading in the effort for international law and instead we have the appearance of lead-

ing in the effort in moving in reverse. There is no justification for that.

How did we get to this situation? Well, what happened was we did something in Nicaragua that I do not think any Member of this Senate would defend. It was a clear violation of international law putting those mines in the harbor at Nicaragua. And Nicaragua understandably took the United States to the World Court and we were embarrassed. All of us were embarrassed by it.

The President of the United States I think incorrectly decided we would not be present, we would not acknowledge the jurisdiction of the World Court in this regard.

It was a mistake. It was a bad mistake.

Now we are going to compound that mistake by saying we are going to withdraw from the jurisdiction of the World Court. We clearly should not be doing that.

There are any number of questions that are being raised by this and I would like to put into the RECORD an article that I wrote and let me acknowledge that Steve Smith of my staff was very helpful in this, which appeared in the New York Times and I ask unanimous consent to have that printed in the RECORD.

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

REAGAN'S WORLD-COURT ERROR

(By Paul Simon)

WASHINGTON.—The worst decisions are made in anger. President Reagan's decision to withdraw from the compulsory jurisdiction of the World Court was a lamentable over-reaction to the impending negative ruling in the case of our clearly illegal mining of Nicaragua's harbors. The action may give us some fleeting satisfaction. But in the long term it will damage our foreign policy interests, undermine our legitimacy as a voice for morality and erode the rule of law in international relations.

When Congress ratified President Harry S. Truman's decision to participate in the World Court, it was with the clear intention that we should abide by the Court's compulsory jurisdiction. Since then, every President has strengthened that original commitment. They have done so because the United States has an interest in a political and diplomatic entity that seeks peaceful solutions to international disputes.

When Mr. Reagan withdrew the United States from the compulsory jurisdiction of the Court, he changed a longstanding American commitment—without notice or consultation depriving Congress of the opportunity to hold hearings on the potential implications of the withdrawal and ignoring Congress's institutional concern about such a drastic change in our posture. Nor does the decision bode well for our future effectiveness in other international forums such as the Inter-American Commission on Human Rights.

The Court has not yet ruled in the Nicaragua case, although all 16 judge's including the one from the United States, sided with Nicaragua's complaint on a preliminary issue. But even if one does not believe, as nearly everyone does, that the mining of Nicaraguan harbors was illegal, the United States need not have made a blanket withdrawal. We could have followed the example of Britain, India and other nations that have fashioned carefully crafted exceptions to the Court's jurisdiction.

Has the President stopped to consider the United States' long-term foreign policy interests? We have always conceived of ourselves as a nation more sinned against than sinning, and with much justification. That being the case, it behooves us to support an international forum where we can redress grievances against nations that refuse to abide by the norms that govern civilized states.

The Court's ruling against Iran during the hostage crisis, for example, enabled the United States to muster the global support for economic sanctions that were helpful in securing the release of the hostages. Under the International Court of Justice statute, a state can subject another state to compulsory jurisdiction only if the petitioner is itself subject to compulsory jurisdiction. Thus, if another Khomeini took hostages tomorrow, we would have lost access to an important international remedy. Not only idealism but also realism should lead us to oppose withdrawal.

Only 45 nations out of 157 have consented to abide by compulsory jurisdiction. But casting blame on others to excuse ourselves dodges some fundamental questions. Are we prepared to lead in respecting international rules, or will we join those, such as Soviet bloc nations, that refuse to subject themselves to international law and that too often respect international agreements solely for their own tactical purposes? Will we continue to speak for the rule of law in the world, or contribute to an atmosphere in which international disputes are resolved by violence?

The question of abiding by World Court jurisdiction goes beyond national self-interest to the issue of what kind of country we are and what kind of country we could become. Our adherence to the rule of law, and our belief in the value of truth in the marketplace of ideas, is what distinguishes the United States from totalitarian societies. Our feeling that we are a moral nation may lead us not to want to have our policies questioned by others. But withdrawing from the World Court jurisdiction contradicts the tradition and the values that are the source of our strength.

Mr. SIMON. Mr. President, under article 94, paragraph 1 of the United Nations Charter each member of the United Nations agrees to abide by the decision of the Court in a case in which it is a party.

In the Nicaragua case we withdrew. We were not even represented. The Court by and large, unlike the United Nations, has not been as volatile politically.

I am not suggesting that there have not been political considerations, that there are not weaknesses, there are not problems with the World Court. But the alternative to some kind of rule by law among nations is chaos among nations. And we had the ability to literally destroy the world in a matter of moments. For us to be moving in the wrong direction just does not make sense.

We are violating a treaty obligation, in my opinion, by withdrawing from the Nicaragua case.

All treaties are under the Constitution the supreme law of the land and I think you could argue—I am not saying it is a clear-cut case—that the President's action in withdrawing from the Nicaragua case was unconstitutional.

But, in any event, what we should not be doing is withdrawing from the World Court's jurisdiction.

I am old enough at the age of 56 and some of my colleagues here remember when the World Federalists were a booming group and it looked like we were going to be heading toward some kind of one world government, and then I remember when the Atlantic Union was the then-current phase when the Western European nations and the United States would form some kind of a union.

These things have not happened but the need for some self-restraint by nations continues and the need grows.

For us to simply pull out from the World Court just violates everything that I think we should stand for.

So I hope that we accept the amendment of the Senator from Oregon. I point out the composition of the Court, three judges from Africa, three from Latin America, three from Asia, one from the Middle East, five from the United States, Canada, and Western Europe, and two from Eastern Europe and the U.S.S.R. It is a fair balance.

I did not hear anyone on this floor criticize the World Court 5 years ago when it ruled in our favor in the Iran hostage case, nor in its recent rulings in the Gulf of Maine case.

We have used the Court in the past. We have praised the Court when it has ruled in favor of us. Now that the Court is likely to rule against us in the Nicaragua case, we are like the little boy who took the bat and said, "We want to pull out and move away."

Mr. President, I think it is important that the United States not say: "If we cannot have things our way, we are going to take our bat and ball and walk off the field."

We ought to continue our participation. We ought to continue giving the Court jurisdiction. I urge the adoption of the Hatfield amendment.

Mr. HOLLINGS. Mr. President, while we are trying to arrange——

Mr. SIMON. Will the Senator from South Carolina yield?

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. Has the Senator from Illinois yielded the floor?

Mr. SIMON. Yes.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

ABORTION AMENDMENTS

Mr. METZENBAUM. Mr. President, I rise not to address myself to this amendment, but I came over here and left a hearing that I was conducting in order that I might make this statement on the floor. I do it not in connection with this amendment. I do it in connection with an amendment that has not as yet been offered.

But it is my understanding that there is an amendment about to be offered having to do with the subject that we do not deal with much around here; that is, the subject of abortion; that is, we do not deal with the subject of abortion much unless it happens to be the HHS bill, or the HUD bill or the Defense bill, or the Justice bill, or the foreign relations bill, or whatever. Every time I turn around in this body, I find that there is a new amendment, somebody has a new idea, a new concept about abortion.

Now we have a lot of laws on the books at the moment in connection with abortion and I am not on the floor insisting that they be changed although I think some should be. We have some Supreme Court decisions on the subject of abortion and they have spoken and that is in the courts.

But I am here to say publicly, without rancor, without excitement and certainly with a total lack of enthusiasm that I am prepared to spend as much time as necessary—and some might call that a filibuster—to keep any more new abortion amendments or laws being enacted.

When the whole world is crying for a solution of problems having to do with our economy, having to do with the whole confrontation with the Soviets, having to do so many more important problems, all we have time to do in the United States Senate is to debate the issue of abortion. And if that is what you want to do, then that is what I am going to give you an opportunity to do, whether it is on this bill or any other.

I have had it. No more amendments that go beyond the present law with respect to the subject of abortion. And if you want to offer them, fine with me. But then we ought to be prepared to enlighten the whole Nation as to why we are trying up this bill or some other bill: It is because we have got to add something new, something new on the subject of abortion or else somehow the Nation will not go on and do that which it has to do and Congress would have failed in its responsibilities.

Mr. RUDMAN. Will the Senator yield for a question?

Mr. METZENBAUM. I certainly will.

Mr. RUDMAN. I wish to just ask my friend from Ohio whether he is aware of the fact that there are two abortion-related amendments that are on the proposed list for this bill?

Mr. METZENBAUM. That there are two abortion-related amendments that are contemplated to be added or offered in connection with this bill, is that what the Senator from New Hampshire is saying?

Mr. RUDMAN. Yes.

Mr. METZENBAUM. I am aware of that.

Mr. RUDMAN. And is it my further understanding—I am asking this for the record because the Senator from South Carolina, Senator HOLLINGS, and I are charged with trying to get this bill through. If we are looking at some other scenario, we ought to know in the early—but I believe, if I understand the Senator correctly, what he is saying is this: That on the Legal Services abortion-related amendment and on the prison abortion-related amendment, it is his present intention not to allow votes to come on either of those amendments, is the Senator correct?

Mr. METZENBAUM. Mr. President, one thing about the Senator from New Hampshire is that he fully understands full well the intentions of the Senator from Ohio. He has stated it better than I could state it. That is 100 percent correct.

Mr. RUDMAN. I thank the Senator from Ohio, because we now at least know what stadium we are playing in.

Mr. METZENBAUM. Mr. President, I want to say that the line in the sand has been drawn. We have gone far enough.

Mr. HUMPHREY. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. HUMPHREY. Mr. President, the debate is not germane to the pending business.

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. I would like to add that we would be willing to reserve our debate on abortion until those matters are pending.

Mr. METZENBAUM. Mr. President, I wish to point out that it was my understanding of the rules of the Senate that at this point in the parliamentary procedure there is no requirement that the debate be germane. We are not under any time limitation with respect to germaneness. I wish to inquire, what is the Senate rule that would even cause the Parliamentarian to so indicate. If the Chair is talking about the pastore rule——

The PRESIDING OFFICER. In response to the inquiry of the Senator, I would call attention to the provisions of rule XIX, paragraph (b), which requires that debate be germane during the first 3 hours of the calendar day.

Mr. METZENBAUM. But after 3 hours we can have this debate, is that it?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. How many hours have we been on this bill so far?

The PRESIDING OFFICER. The Senator has had this measure under consideration for 50 minutes.

Mr. METZENBAUM. Since that is the rule, I will accept the rule. But I believe that my message has been adequately conveyed, with or without its germaneness, and, therefore, I yield the floor.

Mr. RUDMAN. Mr. President, what is the pending business before the U.S. Senate at this time?

The PRESIDING OFFICER. The pending business is the amendment No. 865 of the Senator from Oregon. Are you ready for the question?

Mr. RUDMAN. I do not believe we are ready for the question. It is my understanding that that is the pending business, and I understand that my friend from South Carolina is seeking recognition. I yield the floor.

Mr. HOLLINGS. Mr. President, pending the Senator from New York and others who are more erudite in this particular regard, with respect to my colleagues, the Senator from Oregon and the distinguished Senator from Illinois, Senator SIMON, I think this would be a bad, bad kind of initiative or amendment for this body to adopt. I say so advisedly because no one else is on the floor particularly right now to defend President Reagan and the United States Government's position with respect to Nicaragua and the World Court.

I have read, just in a cursory fashion, some of the articles. I think if you really want to understand this problem better, certainly better than I understand it, you should have a sense of the history of the World Court.

My best recollection, from what my study has shown, is the World Court, of course, is not a world court. Let us start at that particular point. It was intended to be a world court. It was intended to have compulsory jurisdiction. It was intended to really govern, but it never reached that particular preeminence. Rather, only 43 of the nation states ever came close to adopting the jurisdiction of the World Court. And with respect to the 43, there were certain caveats or preconditions of adoption, such as the Connolly amendment by the U.S. Government.

So that is No. 1. Let us not sanctify the World Court and jump all about on the floor of the U.S. Senate like we have got something like the U.S. Supreme Court or the court of appeals or the judicial system of the United States or the judicial system of the State of Illinois. We do not have that kind of body.

Yes; as the Senators from Illinois and Oregon are trying to point out, that is a worthy goal. No one is trying

to debunk or deride in any sense the idea of a world court.

But while we do not have that rule of law, which they talked like it is almost a Supreme Court decision. While we do not have that rule of law, we have to live in the real world. If we really had to take this amendment any more seriously—and I do not mean to say they do not take it seriously—but if we in the Senate are anywhere near about adopting such an amendment, then we will put another amendment on to the effect of ceasing the 727, or whatever was the number of that plane, but in any event, we just took over the Mediterranean for those who are worried about the rule of law. We had to seize an Egyptian airliner with those particular terrorists that killed Klinghoffer and terrorized the *Achille Lauro* and all of its passengers. We have all hailed that. If someone wants to put in a resolution and condemn President Reagan and the United States for having done it, let them bring forth that amendment. I happen to support that particular conduct in that living in the real world that we live in we have to act in the security interests of the United States. And we have learned the hard way with respect to terrorism that we must make it absolutely certain it does not pay.

Therefore, if President Mubarak of Egypt wants to come forth and bring another case in the World Court, I would expect the Senator from Illinois and the Senator from Oregon to be running around yelling, "whoopee for the World Court, and whoopee for terrorism." That is what we have going on in Nicaragua. I happen to have met with that fellow Ortega. I went over with Senator ZORINSKY, and Senator STONE and others and met with Ortega. We knew Somoza was a mistake and we wanted to give our friends in Nicaragua a chance for sovereignty. Ortega promised, he had Pastora and all the rest of the particular counselors at the time. He promised freedom of the press, he would quit harassing the Catholic Church; free elections; freedom of speech; all these things. He was just as democratic as I was. That is what he was trying to do. Well, we gave him $75 million, I think an additional $50 million, and none of the promises have come forth.

While we recognize I guess as a government, a conspiracy down in Nicaragua which we lose out on, just like Vietnam. They say it was not really our interest there. It was just a little civil war, and it did not affect any of the other countries. We have yet to find that same group, the best and the brightest who came running forward on Cambodia, and on Laos. When the dominoes did fall, we have not heard from them. They had lockjaw. We had the Genocide Convention people, incidentally the same crowd arguing against dominoes. We have not heard from the group of the best and the brightest; trying to protect the security interests. Yes, Nicaragua is not invading. No one is nonsensical. But I can tell you right now in the Western Hemisphere the security is in issue.

We have already learned from Cuba and Castro that Cuba is none other than a Soviet base. And they can export troops all around into Angola, Yemen, Ethiopia, and all around the world, and use it at will as long as they pay Castro. We have another sort of Castro on our hands. In Nicaragua, yes, we have taken action admittedly by our forces one way or the other, and I am not here to endorse the criticism of those forces wrapped in the garment of the austerity and the jurisdiction of the so-called World Court. This is not a treaty violation or one of those particular things that they talk about that is—I think they call it, with respect to the World Court itself you have to join in, as I understand it, the principle of consent. Without the principle of consent, in conscientious cases is the word, then the jurisdiction of the Court itself does not affix.

We never accepted it on that basis. The majority never accepted that basis. Nicaragua, that is a matter of dispute itself. They are just using the Court to embarrass the United States. While you get well-intentioned lawyers and well-intentioned Senators that want to all get mixed up in their zeal for the ultimate, which I would join in, yes, I would like to have, perhaps, someday a world court. But I am living in the real Court with these international outlaws, like the Soviets supporting its terrorism.

You cannot say a word about the Soviets now. You have to have an agreement. You have to put a happy smile on your face and be as clever as they are. They have a good actor, too. Now both countries have an actor. We can all enjoy Gorbachev and Reagan. It will be the best off-Broadway show that we will all witness for the next several years. We will watch those events. But we should not, in all seriousness, wrap ourselves in the jurisdiction that has not affixed, has not been adhered to, is not a world court and criticism of our Government's particular action desperate as it has been. It has been awfully difficult to get a consensus in the U.S. Congress on Nicaragua. If you want to show how tentative the consensus is, and how emotional it is, it was not until Ortega says, I am going to Russia, that then they all turned around over in the House of Representatives and voted the other way.

You cannot call that mature conduct. But that is the way they act. They act with the headlines and the press of the Washington press. That is the way we live in this day and age. We do not sit back.

I have had an opportunity, just fleetingly you might say, to wonder awhile with the President. This President has been harassed, besieged, and beleaguered every day from the body of the national Congress. Do this, do that, do not agree, agree, do this, be tougher, be softer, meet here, do this, and do that.

I guess if I had become the President, I would have to assign a wonderful artisan like the Senator from New Hampshire who seems to work both sides of the aisle, the conservative and the liberal bent. I would get me a WARREN RUDMAN and I would say, I will give you a staff, I will sit you over there, and watch that crowd every day because communications with them is almost impossible. I have to read it in the headlines every morning. Now they want to put in tomorrow morning's headlines "Reagan Embarrassed By Senate Vote On World Court Jurisdiction." I do not want to stand for that.

Somebody had better come here that knows this subject better, and get up and argue it until the Senator from New York can come and some of the others because I happen to think that President Reagan believes in international order. He believes in law and order. He is not an outlaw. He is not running around trying his dead-level best to disobey law and order. But he is trying to realistically act down a Nicaragua which is awfully tough. We cannot control the Contras. Around here, they act like when you give assistance to somebody, you control them. Heavens no, sir, we have learned that does not occur. But there are those around who think if a dollar goes to any country, we control the Government, the people, the mores, the culture, and the law. Not so.

And with respect to the terrorism that is engaged in there in the Mideast, in the seizure, now our seizure, yes. I guess it was extralegal when we downed the Egyptian airliner on Sicily. But please do not start to set precedent around here and say we like to seize those terrorists, but leave alone those terrorists down there in Nicaragua because I can tell you here and now that is what we have on our hands. I never have divided in my mind the fact that terrorists do not have uniforms. Yes. They do not have uniforms in the Midwest. They have to act according to where they think their security interests are. So it is not necessarily that terrorism is bad and uniformed soldiers in military actions are good. I can understand the conduct sometimes from time to time, but there it is. We live in this particular era. We have to act for the security interests of the United States and the best interests.

I think the President of the United States in this particular regard with

respect to the World Court certainly did not want to embarrass his country. There was no need to. We had not adhered to that jurisdiction. We had an option under the document, if you read it, not to adhere to it. The Senators who propose the amendment say, well, we should have. I disagree very strongly that we should have. I think the President of the United States has taken the proper conduct. This is not an action for necessarily the law review on the campuses of America.

They can argue otherwise as to what it should be, but they have never been elected to anything. They have never had to respond to anything.

I am glad to see the majority leader here trying to help us so, hopefully, we can kill this amendment.

Mr. RUDMAN. Mr. President, we were hoping to move along with some alacrity on this bill. With all due respect to airplanes, trains, fog, and whatever, this place is getting to run like Amtrak—never on time.

Mr. HOLLINGS. And broke.

Mr. RUDMAN. And broke. My friend from South Carolina is correct. Never on time and broke.

I want to say that I am about to get to the point where, unless people want to talk about this—too many people have worked too long and too hard on this bill than to just sit around and wait—I am going to move to have a vote on this and let the Senate express its will.

I am going to talk for a few minutes, and if we do not have action on this bill, then it will be time to vote.

I ask unanimous consent to have printed in the RECORD a letter dated October 23, signed by William Ball III, Assistant Secretary, Legislative and Intergovernmental Affairs, Department of State.

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

U.S. DEPARTMENT OF STATE,
Washington, DC, October 23, 1985.

Hon. WARREN RUDMAN,
U.S. Senate.

DEAR SENATOR RUDMAN: It has come to my attention that an amendment may be introduced to H.R. 2965 which would have the effect of withholding our contributions to international organizations.

The amendment would prohibit the payment by the United States of its assessed contributions to international organizations of which it is a member, so long as the United States does not accept the compulsory jurisdiction of the International Court of Justice under Article 36(2) of the Court's Statute.

The Department of State opposes this amendment and would recommend the bill be vetoed if the amendment is included. The United States is obliged to pay its proportionate share of the regular budgets of organizations to which it belongs. Failure to pay such contributions would violate our legal obligations and could result in loss of our vote or exclusion from participation in the organization.

By contrast, the President's action in terminating our acceptance of compulsory jurisdiction, effective six months from October 7, is entirely consistent with international law, the terms of the U.S. acceptance itself, and his constitutional powers in respect of the conduct of foreign affairs.

The consequence of this amendment would be that the United States would be compelled to violate its international legal obligations as the price for having taken a completely legal step with respect to the Court.

This amendment would not reverse the President's action. It can only call into question our commitment to our legal obligations to the organizations that would be affected, and penalize those organizations financially for reasons entirely unrelated to them.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report and that enactment of this amendment would not be in accord with the program of the President.

With best wishes,

Sincerely,

WILLIAM L. BALL III,
Assistant Secretary,
Legislative and Intergovernmental Affairs.

Mr. RUDMAN. I want to briefly refer to one of the things that this letter says, and quite correctly. It is that this amendment, of course, would not really do anything constructive. What it essentially will do is to put the United States in default of its obligations to support a number of international organizations, international organizations, I believe, that the very sponsors of this amendment support, and probably support more than the managers of this bill. The result will not be in any way to compel the President to do anything he does not want to. It will simply compel the Treasurer of the United States not to send checks to some people he ought to send checks to.

I do not think it is an amendment that is really offered by the sponsors with any great thoughts that it will accomplish what they wish to accomplish. It is a symbolic act.

With all due respect, I agree with my friend from South Carolina. The President of the United States will meet with the head of the Soviet Union in about 3 weeks, and with the situation in Nicaragua where they deny all rights to their citizens, it seems to this Senator that this is the wrong time and the wrong place for this amendment.

Mr. President, I do not see anyone here willing to speak on this.

I would say to my friend from Illinois I do not want to vote to table this amendment offered by the chairman of the full committee. I think it deserves an up or down vote. Frankly, I do not think we ought to wait much longer before we vote on it. We were hoping to have this bill finished by 12 o'clock.

Mr. INOUYE. Will the Senator yield for a question?

Mr. RUDMAN. Yes.

Mr. INOUYE. Does this proposal cover the international programs in the jurisdiction of the Foreign Operations Subcommittee?

Mr. RUDMAN. No. The Senator from Hawaii is the ranking member of that subcommittee.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I hope we can have a vote on this. We are going to try to complete work around here sometime this year. We cannot do that if we are going to be frustrated every time somebody is on an airplane or train and will not be back until 2 or 3 o'clock in the afternoon. I would hope we would start voting. Everyone has been on notice that this bill would come up at 9 o'clock this morning. We are here to vote. We are not here to stall or protect somebody. We are going to have votes of one kind or another this morning. We might as well be voting on the amendment.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I would like to respond briefly to my friend from South Carolina.

I do not pretend to be an expert. Our friend from New York, a cosponsor, Senator MOYNIHAN, knows a lot more about this than probably any Member of this body.

Despite the eloquence of my good friend from South Carolina, as eloquent as any Member of this body, the issue is not what kind of government is in Nicaragua. I am not in love with the Sandinistas any more than the Senator from South Carolina. They are not Boy Scouts.

The question is whether the United States, for the first time since the Court began, is going to say, "We are not going to permit any jurisdiction."

Every President, every Congress, Republican and Democratic, has accepted the jurisdiction of the Court. All of a sudden, because we got caught with our hands in the cookie jar, so to speak, which we should not have done, we are going to say we are going to pull out of the Court.

The Senator from South Carolina is correct in saying that this is not the same court as the Supreme Court or the court of appeals because there are no enforcement mechanisms. It is a voluntary thing. But should we be withdrawing from a voluntary court of law that this world has? Should we be leaning toward rule by law or moving in the other direction?

I think, clearly, we ought to be moving toward a world where we abide by laws, where there is self-restraint.

It is interesting that the Senator from South Carolina just used the word "boatjacking," I guess it is the most recent word used now, of this Italian liner. It is interesting because I think what we did was fully justified. I

join with the Senator from South Carolina in applauding the President's actions there.

What happened was a violation of internationally recognized law called piracy. Those four PLO people violated that international law.

We have come to an agreement that is international law, that there are certain things you do not do without having something happen. We frankly need more of that.

Concerning the question asked by the Senator from New Hampshire, what does the amendment do, he is absolutely correct. I want to support those international organizations. Senator HATFIELD wants to support those international organizations. Senator MOYNIHAN does.

But what we want to do is to send a message to the administration just pulling off and pulling out of the World Court is not the direction this Nation ought to go. It is a very simple message.

If you believe that we ought to be among the nations who voluntarily go along with the World Court, we ought to adopt the Hatfield amendment.

If you believe that we ought to just pull out and have chaos and no self-restraint on the part of nations, then let us defeat the amendment.

I think the Hatfield amendment makes good sense and I hope it will be adopted.

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.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to include an article from the New York Times dated January 19 on the withdrawal from the case before the World Court by our Department of State, where they point out much more clearly and positively with respect to the jurisdiction of the World Court.

Of course, where armed conflict is involved, the Court has no jurisdiction.

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

[From the New York Times, Jan. 19, 1985]

TEXT OF U.S. STATEMENT ON WITHDRAWAL FROM CASE BEFORE THE WORLD COURT

WASHINGTON, Jan. 18.—Following is the text of a statement made public today by the State Department and called "U.S. Withdrawal From the Proceedings Initiated by Nicaragua in the International Court of Justice":

The United States has consistently taken the position that the proceedings initiated by Nicaragua in the International Court of Justice are a misuse of the Court for political purposes and that the Court lacks jurisdiction and competence over such a case. The Court's decision of Nov. 26, 1984, finding that it has jurisdiction, is contrary to law and fact. With great reluctance, the United States has decided not to participate in further proceedings in this case.

U.S. POLICY IN CENTRAL AMERICA

United States policy in Central America has been to promote democracy, reform and freedom; to support economic development; to help provide a security shield against those—like Nicaragua, Cuba and the U.S.S.R.—who seek to spread tyranny by force, and to support dialog and negotiation both within and among the countries of the region. In providing a security shield, we have acted in the exercise of the inherent right of collective self-defense, enshrined in the United Nations Charter and the Rio Treaty. We have done so in defense of the vital national security interests of the United States and in support of the peace and security of the hemisphere.

Nicaragua's efforts to portray the conflict in Central America as a bilateral issue between itself and the United States cannot hide the obvious fact that the scope of the problem is far broader. In the security dimension, it involves a wide range of issues: Nicaragua's huge buildup of Soviet arms and Cuban advisers, its cross-border attacks and promotion of insurgency within various nations of the region, and the activities of indigenous opposition groups within Nicaragua. It is also clear that any effort to stop the fighting in the region would be fruitless unless it were part of a comprehensive approach to political settlement, regional security, economic reform and development, and the spread of democracy and human rights.

ROLE OF THE INTERNATIONAL COURT OF JUSTICE

The conflict in Central America, therefore, is not a narrow legal dispute; it is an inherently political problem that is not appropriate for judicial resolution. The conflict will be solved only by political and diplomatic means—not through a judicial tribunal. The International Court of Justice was never intended to resolve issues of collective security and self-defense and is patently unsuited for such a role. Unlike domestic courts, the World Court has jurisdiction only to the extent that nation-states have consented to it. When the United States accepted the Court's compulsory jurisdiction in 1946, it certainly never conceived of such a role for the Court in such controversies. Nicaragua's suit against the United States—which includes an absurd demand for hundreds of millions of dollars in reparation—is a blatant misuse of the Court for political and propaganda purposes.

As one of the foremost supporters of the International Court of Justice, the United States is one of only 44 of 159 member states of the United Nations that have accepted the Court's compulsory jurisdiction at all. Furthermore, the vast majority of these 44 states have attached to their acceptance reservations that substantially limits its scope. Along with the United Kingdom, the United States is one of only two permanent members of the U.N. Security Council that have accepted that jurisdiction. And of the 16 judges now claiming to sit in judgment on the United States in this case, 11 are from countries that do not accept the Court's compulsory jurisdiction.

Few if any other countries in the world would have appeared at all in a case such as this which they considered to be improperly brought. Nevertheless, out of its traditional respect for the rule of law, the United States has participated fully in the Court's proceedings thus far, to present its view that the Court does not have jurisdiction or competence in this case.

THE DECISION OF NOVEMBER 26

On Nov. 26, 1984, the Court decided—in spite of the overwhelming evidence before it—that it does have jurisdiction over Nicaragua's claims and that it will proceed to a full hearing on the merits of these claims.

This decision is erroneous as a matter of law and is based on a misreading and distortion of the evidence and precedent:

The Court chose to ignore the irrefutable evidence that Nicaragua itself never accepted the Court's compulsory jurisdiction. Allowing Nicaragua to sue where it could not be sued was a violation of the Court's basic principle of reciprocity, which necessarily underlies our own consent to the Court's compulsory jurisdiction. On this pivotal issue in the Nov. 26 decision—decided by a vote of 11-5—dissenting judges called the Court's judgment "untenable" and "astonishing" and described the U.S. position as "beyond doubt." We agree.

El Salvador sought to participate in the suit to argue that the Court was not the appropriate forum to address the Central Amercian conflict. El Salvador declared that it was under armed attack by Nicaragua and, in exercise of its inherent right of self-defense, had requested assistance from the United States. The Court rejected El Salvador's application summarily—without giving reasons and without even granting El Salvador a right and in disregard of the Court's own rules.

The Court's decision is a marked departure from its past, cautious approach to jurisdictional questions. The haste with which the Court proceeded to a judgment on these issues—noted in several of the separate and dissenting opinions—only adds to the impression that the Court is determined to find in favor of Nicaragua in this case.

For these reasons, we are forced to conclude that our continued participation in this case could not be justified.

In addition, much of the evidence that would establish Nicaragua's aggression against its neighbors is of a highly sensitive intelligence character. We will not risk U.S. national security by presenting such sensitive material in public or before a Court that includes two judges from Warsaw Pact nations. This problem only confirms the reality that such issues are not suited for the International Court of Justice.

LONGER TERM IMPLICATIONS OF THE COURT'S DECISION

The Court's decision raises a basic issue of sovereignty. The right of a state to defend itself or to participate in collective self-defense against aggression is an inherent sovereign right that cannot be compromised by an inappropriate proceeding before the World Court.

We are profoundly concerned also about the long-term implications for the Court itself. The decision of Nov. 26 represents an overreaching of the Court's limits, a departure from its tradition of judicial restraint and a risky venture into treacherous political waters. We have seen in the United Nations, in the last decade or more, how international organizations have become more and more politicized against the interests of the Western democracies. It would be a tragedy if these trends were to infect the International Court of Justice. We hope this will not happen, because a politicized Court would mean the end of the Court as a serious, respected institution. Such a result would do grievous harm to the goal of the rule of law.

These implications compel us to clarify our 1946 acceptance of the Court's compulsory jurisdiction. Important premises on which our initial acceptance was based now appear to be in doubt in this type of case. We are therefore taking steps to clarify our acceptance of the Court's compulsory jurisdiction in order to make explicit what we have understood from the beginning, namely that cases of this nature are not proper for adjudication by the Court.

We will continue to support the International Court of Justice where it acts within its competence—as, for example, where specific disputes are brought before it by special agreement of the parties. One such example is the recent case between the United States and Canada before a special five-member Chamber of the Court to delimit the maritime boundary in the Gulf of Maine area. Nonetheless, because of our commitment to the rule of law, we must declare our firm conviction that the course on which the Court may now be embarked could do enormous harm to it as an institution and to the cause of international law.

Mr. RUDMAN. Mr. President, I think we have given everyone the opportunity to speak who wants to speak. If there are no other Members seeking recognition and since the yeas and nays have been ordered, I would hope we could get to a vote fairly soon.

Mr. SIMON. Will the Senator yield?

Mr. RUDMAN. I am happy to yield.

Mr. SIMON. I understand fully what you are saying and what the majority leader is saying. I know Senator MOYNIHAN, whose plane is within 10 minutes of landing, wants to speak on this. If there is further business before this body that can be accomplished, I have no objection to moving ahead, but I would like to show that courtesy to our colleague.

Mr. RUDMAN. I will not say anything in response to that other than the fact that, looking at the weather outside, I daresay that a plane due at Washington at 11 o'clock this morning might get here the day before Thanksgiving.

I yield the floor.

CALL OF THE ROLL

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. RUDMAN. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

The legislative clerk resumed the call of the roll and the following Senators entered and answered to their names.

[Quorum No. 19 Leg.]

Armstrong	Hatch	Rudman
Byrd	Heflin	Simon
D'Amato	Hollings	Simpson
Dole	Inouye	Thurmond
Grassley	Leahy	

The PRESIDING OFFICER (Mr. D'AMATO). A quorum is not present. The clerk will call the names of the absentees.

The legislative clerk resumed the call of the roll.

Mr. DOLE. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alabama [Mr. DENTON], the Senator from Washington [Mr. EVANS], the Senator from Maryland [Mr. MATHIAS], the Senator from Indiana [Mr. QUAYLE] and the Senator from Alaska [Mr. STEVENS are necessarily absent.]

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Colorado [Mr. HART], the Senator from Montana [Mr. MELCHER] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from New Jersey [Mr. BRADLEY] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 4, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—89

Abdnor	Gorton	Metzenbaum
Andrews	Gramm	Mitchell
Armstrong	Grassley	Moynihan
Baucus	Harkin	Murkowski
Bentsen	Hatch	Nickles
Biden	Hatfield	Nunn
Bingaman	Hawkins	Packwood
Boren	Hecht	Pell
Bumpers	Heflin	Pressler
Burdick	Heinz	Proxmire
Byrd	Helms	Pryor
Chafee	Hollings	Riegle
Chiles	Humphrey	Rockefeller
Cochran	Inouye	Roth
Cranston	Johnston	Rudman
D'Amato	Kassebaum	Sarbanes
Danforth	Kasten	Sasser
DeConcini	Kennedy	Simon
Dixon	Kerry	Simpson
Dole	Lautenberg	Specter
Domenici	Laxalt	Stafford
Durenberger	Leahy	Symms
Eagleton	Levin	Thurmond
East	Long	Trible
Exon	Lugar	Warner
Ford	Matsunaga	Wilson
Garn	Mattingly	Zorinsky
Glenn	McClure	
Gore	McConnell	

NAYS—4

Cohen	Wallop
Goldwater	Weicker

NOT VOTING—11

Boschwitz	Evans	Quayle
Bradley	Hart	Stennis
Denton	Mathias	Stevens
Dodd	Melcher	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1986

The Senate continued with the consideration of the bill.

AMENDMENT NO. 865

Mr. DOLE. Mr. President, the distinguished Senator from New York wanted 2 minutes yielded to him, which I now yield.

Mr. MOYNIHAN. I thank the distinguished majority leader.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, today, October 24, marks the 40th anniversary of the entry into force of the "Charter of the United Nations and Statute of the International Court of Justice." Even as we speak, the President of the United States is in New York City addressing the U.N. General Assembly on this occasion—an illustration, if you will, of how important Ronald Reagan considers that forum to be, the only place in the world where an American President can speak at one time to leaders and representatives of 159 nations.

Today is therefore an opportune time to recall the founding of that international body, and no less the high hopes that accompanied its first months and years.

The documents were drafted in San Francisco, and signed there on June 26, 1945. But, as agreed in article 110, they did not take effect until deposit of ratifications by the five permanent members of the Security Council and "a majority of the other signatory states."

Although the United States was not the first to ratify the Charter—El Salvador, Nicaragua, and New Zealand preceeded us—the United States was the first to deposit its ratification, on August 8, 1945. No doubt it helped that the United States was the repository of the instruments. On October 24, the fifth of the five permanent members—the U.S.S.R.—deposited its ratification with the Secretary of State and the Charter came into force.

The Statute of the International Court of Justice came into force at the same time; to join the United Nations was to join the World Court. The U.N.

Charter says as much. Article 92 states:

The Permanent Court of International Justice . . . forms an integral part of the present Charter.

Article 93 says:

All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.

In the summer of 1946, the United States again led the way, becoming one of the very first members of the United Nations to declare that it would also accept the compulsory jurisdiction of the ICJ, and optional higher level of commitment to the rule of law in world affairs not automatically incurred with membership in the United Nations system.

On August 2, 1946, by near unanimous vote [60-2], the Senate gave its advice and consent to the acceptance by the United States of the compulsory jurisdiction "in all legal disputes" of the International Court of Justice, "in relation to any other state accepting the same obligation."

President Truman promulgated this declaration of August 14, and it was deposited with the Secretary General of the United Nations on August 26, 1946.

In moving the measure, Senator Wiley, for the Committee on Foreign Relations, noted that the aceptance of compulsory jurisdiction was "for a period of 5 years and thereafter until 6 months following notice of termination." He continued:

The provision for 6 months' notice of termination after the 5-year perod has the effect of a renunciation of any intention to withdraw our obligation in the face of a threatened law suit.

Yet, in April 1984, the present administration, anticipating a suit by Nicaragua, announced it would not accept the Court's authority in disputes involving Central America for 2 years. This was a clear violation of the letter and spirit of our original declaration. I so stated at the time.

I would have much preferred that the United States welcome the opportunity to meet Nicaragua in Court, and file our own counterclaims against what I regarded as egregious and persistent violations of international law by that nation, most especially in its interference with neighboring El Salvador.

For 3 years running, in my capacity as the vice chairman of the Senate Select Committee on Intelligence, I had brought intelligence authorization bills to the floor of the Senate, stating that American activity in Central America arose because of violations by Nicaragua. I said at the time that we would have a very great deal indeed to talk about in Court, especially if joined by El Salvador. But our Government decided not to participate in any further proceedings of the Court with respect to Nicaragua's suit, leaving the public record at The Hague to be constructed entirely by Nicaraguan representatives.

It was a further disappointment, therefore, though not a surprise, to learn 3 weeks ago that the administration had decided more formally to more thoroughly renounce the American acceptance of the compulsory jurisdication of the Court. While that announcement, on October 7, rendered moot some of the evasions of 18 months ago, I believe it is nevertheless a mistaken course of action.

Accordingly, I joined the distinguished chairman of the Appropriations Committee, Mr. HATFIELD, in sponsoring a concurrent resolution, Senate Concurrent Resolution 77, deploring that decision and reaffirming instead "support for the international rule of law."

It was our hope that the administation might at least choose to come to the Congress and discuss this. That remains our hope, although, speaking now for myself, I admit that the expectation that it be fulfilled is waning. I would say that, in the spirit of concern for law and respect for American commitments, the administration might request hearings by the Foreign Relations Committee in which we can consider where to go from here.

Not 40 years ago, it was the near-unanimous judgment of the Senate, of the American bar, and, as Senator Wiley stated, unanimously that of the witnesses that came before his committee—including, most particularly, of the American Bar Association and the American Society of International Law—that the United States should accept the compulsory jurisdiction of the Court via-a-vis any other national that did so.

We expected most would. We were wrong. This fact controls our present action, but need not preclude further initiative. We can still go to the world community and state that, if the perhaps-ideal world of law we envisioned in 1945 has not come to pass, is it not even so possible to salvage something of this great ideal of American statecraft? Such is to be found in the Constitution itself where Congress is specifically given power to define and punish "offenses against the law of nations."

In offering the pending amendment, Senator HATFIELD, Senator SIMON, and others who have joined as cosponsors, are stating in as emphatic terms as we know, our belief that the administration has made a mistake in abandoning the International Court of Justice.

It is especially sad that we should be obliged to consider this amendment on this the 40th anniversary of the entry into force of the United Nations—and the ICJ. I hope the President will be struck by the irony of this vote taking place on the day he is addressing the General Assembly of the United Nations, and will reconsider whether such forums, including the judicial forum provided by the International Court of Justice, might be worth preserving and strengthening.

I move the adoption of the amendment.

Mr. CHAFEE. Mr. President, I find that I must vote against this amendment with exception. The amendment we now consider would prohibit the payment by the United States of its assessed contributions to international organizations of which it is a member, as long as the United States does not accept the compulsory jurisdiction of the International Court of Justice under article 36(2) of the Court's statute.

On October 7, the President announced that the United States will no longer accept the notion of "compulsory jurisdiction" of member states to the International Court of Justice—the Court that the United States helped to found over 40 years ago.

The administration's action comes as the World Court is considering a case against the United States brought by Nicaragua. The Sandinista government charges that the United States illegally mined Nicaraguan harbors and is unlawfully directing the counterrevolutionary insurgency of the Contras.

By refusing to accept compulsory jursidiction, we have taken the position that we will use the Court only when it serves the interests of American Foreign Policy. Prof. Alfred Rubin, professor of international law at the Fletcher School of Law and Diplomacy says,

By pulling out in this manner we apply to the world the same standard as Soviet Union. We are accepting their model of the world.

The United States accepted compulsory jurisdiction in 1946. In the history of the Court, it has never decided against the United States. In fact, it was the decision of the Court that laid the basis for our claims against Iran, after the hostage incident. To withdraw from the Court as this time would serve little useful purpose for it is a viable international forum.

However, while I am troubled at the announcement of our position with respect to the Court, I believe this amendment goes too far. It calls for us to stop our payments to many international organizations that truly serve humanity, including the World Health Organization, the Food and Agriculture Organization, the International Civil Aviation Organization, the World Meteorological Organization, the Atomic Energy Agency, the International Telecommunications Union, the International Labour Organization, and the Organization of American States.

Beyond these organizations, the amendment would have severe repercussions on our own security: Our assessed contribution of $20 million that pays for our participation in NATO would also be prohibited.

Mr. President, while I am a supporter of the International Court of Justice, I find myself voting against this amendment. The basic reason is that it goes too far in pursuit of a worthy goal.

Mr. MITCHELL. Mr. President, I find myself facing the situation in which I must vote against a proposal whose purpose I endorse. I do so reluctantly, but I believe to do otherwise would be equally mistaken.

The amendment before us consists of two parts:

First, it requires the United States to accept the jurisdiction of the World Court in the current pending case brought by Nicaragua.

Second, it cuts off U.S. contributions to the United Nations and its agencies unless the administration reverses its current stance on World Court jurisdiction.

Now I understand that the premise of this amendment is that the administration is not going to use this opportunity to pull out of the United Nations. We are all aware that despite its rhetorical excesses, this administration has found and continues to find the United Nations a useful forum for a broad variety of foreign policy initiatives.

But the fact that the administration is disingenuous in using the United Nations while at the same time denouncing the United Nations is no reason for the Senate to adopt a similar stance.

I support the World Court. I believe our Nation was right in accepting the Court's jurisdiction 40 years ago. and I believe the administration was wrong in withdrawing the United States from that recognition this month.

Despite its many failings, I recognize that the United Nations does valuable work through its independent agencies and serves as a useful forum for international exchanges. So I do not wish to see our Nation lose its vote in the body.

For these reasons, I will vote against the pending amendment.

Mr. SPECTER. Mr. President, I am voting against the Hatfield amendment because I am opposed to freezing or cutting off funds for the international organizations as provided by that amendment. The position of the United States on the issue of submitting to the jurisdiction of the World Court is one which should be fully considered by the U.S. Senate. In my judgment, that cannot be accomplished in a hurried setting on an abbreviated debate on the Hatfield amendment on this appropriations bill.

The issue should be framed by appropriate legislation or an appropriate resolution with hearings by the Foreign Relations Committee so that the executive branch and all others may present their views. At this juncture since it is highly unlikely that the action of the Senate will alter the United States' position on the issue of submitting to the jurisdiction of the World Court, it is preferable to await the conclusion of the proceedings before the World Court before the U.S. Senate or the full Congress expresses a position so that we may do so after all of the facts are before us.

This issue cannot be dealt with adequately in this context at this time, and I therefore oppose the curtailment of funding as provided by the Hatfield amendment.

Mr. MATHIAS. Mr. President, the United States, as a great power, has a particular interest in the establishment and maintenance of the rule of law among nations.

We bear the responsibility for peace and stability in the world, but neither we nor any other nation has the power to preserve order by police action at all times and in every corner of the globe.

It is only through universal respect for the institutions and the principles that help to keep the peace that the United States can hope to do what it promised to do when it sponsored and supported the establishment of the World Court on October 24, 1945, exactly 40 years ago today.

Our country, which rightly prides itself on being the most vital democratic nation on Earth—a nation governed by the rule of law and the freely expressed views of its people—cannot turn its back on the leading international body dedicated to advancement of the rule of law.

Mrs. HAWKINS. Mr. President, I have serious objections to the proposition behind the Hatfield amendment that somehow the World Court is some great, objective, legal body that is paving the way for the millennium. Several weeks ago former U.S. Ambassador to the United Nations, Jeane J. Kirkpatrick, wrote a column which appeared in the Washington Post concerning the realities of the World Court. I commend that article to my colleagues and ask unanimous consent that it appear in the RECORD.

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

[From the Washington Post, Sept. 30, 1985]

NICARAGUA'S U.S. LAWYERS

(By Jeane J. Kirkpatrick)

At the Hague, Nicaragua's case against the United States' government continues to display some unusual characteristics.

It is the first time—old hands say—that lawyers and witnesses have opposed their own country in the World Court. The court, after all, deals with issues between governments, not persons. Heretofore, governments have relied on their own nationals to represent them and citizens have supported their governments. Now, Managua is accusing the United States of major violation of international law for organizing, funding and directing the anti-Sandinista forces (the contras), and for mining Nicaragua's ports.

To press its case against the United States government inside the International Court of Justice, the government of Nicaragua has retained an international team headed by Americans and has called American witnesses to support its case. This development is the more interesting because of the issues involved and because one of the Americans representing Nicaragua is Abram Chayes, a Harvard law professor who served as top legal adviser to the State Department during the Kennedy administration, and one of the American witnesses, David MacMichael, held a top-secret clearance as a contract employee of the CIA as recently as 1983. The other American witness is Michael J. Glennon, a professor of law at the University of Cincinnati.

The United States is refusing to participate in the proceedings on grounds that the issue before the court is not a narrow or technical legal question but U.S. policy toward Central America and more specifically toward Nicaragua. Such political questions are not deemed justiciable by United States courts and have heretofore not been seen as falling within the jurisdiction of the World Court. The issue, U.S. attorneys insisted, "is an inherently political problem that is not appropriate for judicial resolution." This gives the unprecedented role of the American lawyers and witnesses on the Nicaraguan team an additional political dimension. What are they doing there?

Prof. Glennon claims that he is "acting in the highest tradition of the American people" and that he had "a responsibility to make available relevant information in his possession." However, he does not explain how he acquired the responsibility or to whom it is owed.

It is possible that the attorneys believe that representing Nicaragua before the World Court is no different from representing an accused criminal before an American court. But it seems unlikely given the broadly political character of the issues involved.

It is also possible that the Americans' involvement on Nicaragua's team is simply one more affirmation of the American faith that political problems between nations can be settled by supranational judicial means. However, this too is unlikely.

Real naiveté is required to believe that the International Court is today a nonpolitical body. Its judges loosely "represent" the world's various political and regional groups. They are nominated by the U.N. Security Council and are elected by one of the world's most political bodies, the General Assembly of the United Nations. Fewer than one-third of the nations of the world accept the court's jurisdiction. Almost all of that one-third have filed reservations limiting jurisdiction. On non-technical questions, the court's views broadly reflect the politics of the General Assembly.

But if Chayes and his colleagues do not believe that the World Court can be counted on to function nonpolitically, what then are they doing?

I believe that they along with the Nicaraguan government are seeking to change U.S. policy and that they regard their appearance before the court as a legitimate act to that end. Chayes said as much when he

noted that U.S. policy toward the Sandinistas is "under continuous discussion" and that an "authoritative statement" by the court could affect the debate (The Washington Post, Sept. 8, 1985). What should the rest of us think of this form of political action?

We regard it as legitimate for Americans to represent a foreign government's interests in Washington, provided that they register as agents and otherwise obey our laws. But the Washington lobbyist for a foreign government seeks to influence American policy directly as it is being made, while counsel and witnesses for Nicaragua cooperate with a foreign government to undermine the legitimacy of existing U.S. government policies. They do this in the name of "higher" loyalties that presumably override a citizen's obligation to support decisions made through normal democratic processes. Glennon invokes these "highest tradition of the American people."

Does such a tradition exist?

We may be in the process of forging one. Traditionally, citizens of a democracy have a right to participate in making policy and an obligation to accept the resulting decision. Acceptable political behavior in a democracy has not featured collaboration with foreign powers in the policy process. However, the boundaries of acceptable political action and of dissent were stretched during the Vietnam's war by those who marched under the Viet Cong flag and worked on North Vietnam's behalf. Boundaries are being stretched again in the Hague. And elsewhere.

More and more actual and potential adversaries are invited into our political process—Hezbollah hijackers, Sandinista ministers. Soviet spokesmen whomever. We have put our foot firmly down on a slippery slope where distinctions between one's country and its adversaries, citizen and alien, loyalty and disloyalty fade and disappear. And any side is made to seem roughly equivalent to any other. It is all relative.

Or is it?

In the effort now under way at the Hague, the government of Nicaragua seeks to deprive the United States of control over important aspects of its foreign policy. It is curious that such a course would appeal to Americans.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment proposed by my distinguished colleagues, Senator HATFIELD and Senator MOYNIHAN.

In 1946, the United States accepted the compulsory jurisdiction of the International Court of Justice. At that time, it was contemplated that most nations would do the same. However, fewer than one-third of the world's nations have accepted the compulsory jurisdiction of the court. The Soviet Union and its allies are among those nations which have never accepted compulsory jurisdiction.

The statute of the International Court of Justice specifically allows each nation to determine its relationship to the court. Furthermore, the statute expressly refers to the right of a nation to condition its acceptance of compulsory jurisdiction on the basis of reciprocity.

For too long, such reciprocity by the vast majority of nations has been lacking in the International Court. Nations, like the United States, which have accepted compulsory jurisdiction must defend the claims of others. However, our Nation cannot force other nations before the court to defend our claims against them.

I support the recent decision of the President regarding the jurisdiction of the International Court of Justice. That decision does not reduce our devotion to international law and the peaceful resolution of disputes. The use of the International Court of Justice for these laudable purposes should be continued. However, it is a matter of elemental fairness that if other nations have the opportunity of consensual jurisdiction, so should the United States.

The logic behind the President's decision does not deserve the sanctions which the authors of this amendment seek to impose. Therefore, I request that my colleagues join me in opposing this amendment.

Mr. DOLE. Mr. President, I understand the yeas and nays have been ordered on the amendment.

The PRESIDING OFFICER. Yes, they have.

Mr. DOMENICI. The question is on the amendment.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment of the Senator from Oregon.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. LAUTENBERG] is necessarily absent.

I further announce that the Senator from New Jersey [Mr. BRADLEY] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 21, nays 74, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—21

Andrews	Harkin	Metzenbaum
Baucus	Hatfield	Moynihan
Burdick	Kennedy	Proxmire
Cranston	Kerry	Sarbanes
Dodd	Leahy	Simon
Goldwater	Mathias	Stennis
Gore	Matsunaga	Weicker

NAYS—74

Abdnor	Chafee	Dole
Armstrong	Chiles	Domenici
Bentsen	Cochran	Durenberger
Biden	Cohen	Eagleton
Bingaman	D'Amato	East
Boren	Danforth	Evans
Boschwitz	DeConcini	Exon
Bumpers	Denton	Ford
Byrd	Dixon	Garn
Glenn	Kasten	Riegle
Gorton	Laxalt	Rockefeller
Gramm	Levin	Roth
Grassley	Long	Rudman
Hart	Lugar	Sasser
Hatch	Mattingly	Simpson
Hawkins	McConnell	Specter
Hecht	Melcher	Stafford
Heflin	Mitchell	Stevens
Heinz	Nickles	Thurmond
Helms	Nunn	Trible
Hollings	Packwood	Wallop
Humphrey	Pell	Warner
Inouye	Pressler	Wilson
Johnston	Pryor	Zorinsky
Kassebaum	Quayle	

NOT VOTING—5

Bradley	McClure	Symms
Lautenberg	Murkowski	

So the amendment (No. 865) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the pending committee amendment be laid aside temporarily for the purpose of considering amendments which are going to be agreed to.

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

Mr. RUDMAN. Mr. President, we have 6 minutes remaining and there are amendments that the committee has agreed to on both sides: One amendment by Senator WILSON, one by Senator HEFLIN, one by Senator CHILES, one by Senator PRESSLER, and one by Senator LUGAR. I have one amendment to offer on behalf of Senator DOMENICI.

If any of those Senators are present, I would like them to seek recognition now.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 866

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 866.

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

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

The amendment is as follows:

On page 35, line 7 strike "$6,839,000" and insert in lieu thereof "$6,039,000"; on page 35, line 25 strike "$10,340,000" and insert in lieu thereof "$11,340,000"; on page 36, restore the matter stricken on line 10 through line 15, amended to change the appropriation on line 11 to "$1,200,000"; and on page

37, line 22 strike "$10,000,000" and insert in lieu thereof "$9,800,000"

Mr. WILSON. Mr. President, the amendment that I am offering today reimburses the city of San Diego for sewage treatment services it provides the Republic of Mexico under a treaty obligation of the United States. It is important to note that the chairman and I have worked to see that this amendment is revenue neutral.

Under the terms of a 20-year-old international agreement, the city of San Diego treats between 13 and 15 million gallons of Tijuana sewage daily. As a result, local ratepayers have been burdened with up to a $1.8 million annual cost for treating sewage from Mexico.

Mr. President, last year, the International Boundary and Water Commission budget included $1.8 million to reimburse San Diego for treating Mexican sewage. At the request of the IBWC, because of their efforts to negotiate with Mexico to secure funds to pay for San Diego treatment, a similar request was not made in the Senate this year. Despite these negotiations, the IBWC has been unable to secure a financial commitment from Mexico. Therefore, I am offering this amendment to reimburse San Diego for services it provides to a foreign country under a treaty obligation of the United States.

There has been significant progress on the Tijuana sewage situation in the last year. It is my hope that this will be the last time that a full appropriation for reimbursement will be required because Mexico is in the process of upgrading and improving Tijuana's sewage situation. The first phase of this project includes a 50-million-gallon-per-day treatment plant that will eliminate the need for daily San Diego treatment of Tijuana sewage. The project is on schedule and should be completed by the end of 1986.

Finally, I want to thank the committee for its assistance with this amendment. This situation and its inherent health hazard are important and serious concerns to me and my constituents and I appreciate the assistance the committee has provided, particularly my friend from New Hampshire [Mr. RUDMAN].

Mr. RUDMAN. Mr. President, the amendment has been cleared on this side.

Mr. CHAFEE. Mr. President, has the Public Works Committee been consulted on this? I believe this is an issue we have had before us in the past. I am not opposed to it, but I think that I prefer us to set this aside. We are coming back to this bill.

Mr. RUDMAN. This was cleared, the identical amount, 2 years ago. This is the last payment on it, I believe. However, we will be happy to lay the amendment aside.

Mr. CHAFEE. I would like to make sure that the chairman of that committee has a chance to know about it. I will try and call him right now.

Mr. RUDMAN. Mr. President, I believe the pending business will still be the Wilson amendment. I wonder if the Senator from California would withdraw his amendment for the time being.

Mr. WILSON. Yes, I will.

Subsequently, the following occurred:

Mr. WILSON. Mr. President, the problem raised by the distinguished Senator from Rhode Island has been dealt with. I thank the manager particularly for his very great cooperation.

Mr. RUDMAN. Mr. President, the amendment has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 866) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 867

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. CHILES], for himself and Mr. HEFLIN, proposes an amendment numbered 867.

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

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

The amendment is as follows:

On page 8 at the end of line 6 insert:

In addition, $3,000,000 for payments under section 4(b) of the Commercial Fisheries Research and Development Act of 1964 for commercial fisheries failures and disruptions to be derived by transfer from the "Disaster loan fund, Small Business Administration".

Mr. CHILES. Mr. President, I join with the distinguished senior Senator from Alabama in offering an amendment to add $3 million for rehabilitation of oyster beds along the gulf coast. The oyster beds from Apalachicola Bay in Florida through Alabama were recently devastated by Hurricane Elena. Elena's strong currents and winds swept over shallow coastal waters where oysters spawn and dislodged productive oysters shells from the reefs. Surveys of some of Florida's most productive oyster beds have found them barren. This has caused an indefinite closing of many oyster areas and has resulted in widespread unemployment in the surrounding coastal communities. In fact, its estimated that as many as 4,000 people in Florida may be out of work as a direct result of closing the oyster fisheries. Both the National Marine Fisheries Service [NMFS] and Florida's Department of Natural Resources [DNR] have documented the devastation. What is needed now is the immediate rehabilitation of the oyster beds. As I understand, it is necessary to place new shell on hard bottom before the next spawning season in the summer of 1986. This will provide a surface on which oysters can attach. At best, the beds cannot reopen for 12 to 18 months beyond that spawning season. While this is an extended delay, restoration of the oyster beds is essential for the long-term economic health of the gulf coast areas.

But rehabilitation of these beds is not inexpensive. It is estimated $1.57 million will be needed in Florida and $1.5 million in Alabama. Rehabilitation authority exists under section 4(b) of Public Law 88-309 but no funds have been requested for fiscal year 1986. The amendment by the Senators from Alabama and Florida would make these funds available. Since surplus funds exist in the Small Business Administration's Disaster Loan Program, our amendment would transfer the required amount from this account to the section 4(b) account of Public Law 88-309. This would incur no new budget authority. I urge the Senate to adopt this amendment.

Mr. HEFLIN. Mr. President, I rise to offer an amendment along with the distinguished senior Senator from Florida to provide $3 million for the rehabilitation of oyster beds along the coast of Alabama and Florida which were destroyed by Hurricane Elena.

Mr. President, the oyster industry in Alabama and Florida suffered a serious blow at the hands of Hurricane Elena. Elena's strong winds and ferocious tides devastated Alabama's oyster reefs which are located in the southwestern coastal area of the gulf coast. More that 220 million oysters with an economic value of $48 million were lost due to the hurricane. Officials at the Alabama Department of Conservation and Natural Resources have informed me that it will take 1½ to 2 years to rehabilitate these resources.

The economic impact upon the population of south Mobile County will be felt throughout most segments of the local economy. There were more than 1,100 licensed fishermen, 47 oyster shucking houses and approximately 3,000 shuckers, cullers, transporters and other persons impacted by this loss. In the communities of Heron Bay, Alabama Port, Coden, Irvington,

and Bayou La Batre, almost every family is employed in some segment of the oyster industry. The income loss to these people for the next 1 to 2 years will no doubt result in a severe economic hardship.

Mr. President, immediate action must be taken. Rehabilitation must begin now if the oyster beds are to be ready for the next spawning season in the summer of 1986. It is estimated that just over $3 million will be needed to rehabilitate the oyster beds in Alabama and Florida. While authority exists under section 4(b) of Public Law 88-309 to provide aid in this situation, no funds have been requested for 1986. Our amendment would simply transfer funds from the Small Business Administration's Disaster Loan Program to this account, incurring no new budget authority. If we do not provide this needed assistance thousands of people along the gulf coast will continue to suffer Elena's wrath for years to come. I urge my colleagues to adopt this amendment.

Thank you, Mr. President.

Mr. RUDMAN. Mr. President, this amendment has been cleared by this subcommittee and the authorizing committee.

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

The amendment (No. 867) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 868

(Purpose: To require a report on the advisability of imposing economic boycotts against countries supporting or harboring international terrorists)

Mr. MURKOWSKI. Mr. President, I send an 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 Alaska [Mr. MURKOWSKI] proposes an amendment numbered 868.

On page 69, after line 4, add the following:

SEC. 607. (a) Not later than January 15, 1986, the Secretary of State, in consultation with the Secretary of Commerce and the United States Trade Representative, shall prepare and transmit to the committee on Appropriations and the committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report which—

(1) assesses the advisability of imposing a boycott against any country that supports or harbors international terrorists;

(2) describes the diplomatic and economic consequences of imposing an economic boycott against such a country; and

(3) assesses the potential for gaining international or multilateral cooperation in imposing an economic boycott against such a country.

(b) For purposes of making the assessment required by subsection (a)(1), the Secretary of State shall consider the adequacy of existing laws imposing economic sanctions against a country described in such subsection.

(c) For purposes of this section, the term "economic boycott", with respect to a country, means a prohibition on imports and exports from such country and a termination of United States assistance for such country.

Mr. RUDMAN. Mr. President, if the Senator from Alaska will yield, I have cleared this request with the majority leader, however, I did not yet talk with the Democratic leader. I ask unanimous consent to extend the period for consideration of this matter by 10 minutes so that we might approve additional amendments before proceeding to the Jordan resolution. I put that in the form of a unanimous-consent request.

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

Mr. MURKOWSKI. Mr. President, this amendment has been cleared with both sides. It provides that the Secretary of State, in consultation with the Secretary of Commerce and the U.S. Trade Representative, shall prepare a report concerning the advisability of imposing a boycott against any country that supports or harbors international terrorists.

Before I briefly review this matter further, I would like to thank the floor managers of the bill, Senators RUDMAN and CHILES, for their cooperation in considering and accepting my proposal.

There is no need for me to spell out in exhaustive detail the challenge international terrorism poses to the United States, its allies and civilized peoples everywhere. We have just recently experienced, in the unjustified, cold-blooded murder of Leon Klinghoffer, the senseless tragedy and human cost of international terrorism. I sincerely regret to say that we are likely to experience more such tragedies if we are unable to devise an effective response to these terrorists and the governments that support their destructive activities.

It is clear that the President and the Congress are determined to take strong measures to combat international terrorism. Among those measures are economic sanctions involving restrictions or total cutoffs of U.S. trade and/or aid relations. For example, the Fiscal Year 1986-87 Foreign Assistance Authorization Act includes provisions which authorize the President to prohibit imports and exports of goods or technology to or from Libya, as well as United States imports of goods and services from any country which supports or harbors terrorists or terrorist organizations.

Congressional interest in using economic sanctions against terrorism was also reflected in legislation that was recently introduced by Senator BENTSEN, and which I have cosponsored, that would deny trade preferences, such as most-favored-nation status, to any country that supports international terrorism. These recent legislative initiatives are an addition to standing legislation included in such statutes as the Arms Control Export Act and the Export Administration Act.

The proposal I am making today is consistent with and encompasses these other initiatives to which I have made reference this morning. Moreover, this amendment and the report that it requires will provide this administration with an opportunity to review this issue of the use of economic sanctions and boycotts as a means of addressing the threat of international terrorism and present its conclusions to the Senate Foreign Relations and Appropriations Committees, as well as other committees of jurisdiction in the House and Senate. The report should then serve as standard reference to be considered in the future when legislation involving economic sanctions is proposed and debated.

Let me conclude by pointing out that I appreciate the limits of economic sanctions alone to rid us of the threat of terrorism. But I am convinced that such sanctions can extract a price from those that support and harbor international terrorists; and I am convinced that such measures, when used in concert with other foreign policy tools at the disposal of the President and his advisers, can contribute in a positive fashion to the objective of deterring terrorist acts.

Mr. President, I would be happy to answer any questions from my colleagues.

Mr. RUDMAN. Mr. President, as stated by the Senator from Alaska, the amendment was cleared on this side. It is my understanding it was cleared with the Democratic side as well.

Mr. CHILES. We have no problem, Mr. President.

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

The amendment (No. 868) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 869

Mr. LUGAR. Mr. President, I send an 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 Indiana [Mr. LUGAR] for himself and Mr. SIMON proposes an amendment numbered 869.

On page 33, line 5 strike "$336,600,000" and insert in lieu thereof "$331,800,000" and on page 38, restore the matter stricken on line 1 through line 7, amended to appropriate "$4,800,000".

Mr. LUGAR. Mr. President, I have sent to the desk an amendment with two connected parts. One would restore funding for the Soviet-East European research program. The other would take an offsetting reduction from the State Department Foreign Buildings account.

Mr. RUDMAN. Mr. President, the Senator is correct. Furthermore, we have found an offset in the bill which has also been agreed to by both sides. As you know, we are attempting to keep the bill within outlay limits. This amendment is acceptable and it has been cleared on both sides.

Mr. BUMPERS. It has been cleared on this side, Mr. President.

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

The amendment (No. 869) was agreed to.

Mr. LUGAR. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 870

Mr. PRESSLER. Mr. President, I send an 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 South Dakota [Mr. PRESSLER] proposes an amendment numbered 870.

On page 7, line 6, after "expended," insert: of which $600,000 shall be for enhancements to the EROS Data Center in Sioux Falls, South Dakota.

Mr. PRESSLER. Mr. President, the purpose of this amendment is to establish a reception and processing capability at the EROS Data Center which would enable it to receive and process Advanced Very High Resolution Radiometer (AVHRR) data from polar orbiting meteorological satellites, and to make that data available to the land and Earth science communities in a timely, usable format.

Because of EROS' geographically central location in the United States, establishment of this capability at EROS would provide real time access for an area including the entire continental United States and large parts of Canada and Mexico. Much of the processing capabilities already exist at EROS. Its staff has extensive expertise in this area.

The existing AVHRR data reception and processing facilities operated by the National Oceanic and Atmospheric Administration (NOAA) are oriented to the supply of data for meteorological users. Demand for AVHRR data by land resource managers and Earth scientists is increasing, and there is a need to establish an improved interface with this user community. Users, especially those working in the Central and Western United States, cannot obtain digital data in a timely fashion and cannot obtain data that have been geometrically corrected and geographically referenced. Because of EROS' central location and its high quality staff, these problems will be corrected by this amendment.

Awareness, visibility, and use of AVHRR data within the land management and Earth sciences community will increase with an improved user interface provided by the EROS Data Center and with anticipated movements in polar orbiter sensor systems.

The new data will be used in a host of applications, including large area mapping, monitoring of irrigation water cosumption, agricultural production, fire detection, famine relief, land management, and monitoring large-scale disasters such as floods, earthquakes, volcanoes, and forest fires.

Mr. President, I want to emphasize that this amendment is not an add-on or an offset, but rather an earmark out of existing funds appropriated by this bill. This does not increase the budget authority or outlays of the bill. But I do want to make it very clear that, as the amendment states, these moneys will be used for enhancements at EROS. The intent of that language is to make certain that the existing functions at EROS are not adversely affected.

The $600,000 earmarked by this amendment is a relatively small portion of NOAA's affected budget, but would be a very substantial portion of EROS' budget. Whereas the $600,000 represents, I believe, approximately 0.05 percent of the total affected NOAA budget, it would be approximately 9 percent of the NOAA protion of EROS' budget. So I want to emphasize that this money is for the enhancement of EROS. It is for the prupose of establishing an AVHRR data reception and processing capability, and is not to have any impact or bearing on the Landsat data handling and processing or other NOAA activities at EROS.

Mr. RUDMAN. Mr. President, we certainly understand the Senator's concern, and agree with him. The purpose of the amendment clearly is to enhance the EROS Data Center, and should not be used to detract from existing or other future activities at the center.

Mr. PRESSLER. I thank the distinguished manager of the bill. With that understanding, I would like to go forward with the amendment.

I believe it has been agreed to on both sides.

Mr. RUDMAN. Mr. President, the Senator from South Dakota states the situation correctly. It is acceptable to this side.

Mr. BUMPERS. Mr. President, it is acceptable to the Democratic side.

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

The amendment (No. 870) was agreed to.

Mr. RUDMAN. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 871

(Purpose: To waive copying fees of the Department of Justice regarding certain documents requested by the Birmingham Public Library of Birmingham, Alabama)

Mr. HEFLIN. Mr. President, I send an 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 Alabama [Mr. HEFLIN] proposes an amendment numbered 871.

On page 31, after line 5, add the following new section:

SEC. 27. (a) Notwithstanding any other provision of law, the Department of Justice shall—

(1) make available to the Birmingham Public Library located in Birmingham, Alabama the twenty-five thousand seven hundred and eleven releasable pages of documents, requested by such Library on August 22, 1984, relating to files on Dr. Martin Luther King and racist hate groups; and

(2) waive the duplication fee of $2,571.10 for such documents.

(b) Nothing in the provisions of subsection (a) may be construed to affect any determination of the Department of Justice pursuant to section 552(a)(4)(A) of title 5, United States Code, relating to any other request for such documents.

BIRMINGHAM PUBLIC LIBRARY EXHIBIT

Mr. HEFLIN. Mr. President, the Birmingham Public Library would like to set up a permanent exhibit for the people of Birmingham as a remembrance of Martin Luther King's historic activities in Birmingham. Birmingham is very concerned that the ERA of racial strife be remembered, and that materials are available for study by present and future generations. To do this, the library needs a minimum of 25,711 pages of releasable FBI documents. The library is a nonprofit, public institution with extremely limited resources, and cannot afford the copying costs for these documents of $2,571. It is important that this period of Birmingham's history not be forgotten.

My amendment would waive the copying fees for the Birmingham Public Library for the documents they have requested. The documents are already prepackaged and available.

The Birmingham Public Library is a small one, and the need for remembering and studying the years of racial strife is great. This amendment will allow the Birmingham Public Library to provide a service to the citizens of Birmingham and to the entire State without exhausting already limited resources.

This amendment has been cleared on both sides.

Mr. RUDMAN. Mr. President, the amendment offered by the Senator from Alabama has been cleared on this side and I believe it has been cleared on the other side as well. I move its adoption.

Mr. BUMPERS. Mr. President, the amendment has been cleared on this side.

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

The amendment (No. 871) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 872

(Purpose: To increase the allocation of funds of the United States Information Agency for a worldwide book program initiative)

Mr. LUGAR. Mr. President, I send an 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 Indiana [Mr. LUGAR] proposes an amendment numbered 872.

On page 63, line 20, strike out "$2,000,000 shall be available" and insert in lieu thereof "$1,200,000 in addition to the base shall be available only".

Mr. LUGAR. Mr. President, there is general agreement that the increase for this program is merited. The amendment that I offer makes clear that the increased funding will actually go to increased programming and could not simply be used for the base programming already in existence.

It is my understanding it is acceptable to both sides.

Mr. RUDMAN. Mr. President, the Senator from Indiana is correct. It has been cleared on both sides.

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

The amendment (No. 872) was agreed to.

Mr. RUDMAN. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 873

Mr. RUDMAN. Mr. President, I send an amendment to the desk on behalf of the Senator from New Mexico [Mr. DOMENICI] and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MURKOWSKI). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for Mr. DOMENICI, proposes an amendment numbered 873.

On page 12, line 5 after "$71,200,000" insert: ", of which $500,000 shall remain available until expended to reimburse private litigants for legal fees incurred in the United States v. Abousleman, the United States v. Bluewater-Toltec Irrigation District, and the State of New Mexico ex rel. Reynolds v. Aamodt water adjudication suits".

● Mr. DOMENICI. Mr. President, this amendment has no net budget impact. It simply provides $500,000 within funds made available to the Department of Justice to help pay legal fees for non-Indian litigants in three New Mexico water rights cases.

The House-passed fiscal year 1986 Commerce-State-Justice appropriation bill includes $500,000 for these purposes through the Legal Services Corporation, so if this amendment is adopted, it will need to be addressed by the conferees.

I urge my colleagues to support this amendment so that non-Indian litigants in three ongoing water rights cases will have equal access to justice.●

Mr. RUDMAN. Mr. President, the amendment has no net budget impact. It has been cleared on both sides.

Mr. BUMPERS. There is no objection here, Mr. President.

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

The amendment (No. 873) was agreed to.

Mr. RUDMAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

UNDERCOVER OPERATIONS

Mr. MATHIAS. Mr. President, once again in the appropriations bill that is before us, the Congress grants to the Federal Bureau of Investigation and the Drug Enforcement Administration temporary exemptions from certain statutory strictures that impede the conduct of undercover operations. These exemptions are granted subject to conditions that echo those enacted in the appropriations bills for fiscal years 1984 and 1985. These conditions include reporting and financial audit requirements that should enable the appropriate committees of both Houses to maintain more effective oversight of undercover operations. I support these provisions, as I supported those included in the prior appropriations bills, as a reasonable temporary solution to the difficult problems posed by the explosion in the use of undercover operations by Federal law enforcement agencies.

However, it should be clear that these expedients cannot continue indefinitely. The challenges to effective oversight that are posed by the increasing use of undercover techniques will not go away. As we buy time through the enactment of temporary provisions in successive appropriations measures, we should redouble our efforts to enact realistic permanent legislation on Federal law enforcement undercover operations.

The undercover operation is a powerful weapon in the arsenal of modern law enforcement. Techniques of deception allow the authorities to bring to light conspiracies that would otherwise escape revelation. For the detection of consensual crimes—trafficking in contraband or stolen goods, giving and taking bribes, perversions of public trust—the undercover weapon often appears to be uniquely well suited.

But the use of undercover techniques also brings with it serious risks. More frequently than ever, the charge is heard that the undercover weapon has been misdirected or has misfired.

Any Senator who has followed the press accounts over the past few months is familiar with the concerns. Churches and synagogues are worried about law enforcement infiltration of their congregations. Honest businessmen caught in the wake of undercover "sting" operations claim financial losses. The recurring controversy over crimes committed by informants has bubbled to the surface again.

Mr. President, I am confident that there are aspects of the legislative control of undercover operations about which there is substantial agreement in both Houses of Congress. Building upon the work of the Select Committee on Undercover Operations, during the 97th Congress, the task before us now is to identify this common ground and enact these agreed-upon principles into law. In that way, we will place Federal law enforcement undercover operations on a more solid legal footing than they currently enjoy. We will also, by the enactment of permanent legislation, give Congress the tools to ensure that the powerful undercover weapon is used in a way that

protects our fundamental liberties, as well as the safety of our people.

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'S WORK IN THE CHESAPEAKE BAY

Mr. President, with the passage of the appropriations bill for the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies for fiscal year 1986, we assure the continuation of the important work being performed to help save the Chesapeake Bay by the Department of Commerce's National Oceanic and Atmospheric Administration [NOAA]. Senators may be interested in some information about what NOAA is doing to help the bay by investigating the bay's living marine resources, including fish, shellfish and other organisms, and evaluating the effects of pollutants and oxygen depletion on these organisms.

Pollutants from various sources around Chesapeake Bay affect its sediments and water quality, which in turn affect its living resources. NOAA is primarily concerned with the status of fish and shellfish stocks and the influence of pollutants on these stocks. Last year, Congress appropriated $2 million, including half a million for the emergency striped bass study. NOAA's activities include identifying and acquiring existing fisheries data, improving fisheries statistics, observing the responses of bay organisms to pollutants, and evaluating oxygen depletion effects on bay organisms.

In May of this year, NOAA released its "Chesapeake Bay Study Plan," which assesses the scientific investigations needed to successfully clean up the bay. The plan was developed in cooperation with the Environmental Protection Agency's Chesapeake Bay Program through a series of NOAA, State, and academic workshops. Previously, the EPA in its own study had concluded that observed declines in important fish and shellfish probably reflected a combination of adverse impacts, including excessive nutrient enrichment and resultant deoxygenated bottom water, toxic substances in certain areas, and degradation of critical spawning and nursery habitats.

To help turn this situation around and enhance the understanding of the bay's fisheries, NOAA will be investigating short- and long-term environmental factors affecting commercial and recreational fish and shellfish, including both natural and man-induced fishery problems.

As part of this effort, NOAA formed the Chesapeake Bay Stock Assessment Committee with representatives from Maryland, Virginia, Pennsylvania and the District of Columbia, as well as from the U.S. Fish and Wildlife Service and NOAA. NOAA is helping to develop a baywide fishery assessment plan, implement that plan, and carry out assessments for critical bay species. To be examined are the effects of climate, fishing pressure, and pollution on the bay's living resources.

Investigations will be made to assess the status of young and adult fish populations of important species, such as striped bass, white perch, shad, river herring and others. Investigations will concentrate in the York, James, Patuxent, Potomac, and Choptank Rivers to determine the effects from overfishing, contaminants, and habitat degradation.

Of critical importance is the need to understand the relations between pollutants in the bay's plants and animals and the pollutants present in the bay's water and sediment. The EPA Chesapeake Bay Program confirmed that many areas of the bay are contaminated with toxic substances, including metals, synthetic organic compounds, and other chemicals, such as chlorine. The highest chemical concentrations were found close to sources, particularly urban and industrial areas in the upper bay and in reaches of major tributaries. While clear cause-and-effect relationships between environmental pollutant levels and plant and animal declines were demonstrated only in severely polluted areas, the presence of any toxic substance in major spawning or nursery areas is cause for concern.

The bay's deoxygenated bottom water is a critical problem and the oxygen depletion effects on the bay's aquatic organisms are very serious. A stationary oyster has no place to go if oxygen becomes depleted from its locality and many animals are unable to avoid the deoxygenated water before they are overcome and die.

To make matters worse, recent studies indicate that there may be a net increase in the duration and area affected by oxygen depletion. The summertime episodes have lasted longer recently than in previous years. A possible link exists between oxygen depletion and excess nutrients entering the bay's waters, but has not been positively demonstrated. Nevertheless, the evil triangle of low dissolved oxygen, sedimentation, and contaminants cause the loss of high-quality habitat needed for the survival of many of the bay's species.

When in July, my colleague, the Senator from Maryland [Mr. SARBANES]; the EPA Administrator, Lee Thomas; Secretary of the Interior, Donald Hodel; the Governors of Maryland and Virginia, and others toured the Chesapeake Bay, we saw firsthand the black, deoxygenated mud from the bay's bottom. It smelled like rotten eggs and was devoid of life. However, we need not accept this condition as inevitable, and NOAA, with other Federal and State agencies can make the difference.

NOAA will be monitoring habitat quality to assess the amount and the rate of habitat loss. Some items NOAA will be investigating will be oxygen depletion effects on fish and shellfish reproduction, disease resistance, feeding ability and other key survival factors. Also to be examined are effects from excess phosphorus and nitrogen nutrients. This information will be used to find answers to the bay's plaguing problems concerning oxygen depletion.

Finally, one of the less glamorous, but no less important NOAA aspects in restoring the bay, is improving fishery statistics. Unfortunately, we do not have an accurate statistical picture of the bay's fisheries. A complete understanding of the adverse effects of habitat changes affecting the bay's fisheries requires better statistical data than presently available. Such data are required to establish the historical use, trends, and benefits of the fisheries and to determine when a fishery starts to head downhill.

NOAA's fish and shellfish studies have provided useful data on fishery landing and on adult and juvenile fish populations, but there is need for additional information if adequate bay management is to be accomplished. Presently, bay fishery landing statistics generally do not reflect recreational catch, which has been significant for some species, such as striped bass. Additionally, landing statistics do not adequately indicate the variety of fishing gear, the number of days fished, or locations. Consequently, existing statistics are only general indications rather than actual measures of abundance, making the bay's fishery management difficult and the reasons for fishery declines obscure.

NOAA's work gets to the core of the bay's problem for better statistical analysis. NOAA, in conjunction with the States, will be filling the statistical gaps in existing data for commercial and recreational fisheries by providing linkages between existing Chesapeake Bay State statistics and those of the National Marine Fisheries Service. For example, in Maryland there will be trips to the field to gather on-site biological data, as well as trips to gather information from fish dealers and from recreational and commercial fishermen.

Work began by NOAA shows great promise in fulfilling many of the most pressing fishery needs for management information. This is a long-term effort and one that must be supported over the long haul. Together with the States and other Federal agencies, NOAA is moving forward to increase understanding of declines in the bay's important fisheries and to reverse those declines and manage the bay's resources for long-term benefits to the region and the Nation. I urge my colleagues to approve $1.7 million to sup-

port NOAA's continuing efforts in the Chesapeake Bay.

Mr. BIDEN. Mr. President, I support this amendment (No. 864) that will provide necessary funding for the Federal Sentencing Commission that we established last year when we passed the Comprehensive Crime Control Act of 1984.

The transfer of these funds will come from the Cuban and Haitian Reception, Processing and Care Program within the Community Relations Service at the Justice Department.

It is my understanding that this program's caseload has seen some reduction and that there are programs that have not yet begun, although funding has been provided since the beginning of the fiscal year. If this offset of funds becomes a problem for the Cuban and Haitian Program during the 1986 fiscal year I expect the Justice Department will make that known in the 1986 supplemental request.

A crucial provision of the Comprehensive Crime Control Act called for the creation of a "Sentencing Commission" that would have the responsibility of redefining the Federal criminal justice sentencing system. The seven-member Commission has the enormous task of drafting guidelines to be used by Federal judges when imposing sentences. The purpose of the guidelines are to establish a fairer and more equitable sentencing process that eliminates indiscriminate and inconsistent sentences. Past criminal sentences have been based largely on an outmoded rehabilitation model which we have come to realize has failed. Because our system lacks statutory guidance, judges have been left to apply their own subjective opinions of the purposes of sentencing. Unfortunately, this system has resulted in a lack of certainty in sentencing which is further exacerbated when the Parole Commission releases prisoners according to their own criteria, which might be different than that of the sentencing judge.

Mr. President, I need not go on explaining the importance of the Sentencing Commission's work. That was agreed to by this body last year when we all voted in favor of establishing the Commission.

Regrettably, the Commission is behind schedule. Ironically, the Commissioners were just confirmed last week, 1 entire year from enactment of the legislation providing for their creation. We now have the potential for another obstacle that could interfere with the Commission carrying out their work. There is currently no appropriation for the Sentencing Commission in this bill. This omission is probably the result of initial funding for the Commission being provided in the supplemental appropriation for fiscal year 1985 which was passed this summer. The supplemental provided $2.3 million for the Commission; however, that is only sufficient funding to carry them through the spring of 1986. At that point, unless new funds are made available, the Commission would have to shutdown.

The potential interruption of the Commission's work is something we must prevent. Not only would such an interruption usurp the laws passed by Congress last year which outline the Commission's responsibilities and expected work products, but the expectation of only a half year's funding will cause numerous administrative problems in hiring staff, leasing space and equipment, etc.

Our amendment simply provides the needed funds for the Commission to carry out its work through fiscal year 1986.

Mr. President, I have been working with Senators THURMOND and KENNEDY and many others to reform our Federal sentencing process. We were finally successful last year in passing unanimously the legislation necessary to begin this major reform effort.

It is time for the Commission to get down to the extremely difficult task Congress has instructed them to do. Therefore, I ask my colleagues to support this amendment so that the funds needed by the Commission will be available and their vitally important work will not be interrupted.

Mr. SPECTER. Mr. President, as the Senate considers the appropriations for the Department of Justice, I wish to address an issue of tremendous importance: Prison overcrowding.

On September 15, 1985, the Bureau of Justice Statistics reported that the population in the Nation's overcrowded prisons increased by 1,000 a week in the first half of 1985. The average State prison is operating at over 15 percent above capacity and the Nation's 46 Federal prisons are over 30 percent above capacity. A GAO study done at my request last year came up with equally disturbing statistics.

Convicted prisoners and pre-trial detainees are being prematurely released, by the tens of thousands, because there is no space for them in our prisons and jails. Courts have intervened in nearly 80 percent of the States' systems, and judges have admitted their reluctance to sentence criminals they would otherwise incarcerate because they know there is nowhere to put them.

Prison overcrowding has reached crisis proportions.

As a member of the State, Justice, Commerce Subcommittee of Appropriations and of the Judiciary Committee, I have pressed for Federal funds to assist in State and local prison expansion. Last year, in order to relieve overcrowding and substandard conditions at State and local correctional facilities, Congress authorized the Director of the Bureau of Justice Assistance to make grants to States, units of local government, and combinations of such units to assist in construction of correctional facilities, and in planning to relieve overcrowding and substandard conditions in correctional facilities.

The program was designed in close consulation with Justice Department officials and in negotiations with the House on the Justice Assistance Act of 1984, and was passed in both Houses without opposition. The authorizing legislation contains a funding cap of $25,000,000 for each of fiscal years 1984 through 1988. However, late enactment of the authorizing legislation precluded appropriation of funding for fiscal year 1984, the first year of the pilot program's limited 5-year life span.

I am deeply concerned that this essential and urgent program is not being funded. I believe a minimum of $25 million should be promptly appropriated, and that much more must ultimately be made available to State and local systems collapsing under the pressure of a burgeoning prison population. While I understand it is not possible to add these funds here today, I intend to continue to press for Federal assistance to State and local corrections until the Federal Government meets its responsibility in this essential aspect of our domestic defense.

If we are serious about having a criminal justice system that works, we cannot afford to ignore the growing crisis presented by grossly overcrowded prisons.

THE NATIONAL ENDOWMENT FOR DEMOCRACY

Mr. SPECTER. Mr. President, I would prefer that 1986 appropriation for the NED be funded at its full 1986 authorization level of $18.4 million. The $10 million Appropriations Committee recommendation represents a drop of $8.5 million from fiscal year 1985 funding and the limits the effectiveness of this important program.

This nonpartisan private nonprofit organization was established in 1983 and funded by Congress as a concrete conduit of our commitment to the development of democratic values and institutions around the world and to serve as a counter to Communist efforts to mold political processes to fit their goals.

It has been extremely productive already. In its first year, the endowment awarded grants to more than 20 private sector organizations to aid projects to reopen schools in central Afghanistan; provide financial and technical assistance to the democratic opposition in Poland; establish European citizen committees to gather and disseminate information about the human rights situation in Cuba to encourage pluralism and respect for human rights in that country; established a network of democratic opinion

leaders; and a number of projects to train local citizenry in developing nations to initiate and implement the effective political processes of a democracy. These are but a few of the worthwhile projects aided by these funds.

A key focus of the NED, of course, is the vital role of free trade unions in a democracy. The Free Trade Union Institute, with the help of a NED grant, has conducted a broad range of programs aimed at promoting the development of free and independent democratic trade unions. These efforts must be supported as the only truly effective counter to the Communist trade movement gaining a foothold in so many developing nations.

A second key focus is the U.S. Chamber of Commerce's efforts through CIPE [the Center for International Private Enterprise] in developing countries. These associations are providing education in free market economics and institutions, and in advocacy of free market enterprise. The development of independent business institutions is important as a means of fostering the development of democratic pluralism abroad.

I request that $18.4 million in funding be provided to maintain funding at, at least, 1985 levels. I, and I am sure many of my colleagues, do not want to risk a program with so many important benefits. When one compares this funding request for the advocacy of democracy to the necessary defense and intelligence appropriations to protect democracy, the $18.4 million seems like a very fiscally responsible investment indeed.

MISSING CHILDREN

Mr. SPECTER. Mr. President, the tragedy of missing and exploited children continues to plague our Nation. As many as 1.5 million children are reported missing each year. As chairman of the Senate Judiciary Subcommittee on Juvenile Justice and cochairman of the Senate children's caucus, I have spent considerable time studying this horrible problem and working to solve it.

To address the national tragedy of missing children, I joined in introducing the Missing Children's Assistance Act, which President Reagan signed into law on October 12, 1984. This act establishes a national clearinghouse for information on missing and exploited children, and a national toll-free hotline.

Mr. President, you may recall that over 80 Members of the Senate joined Senator HEINZ and I as signatories to a letter dated May 20, 1985, to the major television broadcasters, urging them to air pictures of missing children as part of their regular programing. I am pleased to report that the networks and broadcasting groups are responding positively; CBS, for example, advised us on July 3, 1985, that, beginning this fall, it will air on a regular basis the pictures and descriptions of missing children.

Many efforts are being made in the private sector to ensure that pictures of missing children reach the general public in increasing numbers. The Subcommittee on Juvenile Justice, which I chair, held a hearing on May 22, 1985, to consider the effectiveness of private efforts to find missing children. I commend these efforts, but firmly believe that much more needs to be done.

I am deeply concerned that the Missing Children's Assistance Act will receive only level funding in fiscal year 1986. I believe that a minimum of $10 million should be earmarked for missing children's assistance. However, recognizing the extreme constraints placed on us by the enormous Federal deficit, I shall not offer an amendment at this time, but hope that we will elevate this important matter in next year's agenda with an increased appropriation.

Mr. President, I believe that the funding in this bill for the Office of Juvenile Justice and Delinquency Prevention [OJJDP] is totally unsatisfactory. It is deceptive to claim that we are providing level funding for OJJDP by counting carryover funds not spent from last year's appropriation.

For a number of years, the administration has sought to eliminate funding for this important Office, and OJJDP has supported these efforts. Because Congress has repeatedly rejected this proposal, and continued to fund OJJDP at $70.282 million, the administration has sought to eliminate the Office's functions by having it not spend the appropriated funds. Early this year, the administration sought to sequester more than $12 million of OJJDP's fiscal year 1985 funds; in fact, about $7.9 million in OJJDP's funds apparently have been carried over because they were not spent although there was a need to utilize the full appropriation made last year.

The original agreement in the Appropriations Committee was to fund OJJDP at $70 million; the House figure is $70.282 million, which is level funding.

The bill would now effectively cut OJJDP's funding by more than 10 percent, to $62.1 million, based upon the fact that there are $7.9 million in carryover funds. This simply lets OJJDP achieve its goal of cutting back its efforts in the field of juvenile justice through its own dilatory actions.

While I think that funding in the reduced amount of $62.1 million is inadequate, I understand the realities of the situation and do not intend to offer an amendment at this time. I stress, however, that I am committed to providing true level funding for OJJDP. I urge my colleagues to yield to the House figure of $70.282 million at conference, and I pledge my own efforts at conference toward that end.

Mr. President, I ask unanimous consent that a series of letters I have received on this issue be printed in the RECORD.

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

THE NATIONAL PTA,
Chicago, IL, October 17, 1985.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: I am writing on behalf of the National Congress of Parents and Teachers (National PTA) in regard to Juvenile Justice appropriations, a priority concern of our association. It has come to our attention that the Senate Appropriations Committee cut the FY 1986 appropriation for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) by nearly 12 percent, from the current level of $70.2 million to $62.1 million.

The National PTA urges you, as a chief advocate in the Senate for juvenile justice programs, to lead the effort during the House-Senate Conference on the Justice Department appropriation bill to maintain the $70.2 million appropriation for FY 1986 that was approved by the House of Representatives.

A reduction in the appropriation for OJJDP would have dire consequences for state and local juvenile justice programs. The action taken by the Senate Appropriations Committee sends a message to the states that the federal commitment to juvenile justice is withering. That message is coming at a time when states need maximum assistance to come into compliance with the jail removal mandates of the Juvenile Justice and Delinquency Prevention Act (JJDPA).

Further, efforts in states across the country to develop and implement innovative model programs (programs that would not be possible but for the JJDPA) would be severely hampered. Some programs would have to be eliminated; others will never get off the ground.

Under the Senate Appropriations Committee-passed reduction, states with the largest juvenile populations will bear the largest percentage cutback in formula grant allocations. But indeed, all programs in states receiving more than a $225,000 basic grant will suffer. Following are examples of how states will be affected by a cutback from $70.2 million to $62.1 million.

Pennsylvania would lose 13.7% of its formula grant allocation, approximately $248,690. Programs in Philadelphia would be jeopardized. For example, a proposed project using JJDPA funding to develop a Management Information System for tracking services to delinquent youth may not be funded. Other programs are likely to be discontinued, such as a new initiative to provide aftercare and intensive probation services to mentally retarded juvenile offenders and the Juvenile Law Center's alternative to detention program.

Other programs at risk across the state include day treatment, juvenile prostitution projects, an in-home detention program and a truancy reduction program which involves family members.

Connecticut, which would lose 8.5% of its state allocation, would have to cut back all existing programs and would be unable to

develop any new ones. Juvenile justice system capacity-building, truancy reduction efforts and an innovative program to ensure services for all youthful offenders regardless of the disposition of their cases or their past histories would be severely hampered by the loss of formula grant funds.

Oregon, which has been forced to cut back on state and county services because of distress in the state's basic industry, would lose 8% of its allocation and necessary status offender and chronic runaway services. Programs for serious offenders and for alternatives to jail would be in jeopardy.

Florida would lose 13% of its formula grant monies. Important deliquency prevention programs (currently receiving nearly $800,000 in formula grant funds) would be endangered—for example, a School Resource Project and community-based youth guidance programs. In addition, an innovative runaway and homeless youth program would be lost.

New Jersey would also lose nearly 13% of its formula grant funds and across-the-board cuts would have to be made endangering exemplary model programs currently funded. One such program at risk is truancy reduction in Camden, New Jersey high schools. In just one year of operation, this program has increased the average daily attendance rate from below 75% to more than 86%.

On the endangered species list would be New Jersey's adjudication and dispositional services programs in which the courts and community services work together for the rehabilitation of youthful offenders rather than sending them to correctional institutions. One such effort in Ocean County has an 80% success rate.

Also affected would be an innovative vocational education program, "Twilight Tech," for youths who were in correctional facilities and those on probation. This model program utilizes an existing vocational high school during the hours of 3 p.m. to 7 p.m. (after the regular student body has gone for the day and before evening programs begin). Also in jeopardy are substance and alcohol abuse programs that provide aftercare services to youths on parole.

California would lose nearly 15% of its state allocation, more than $595,000. California PTA members are deeply concerned about across-the-board cuts in currently funded programs. They are worried about California's exemplary juvenile justice initiatives such as the Status Offender Network in Santa Clara County which reflects the deinstitutionalization mandates of the JJDPA and provides alternative community-based counseling, emergency treatment, and has a small residential component for youngsters unable to return home immediately. They point to a dispositional alternative program in San Diego which is utilizing 400 different resources in community-based rehabilitation and counseling rather than secure detention; and the Lachein School, a social ecology model alternative school in Contra Costa County, which serves a three-county area and emphasizes involving family members in rehabilitating youth. Such programs and the youth they serve would suffer under the cuts.

Illinois, which would have its state allocation cut by nearly 14 percent, reports that across-the-board cuts in programs would have to be made.

Programs in Cook County (which includes the city of Chicago) focusing on serious offenders and on homeless youth would be big losers. This means reduction in efforts for such projects as Treatment Alternatives to Street Crime (also being implemented in Peoria County) and the Chicago Youth Services Project. Components of the latter include a Homboldt Park gang program and a transitional living program for teenage prostitutes in the Lakeview area.

Furthermore, jail removal efforts in rural areas of Illinois would be lost (50 percent of Illinois counties are rural).

In New York state, the cut of 14 percent in formula grant funds (approximately $410,000) would necessitate across the board reductions in programs administered by a variety of state agencies including the Department of Corrections, Division of Youth, Division of Substance Abuse Services, Probation Department, Council on Children and Families, Department of Social Services, and Office of Mental Health.

Local government juvenile justice efforts would also suffer as JJDPA funds provide the seed money for new innovative programs and start-up funds would not be available through any other source. The New York PTA reports that programs started with JJDPA funds are not only innovative and successful, they are also cost effective. One example is the $56,000 of JJDPA money that funds the Sullivan County Juvenile Intensive Supervision Program. This diversion program serving 35 youths has an 85 percent success rate. It would cost more than one year's worth of the federal funds to place even two youths in a detention facility in New York.

In Ohio, the PTA reports that the state allocation reduction of 13.7 percent would mean all current projects (both urban and rural) would have to be cut and new projects would not get funded at all.

Since local governments in Ohio provide a 50% match to the federal funds, the leveraging of non-federal resources would also be diminished (and it is my understanding that a very important element of the JJDPA is its leveraging of resources at the state and local levels).

The primary areas of focus in Ohio include Youth Victims Services, Abused Children, Crime Prevention, Alternatives to Institutionalization, and Serious Juvenile Offenders programs. The Toledo (Lucas County) Serious Violent Offender project is a typical example of how the state allocation cutback would impact individual programs. The Project currently receives approximately $90,000. But the funding reduction would result in a $30,000 loss to this project.

In Michigan, the PTA reports that under a 13% cutback in formula grant money, efforts would be hampered in the areas of delinquency prevention, jail removal (particularly in rural areas) and violent juvenile offenders programs. The cutback in dollars equals four grants of $50,000 to $60,000 each.

These are just a few examples of what National PTA is hearing from State PTAs. All across the country there is deep concern about the future of juvenile justice programs should the reduction in appropriation to $62.1 million become law.

PTA members are asking: "What has happened to federal commitment and leadership in the area of juvenile justice? Is Congress backing down on the incentives needed to accomplish the mandates and goals of the JJDPA? What rationale is there in requiring three-year comprehensive planning if Congress turns around and cuts assistance for program implementation? Do our elected leaders truly care about our youth and the reduction of delinquency? Does Congress really want to foster cost-effective programs?

PTA members have also questioned the rationale used by the Senate Appropriations Committee for their reduction in the OJJDP appropriation level. They have asked: "Isn't the carryover money already obligated? Does anyone really know whether there actually is $7.9 million still to be distributed, and how have the carryover funds been allocated? Moreover, they are questioning the true intent of Congress in rejecting the Administration's proposal to transfer the OJJDP carryover money to other agencies.

A few months ago Congress said that money was needed immediately by the states so they could progress in meeting JJDPA mandates. It certainly cannot be less important today for states to comply, and adequate services are necessary to do so.

For the past five years Congress has rejected Administration attempts to eliminate the historic role of the federal government in preventing delinquency, improving our juvenile justice system, reducing juvenile offenses and protecting youth. Last year Congress overwhelmingly reaffirmed the federal role in juvenile justice by reauthorizing the JJDPA. The Senate Appropriations Committee's cut in the OJJDP funding level is a total contradiction of these past efforts, and would erode the national resolve in this area. States will not be able to maintain current services under the JJDPA, and the stage would be set for even deeper cuts in the future. Where would it end? This action could likely mean the elimination of the juvenile justice program in a few short years. All the progress made to date would be lost; all the goals still to be achieved would be unattainable. Such a scenario cannot be allowed to be played out.

The members of the National PTA (now 5.6 million strong) have long considered juvenile justice a priority of our association. We have joined with many other youth advocacy groups in efforts to maintain the federal role.

Senator Specter, the National PTA has deeply appreciated your strong support for juvenile justice. We have always relied on your leadership in the Senate to maintain the federal program. We are counting on your leadership, once more—when the Senate and House Conference Committee on Justice Department Appropriations considers the FY 1986 appropriation for the OJJDP. We believe your advocacy of the $70.2 million level passed by the House is absolutely imperative if we are to maintain the current appropriation level.

The National PTA will gladly provide any assistance to you in this regard. Please feel free to have your staff contact Barbara Goldston-Hatfield in our Washington Governmental Relations Office (822-7878).

Thank you for your continuing support for our nation's youth and the programs that serve them, and for your consideration of the concerns of the National PTA.

Sincerely,

MILLIE WATERMAN,
Vice President for Legislative Activity.

AD HOC COALITION FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION,
Washington, DC, October 18, 1985.

Hon. ARLEN SPECTER,
Chairman, Senate Subcommittee on Juvenile Justice, Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: In your work with the conference committee on FY 86 appropriations for Commerce, Justice, and State, be assured of the strong support of many organizations participating in the Ad Hoc Coalition for funding of at least $70 million for the Juvenile Justice and Delinquency Prevention Act (JJDPA).

The enclosed letter, signed by 19 organizations and sent earlier this year to Rep. Neal Smith, indicates the range of this support. Other groups such as the American Bar Association's Juvenile Justice Project, American Legion, Boys Clubs of America, Child Welfare League of America, and National Council of Jewish Women also join in calling for JJDPA of at least $70 million.

The $7.9 million cut proposed by the Senate Appropriations Committee would seriously damage the states' efforts to meet the mandates of the Act. We estimate that close to $5 million of the cut would come from state allocations. 1986 is an especially critical year for the removal of youth from adults jails and lock-ups. Reducing the already minimal federal support would make progress in this area even more difficult.

We recognize that the Committee assumes a carryover of FY 85 funds to offset the loss of FY 86 funding. We have several concerns, however, in that regard:

That the carryover may not exist—certainly not at the level the Committee assumes—and that any such funds may be spent even as Congress deliberates the appropriation;

That carryover money designated for Special Emphasis or other sections of the Act would not be transferrable to Formula Grants for the states;

That the greatest loss, as indicated above, will come in the state allocations where the most direct benefits occur; and

That FY 86 funding below $70 million will inevitably work to keep appropriations in later years below this necessary minimum.

The estimated loss per state from a cut of this magnitude ($4.8 million of the $7.9 million reduction) appears on the enclosed chart. Because the money that reaches the states leverages far more in state, local, and private resources, the effect of such reductions would exceed these figures.

In your own Commonwealth of Pennsylvania, the lower appropriation would result in a cut of about 13.7%—down from $1,913,000 in FY 85 to $1,651,000 in FY 86—on top of almost 38.5% the state has lost since 1981. In Philadelphia, plans by police and judges to implement a Management Information System for tracking and serving delinquent youth would be threatened by the cut. The plan depends on JJDPA funding for two years and then calls for state funding. Efforts in aftercare and intensive probation would be cut back, especially a new initiative for mentally retarded offenders, which would likely be ended. Support of the Juvenile Law Center, which uses Formula Grant money to provide an alternative to the much-criticized juvenile detention center, would also be jeopardized.

Connecticut, with a potential reduction from $493,000 to $451,000, would be faced with cutting back truancy reduction efforts and a particularly successful local juvenile justice capacity-building initiative. Another likely target would be a program of "unconditional care of juveniles," which makes certain that a youth's disposition or history does not prevent him or her from receiving services. Connecticut has already lost 40% of its JJDPA funding since 1981.

Sources in Massachusetts indicate the state would likely implement across-the-board cuts, to cope with an 11.6% additional reduction. Also in Illinois, across-the-board cuts would be the probable result of the loss of another 13.8% in JJDPA funding. Cook County's services to status offenders and runaways would suffer, as would rural jail removal efforts in the state. Massachusetts' funding has already fallen from $1,521,000 in 1981 to $895,000 in 1985. Illinois has lost 37% since 1981.

In Oregon, funds under the Act have been used to shore up county-funded juvenile services, hard hit by the depressed timber economy. JJDPA cuts would especially affect community-based services, not only directly but through leveraged state dollars. Status offender and chronic runaway services would probably be the first programs cut, followed by serious offender programs and programs providing alternatives to jails. Oregon received only $460,000 in FY 85, down 31.5% (from $672,000) in FY 81. Another 7.8% reduction would be a significant loss.

Thirty-eight states stand to lose resources for juvenile justice and delinquency prevention.

Finally, the JJDPA appropriation—unlike that of most federal programs—must cover all expenses of the program, including the staff of the Office of Juvenile Justice and Delinquency Prevention. Again, $70 million has proved the minimum necessary to maintain a federal role and to maintain the momentum of state action.

We appreciate your efforts and hope this information is helpful in conference.

Sincerely,

DON MATHIS,
Co-Chair, Ad Hoc Coalition, National Network of Runaway and Youth Services, Inc.
SHARON MARTIN,
Co-Chair, Ad Hoc Coalition, YMCA of the USA.

Submitted to Senator Specter by the Ad Hoc Coalition for Juvenile Justice and Delinquency Prevention (October 21, 1985).

JUVENILE JUSTICE AND DELINQUENCY PREVENTION: FORMULA GRANTS

State	1985	1986	Percent cut
Alabama	$723,000	$645,000	−10.8
Alaska	225,000	225,000	.....
Arizona	542,000	493,000	−9.0
Arkansas	422,000	391,000	−7.3
California	4,256,000	3,361,000	−14.7
Colorado	550,000	500,000	−9.1
Connecticut	493,000	451,000	−8.5
Delaware	225,000	225,000	.....
District of Columbia	225,000	225,000	.....
Florida	1,595,000	1,383,000	−13.3
Georgia	1,055,000	926,000	−12.2
Hawaii	225,000	225,000	.....
Idaho	225,000	225,000	.....
Illinois	2,019,000	1,741,000	−13.8
Indiana	989,000	871,000	−11.9
Iowa	511,000	467,000	−8.6
Kansas	420,000	390,000	−7.1
Kentucky	675,000	605,000	−10.4
Louisiana	880,000	778,000	−11.6
Maine	225,000	225,000	.....
Maryland	710,000	635,000	−10.6
Massachusetts	895,000	791,000	−11.6
Michigan	1,635,000	1,416,000	−13.4
Minnesota	733,000	654,000	−10.8
Mississippi	519,000	473,000	−8.9
Missouri	852,000	756,000	−11.3
Montana	225,000	225,000	.....
Nebraska	287,000	277,000	−3.5
Nevada	225,000	225,000	.....
New Hampshire	225,000	225,000	.....
New Jersey	1,215,000	1,061,000	−12.7
New Mexico	280,000	271,000	−3.2
New York	2,872,000	2,462,000	−14.3
North Carolina	1,040,000	914,000	−12.1
North Dakota	225,000	225,000	.....
Ohio	1,890,000	1,632,000	−13.7
Oklahoma	596,750	539,000	−9.7
Oregon	460,000	424,000	−7.8
Pennsylvania	1,913,000	1,651,000	−13.7
Rhode Island	225,000	225,000	.....
South Carolina	602,000	544,000	−9.6
South Dakota	225,000	225,000	.....
Tennessee	812,000	721,000	−11.2
Texas	3,015,000	2,583,000	−14.3
Utah	396,000	369,000	−6.8
Vermont	225,000	225,000	.....
Virginia	925,000	817,000	−11.7
Washington	745,000	664,000	−10.9
West Virginia	351,000	331,000	−5.7
Wisconsin	837,000	742,000	−11.4
Wyoming	225,000	225,000	.....
Puerto Rico	793,000	705,000	−11.1
American Samoa	56,250	56,250	.....
Guam	56,250	56,250	.....
Trust Territories	56,250	56,250	.....
Virgin Islands	56,250	56,250	.....
Northern Marianas	56,250	56,250	.....

[1] 1985 figures include initial allocations to nonparticipating States.
[2] 1986 estimates do not include the effects of changes in youth population on State allocations. Also includes nonparticipating States.

Submitted to Senator Specter by the Ad Hoc Coalition for Juvenile Justice and Delinquency Prevention (October 21, 1985).

JUVENILE JUSTICE AND DELINQUENCY PREVENTION: FORMULA GRANTS

State	1981	1982	1983	1984 [1]	1985 [1]	1986 [2]
Alabama	$1,104,000	$732,000	$737,000	$735,000	$723,000	$645,000
Alaska	225,000	225,000	225,000	225,000	225,000	225,000
Arizona	772,000	490,000	516,000	527,000	542,000	493,000
Arkansas	627,000	415,000	426,000	422,000	422,000	391,000
California	6,070,000	4,042,000	4,126,000	4,215,000	4,256,000	3,631,000
Colorado	776,000	520,000	523,000	536,000	550,000	500,000
Connecticut	822,000	533,000	516,000	510,000	493,000	451,000
Delaware	225,000	225,000	225,000	225,000	225,000	225,000
District of Columbia	225,000	225,000	225,000	225,000	225,000	225,000
Florida	2,172,000	1,447,000	1,554,000	1,578,000	1,595,000	1,383,000
Georgia	1,531,000	1,012,000	1,058,000	1,058,000	1,055,000	926,000

JUVENILE JUSTICE AND DELINQUENCY PREVENTION: FORMULA GRANTS—Continued

State	1981	1982	1983	1984 [1]	1985 [1]	1986 [2]
Hawaii		225,000	225,000	225,000	225,000	225,000
Idaho	272,000	225,000	225,000	225,000	225,000	225,000
Illinois	3,210,000	2,101,000	2,055,000	2,040,000	2,019,000	1,741,000
Indiana	1,578,000	1,036,000	1,014,000	1,004,000	989,000	871,000
Iowa	818,000	535,000	518,000	518,000	511,000	467,000
Kansas	634,000	419,000	415,000	421,000	420,000	390,000
Kentucky	1,018,000	678,000	683,000	677,000	675,000	605,000
Louisiana	1,268,000	841,000	864,000	873,000	880,000	778,000
Maine	315,000	225,000	225,000	225,000	225,000	225,000
Maryland	1,151,000	746,000	736,000	723,000	710,000	635,000
Massachusetts	1,521,000	986,000	834,000	920,000	895,000	791,000
Michigan	2,716,000	1,780,000	1,715,000	1,677,000	1,635,000	1,416,000
Minnesota	1,156,000	759,000	737,000	741,000	733,000	654,000
Mississippi	786,000	523,000	517,000	519,000	519,000	473,000
Missouri	1,329,000	873,000	862,000	859,000	852,000	756,000
Montana	232,000	225,000	225,000	225,000	225,000	225,000
Nebraska	444,000	292,000	285,000	287,000	287,000	277,000
Nevada				225,000	225,000	225,000
New Hampshire	247,000	225,000	225,000	225,000	225,000	225,000
New Jersey	1,992,000	1,300,000	1,249,000	1,238,000	1,215,000	1,061,000
New Mexico	395,000	263,000	269,000	274,000	280,000	271,000
New York	4,752,000	3,088,000	2,949,000	2,930,750	2,872,000	2,462,000
North Carolina	1,590,000	1,049,000	1,052,000	1,051,000	1,040,000	914,000
North Dakota				225,000	225,000	225,000
Ohio	3,064,000	2,006,000	1,946,000	1,933,000	1,890,000	1,632,000
Oklahoma			557,000	573,000	596,750	539,000
Oregon	672,000	455,000	461,750	462,000	460,000	424,000
Pennsylvania	3,106,000	2,023,000	1,962,000	1,944,000	1,913,000	1,651,000
Rhode Island	247,000	225,000	225,000	225,000	225,000	225,000
South Carolina	887,000	588,000	600,000	601,000	602,000	544,000
South Dakota				225,000	225,000	225,000
Tennessee		810,000	821,000	819,000	812,000	721,000
Texas	3,937,000	2,659,000	2,838,000	2,944,000	3,015,000	2,583,000
Utah	473,000	328,000	362,000	376,000	396,000	369,000
Vermont	225,000	225,000	225,000	225,000	225,000	225,000
Virginia	1,432,000	935,000	935,000	935,000	925,000	817,000
Washington	1,053,000	713,000	736,000	742,000	745,000	664,000
West Virginia	525,000	350,000	355,000	352,000	351,000	331,000
Wisconsin	1,337,000	876,000	859,000	855,000	837,000	742,000
Wyoming					225,000	225,000
Puerto Rico	1,391,000	930,000	921,000	794,000	793,000	705,000
American Samoa	56,250	56,250	56,250	56,250	56,250	56,250
Guam	56,250	56,250	56,250	56,250	56,250	56,250
Trust Territories	59,000	56,250	56,250	56,250	56,250	56,250
Virgin Islands	56,250	56,250	56,250	56,250	56,250	56,250
N. Marianas	56,250	56,250	56,250	56,250	56,250	56,250

[1] 1984 and 1985 figures include initial allocations to nonparticipating States.
[2] 1986 estimates do not include the effects of changes in youth population on State allocations. Also includes nonparticipating States.

AD HOC COALITION FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION,
July 3, 1985.

Hon. NEAL SMITH,
Chairman, House Appropriations Subcommittee on Commerce, Justice, and State, Capitol Building, Washington, DC.

DEAR CONGRESSMAN SMITH: The Ad Hoc Coalition on Juvenile Justice and Delinquency Prevention appreciates your consistent leadership in restoring funding each year for juvenile justice and delinquency prevention in the face of annual Administration proposals to close off federal support in this area entirely.

The undersigned organizations which participate in the Coalition, however, are deeply concerned about the recent decision of the Appropriations Subcommittee to cut another 7% from the already minimal appropriation for the Office of Juvenile Justice and Delinquency Prevention and the state and national initiatives the funds are intended to support.

You are, of course, well aware of the funding history. What $100 million could help accomplish in FY 81 cannot be matched by $70 million in FY 85 or by $65 million in FY 86.

The work Congress envisioned in passing the Juvenile Justice and Delinquency Prevention Act and in subsequent amendments to the Act is not complete. State Advisory Group representatives and state Juvenile Justice Specialists have testified to the particular need in the coming year for incentives and assistance for states to come into compliance with the jail removal mandate. Despite a decade of progress, other aims of the Act also remain only partially fulfilled, including the development of community-based alternatives to detention, diversion from court systems, and the prevention of delinquency.

The reduction in effort proposed by the Subcommittee is particularly regrettable when the House-passed Budget Resolution provides not only for continuation of the current level, but also for an overdue increase for inflation. We hope you will reconsider the Subcommittee's decision.

Sincerely,

DON MATHIS,
Co-Chair.
SHARON MARTIN,
Co-Chair.

(American Academy of Child Psychiatry, American Psychological Association, American Society for Adolescent Psychiatry, American Youth Work Center, Association of Junior Leagues, Inc., Camp Fire, Inc., Children's Defense Fund, Coalition of Spanish-Speaking Mental Health Organizations (COSSMHO), General Federation of Women's Clubs, Girls Clubs of America, Inc., Justice for Children, National Coalition of State Juvenile Justice Advisory Groups, National Collaboration for Youth, National Congress of Parents and Teachers (National PTA), National Education Association, National Network of Runaway and Youth Services, Inc., Roosevelt Centennial Youth Project, YMCA of the USA, YWCA of the USA, National Board.)

NATIONAL COALITION OF STATE JUVENILE JUSTICE ADVISORY GROUPS,
October 15, 1985.

Hon. ARLEN SPECTER,
Chairman, Subcommittee on Juvenile Justice, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: On behalf of the National Coalition of State Juvenile Justice Advisory Groups, I would like to thank you for your continued support for the Juvenile Justice and Delinquency Prevention Act and the funding which makes it possible to implement the Act. As you know, the Act has resulted in many improvements in the juvenile justice system and in services to juveniles.

States continue to work to meet the mandates of the Act, with much of their effort currently being directed to meeting the jail removal mandate. Removing juveniles from adult-serving jails and lockups requires the cooperation and commitment of state and county governments, as well as that from the Federal government. Continued support from Congress is absolutely essential if states are to be successful in their efforts to remove juveniles from jails. In 1981, the funding level for the Juvenile Justice Program was reduced from $100 million to $70 million. Congress has continued to appropriate $70 million for the program each year since then. However, there has been no increase for inflation during that period. The $70 million funding level is the absolute minimum necessary to maintain the program, although that level still does not provide the resources needed to fully implement the Act.

I hope that you will continue your strong support for the states' efforts to implement

the Act. Please let me know if I can be of any assistance to you in your effort to maintain this effective, necessary program.

Sincerely yours,

A.L. CARLISLE,
Chairman.

Mr. HOLLINGS. Mr. President, when this bill was before the House of Representatives on July 17, 1985, a reduction of $2,700,000 was made to the radio broadcasting to Cuba appropriation which supports the Radio Marti Program. The Chairman of the Advisory Board for Radio Broadcasting to Cuba, Jorge Mas, sent me a letter last week that destroys the arguments made in the other body about the number of staff and average salaries of Radio Marti. This is a good letter that includes a summary of the program costs for fiscal years 1984 and 1985, as well as the levels proposed for fiscal 1986.

The subcommittee approved full restoration of the amount requested for radio broadcasting to Cuba. Radio Marti went on the air May 20, 1985, with a full 14½ hours of daily programming. The cut approved by the other body would compel the firing of up to 30 percent of the existing staff as well as a lowering of the number and quality of broadcast hours.

I ask unanimous consent that Mr. Mas' letter and enclosure be printed in the CONGRESSIONAL RECORD at this point so that we may have this documentation readily at hand when we go to conference with the House managers to work out the final form of H.R. 2965.

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

ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA,
Washington, DC, October 16, 1985.

Hon. ERNEST HOLLINGS,
Ranking Minority Member, Subcommittee on Commerce, Justice, State and Judiciary, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: I am writing to express my regret over the voice vote cast by the House of Representatives on July 17, 1985 to cut funding for the Radio Marti Program from $11.2 million to $8.5 million. Therefore, I believe negotiators from the House Appropriations Committee should reaffirm their Committee's position when in conference with the Senate on the FY86 Continuing Resolution and FY86 State-Justice-Commerce Appropriation bills.

The argument of the amendment authors can be succinctly stated: "Radio Marti has too many staffers and average salaries are too high. Therefore, in times of budgetary stress, funding should be frozen at FY 85 levels to implement a "freeze".

Each of these points is incorrect. As the chart below shows, the operating plan for the Radio Marti Program establishes goals that are 17% to 47% more efficient than comparable organizations. Radio Free Europe/Radio Liberty, Inc. spends $1,376 per hour on staff time to put its shows on the air. And the Voice of America spends $1,730 per hour. However, the Radio Marti Program in FY 86 plans to spend only $1,164 per hour.

Even these comparisons understate the Radio Marti Program's planned staff efficiencies. Voice of America labor costs are held down because 24% of its employees are foreign nationals living abroad who receive, on average, only $13,952 in annual salary. Similarly, Radio Free Europe/Radio Liberty, Inc., has been able to moderate its labor costs because of the strong dollar. If the Radio Marti program also had access to "cheap labor", its employee costs per hour, already lower than the Voice or RFL/RE, would be even lower.

	Payroll costs	Annual hours broadcasts	Employee costs per hour
Organization:			
Voice of America	$99,578,972	57,553	$1,730
Radio Free Europe/Radio Liberty	77,476,000	56,314	1,376
Radio Marti Program	6,243,000	5,292	1,179

According to the House amendment authors, staff inefficiency should be a cause for cutting the Radio Marti Program's budget. Since the Program is, in fact, more efficient than comparable organizations their logic could be used to justify budget increases!

However, it would be wrong to justify an FY 86 appropriation of $11.2 million solely on the basis of impressive productivity.

The proper way to budget is to evaluate what is the minimum needed to produce a 14½ hours daily quality broadcast to the people of Cuba. When OMB performed this excise, they froze the Program's budget at $11.202 million. In calculating their "freeze" level, OMB included full-year operating funding for FY 86 and a 5% pay cut for all Radio Marti program staff. (Since Congress decided not to cut federal salaries by 5% but retain existing levels instead, another $231,000 is needed to "freeze" the Marti program at $11.432 million.) Higher full-year operating costs, of course, reflect the fact that Radio Marti did not go on the air until May 20, 1985 and with only a skeleton staff. It was for these reasons that the House and Senate Foreign Affairs Committees agreed to a $11.5 million FY86 authorizing ceiling.

A summary breakdown on Program costs by past fiscal year, and anticipated needs in FY86 is attached. These figures prove that any cut below the OMB "freeze" level will compel Program management to fire up to 30% of existing staff and to lower the number and quality of broadcast hours.

Sincerely,

JORGE MAS,
Chairman.

[Dollars in thousands]

	1984	1985	1984–5 total	Proposed 1986
I. Capital Purchases				
1. Marathon		$3,060	$3,060	
2. Refurnish antennas, building and upgrading power generators		375	375	$7
3. Primary studio		1,584	1,584	
4. ADP equipment	$382	206	588	47
5. Radio equipment plus replacement parts	394	429	823	230
6. Music library	4	21	25	21
7. Audio/video system		106	106	
8. Recording tape	48	73	121	75
9. Emergency generator		151	151	
10. Miami studio		116	116	
11. Transmitter		189	189	
12. Office equipment plus furniture	539	227	766	26
13. Library and information processing	327	383	710	248
14. Security enhancements	250	248	498	51
15. Telephones		35	35	
Total	1,944	7,203	9,147	705
II. Personnel				
1. Salaries	523	4,144	4,667	6,243
2. Recruitment costs				
a. Appointment travel	51	100	151	69
b. Consultants	8	21	29	3
c. Recruitment ads	9	10	19	7
d. Security clearances	145	99	244	47
3. Training		12	12	26
4. Security staff contract	126	337	463	440
5. Overseas stringers		204	204	360
6. Translations		8	8	5
Total	862	4,935	5,797	7,200
III. Other Non-recoverable Items				
1. Travel	24	131	155	247
2. Telex		5	5	6
3. Newswire	25	127	152	157
4. Teletype supplies		28	28	7
5. Talent/roundtables	23	21	44	57
6. Program acquisition		196	196	175
7. Other contractural services		203	203	198
8. Media monitoring	0	141	141	50
9. Audience research	9	53	62	240
10. Research and analysis	26	38	64	124
11. Miscellaneous supplies	50	105	155	57
12. Miscellaneous rentals	0	9	9	3
13. Satellite circuit	0	18	18	114
14. Marathon lease	75	315	390	
15. Telephones	2	80	82	106
16. Rent	92	856	948	1,084
17. Power and utilities	12	195	207	271
18. Renovation	237	168	405	205
19. Agency shared support		86	86	133
20. Newspapers, books, magazines		22	22	20
21. Printing		27	27	38
22. Shipping postage		6	6	5
23. ADP maintenance		111	111	111
Total	575	2,941	3,516	3,408
Grand total	3,381	15,079	18,470	11,313

	1985	1986	Difference
Reconcilliation:			
Capital Purchases	$7,203	$705	−$6,498
Personnel	4,935	7,200	+2,265
Other	2,941	3,408	+467
Total	15,079	11,313	−3,766

ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA,
Washington, DC, October 16, 1985.

Mr. WARREN KANE,
Minority Staff Director, Appropriations Subcommittee on Commerce, Justice, State and Judiciary, Washington, DC.

DEAR MR. KANE: Jorge Mas requested that this summary justification of FY 86 funding of the Radio Marti Program at $11.5 million be sent to your personal attention. An identical letter has been sent to the Senator.

Please feel free to call me any time you have any questions concerning the Program. After working 5 years on Capitol Hill as a Senate Legislative Assistant and 2½ years as a Senate Legislative Director, I became the executive director to the Advisory board on Radio Broadcasting to Cuba. I am therefore familiar with the legislative history and current operating issues surrounding the Program.

Sincerely,

STUART SWEET,
Executive Director.

Mr. METZENBAUM. Mr. President, I rise in support of the Appropriations Committee amendment which expresses congressional disapproval for

the Justice Department's vertical restraints guidelines.

The committee language incorporates Senate Concurrent Resolution 56, which I cosponsored with the distinguished manager of the bill, Senator RUDMAN. I note that a similar resolution has been introduced in the House of Representatives by Congressman HAMILTON FISH, the ranking Republican on the House Judiciary Committee. This bipartisan support demonstrates a strong congressional rejection of the radical, anticonsumer views of the Reagan Justice Department.

If the Justice Department's views became law, there will be higher price markups, fewer discount stores, and a reduced opportunity for comparison shopping.

Therefore, I am pleased that Republicans and Democrats in both Houses are joining together in recognition that strong antitrust enforcement is an essential element of our free enterprise system. I note that this bipartisan coalition has been joined by the National Association of State Attorneys General, who have also condemned the guidelines on a bipartisan basis.

I am very disppointed that the administration has published these guidelines. The administration claims to be for free enterprise. But free enterprise doesn't just mean freedom from governmental regulations. Free enterprise also means free and open competition in the marketplace. These guidelines encourage private restraints of trade which limit free and open competition.

Some administration spokesmen have defended these guidelines as consistent with current judicial precedent as a worthwhile contribution to the marketplace of ideas concerning antitrust policy. Mr. Chairman, if these guidelines were a consumer product, the Justice Department could be sued for false adverstising.

The guidelines state, for example, that agreements among competing dealers to restrict competition are not per se illegal, as long as the dealers only sell one brand of a product. In other words, if a group of dealers selling only Chevrolets conspired to eliminate a discount Chevy dealer, their conspiracy would not be automatically illegal. Not only is this position shockingly anticonsumer, it directly contradicts the Supreme Court's decision in United States against General Motors Corp. holding such a conspiracy to be automatically illegal.

The guidelines are also deceptive in stating that they have no effect on the laws against resale price maintenance, which has been condemned both by the Supreme Court and Congress as per se illegal. Studies demonstratred that abolition of State fair trade laws which permitted resale price maintenance saved consumers $1.2 billion. But the fine print of the guidelines reveals that price fixing, which is combined with other restraints, will not be per se illegal. As a result, manufacturers will be able to artificially prop up retail prices with impunity.

Moreover, the guidelines state that the per se ban on resale price maintenance only applies to express agreements about specific prices. Yet, when I asked the Justice Department's witness at a committee hearing what judicial precedent supported his argument that the per se ban was so narrow, he could not find a single case.

Under the Department's guidelines, it will be much easier for manufacturers with highly desirable consumer products to force consumers to buy from one authorized dealer instead of comparison shopping for the best value. As far as the Department is concerned, Ford or Chrysler could designate one dealer for an entire metropolitan area without objection. Competition among dealers of the same brand is irrelevant, according to the Department. Ask any consumer who has recently purchased a car, or a television, or a stereo, whether intrabrand competition is irrelevant. In the real world, in contrast to the Department's fancy theories, consumers save millions of dollars each year from intrabrand competition. I totally agree with Donald Baker—President Nixon's antitrust chief—who recently wrote that the guidelines reflect "more the flavor of the seminar rooms at the University of Chicago than the historical jurisprudence of the Federal courts."

Because the Justice Department's views are so contrary to established judicial precedent and basic notions of free competition, I am confident that they will be rejected by the courts. This resolution will hopefully bolster the efforts of litigants seeking to retain traditional, proconsumer enforcement of the antitrust laws.

Mr. President, the administration claims that these vertical restraints only harm consumers in rare instances, usually, they argue, a restraint will help efficiently promote a consumer product. Thus, they claim the law permits vertical restraints unless they are being used by almost everyone in an industry. Neither the factual or legal record supports these arguments.

At the Judiciary Committee hearing on this issue, representatives of three national retailing organizations all testified that their efforts to cut prices on desirable consumer products were often hampered by vertical restraints. Why were these restrictions imposed? Because a manufacturer had some efficient way of marketing the product? No. Restrictions were often imposed based on pressure from competing high-priced retailers. Listen to the testimony of Monroe Milstein, president of Burlington Coat Factory:

> A manufacturer faced with coercion of large retailers could well use the guidelines to withdraw his lines from off-price retailers and then cause the consumers to pay high, full prices. * * * In my experience, my company has frequently been deprived of highly valuable branded merchandise because a full-price retailer has coerced the manufacturer not to sell to Burlington in certain areas.

The administration's contentions are also rejected by existing judicial precedent in the Sylvania case, the Supreme Court expressly called for a balancing, under the rule of reason, of the reduction of intrabrand competition against possible benefits to interbrand competition.

In sum, these guidelines are bad law and bad policy, and deserve congressional condemnation.

Mr. RUDMAN. Mr. President, I believe we have now worked through most of the noncontroversial amendments. It is my understanding that we now have two amendments, both involving the issue of abortion, which could be subject to extensive debate, if I understand this morning's conversation correctly. We will, however, attempt to work that out. There is also an amendment to be offered by the Senator from New Jersey [Mr. LAUTENBERG]. We probably shall have a vote on that with a fairly short debate.

In addition, the Senator from Rhode Island [Mr. CHAFEE] has an EDA amendment. I believe that if we can reach a settlement with respect to the two abortion amendments, we could finish this bill in 1½ hours. It is now 12:08. Under the previous unanimous-consent agreement, it is my understanding that we will now leave this bill and move to consideration of the Jordan arms sale resolution. Is the Senator from New Hampshire correct?

The PRESIDING OFFICER. The Senator is correct.

PROPOSED SALE OF ARMS TO JORDAN

The PRESIDING OFFICER. Under the previous order, the hour of 12:10 having arrived, the majority leader is recognized to offer the resolution.

Mr. LUGAR. Mr. President, on behalf of the majority leader and the distinguished minority leader, the ranking minority member of the Foreign Relations Committee [Mr. PELL] and myself, I send a joint resolution to the desk and ask for its immediate consideration.

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

The assistant legislative clerk read as follows:

> A Senate joint resolution (S.J. Res. 228) proposing the sale of arms to Jordan.

Mr. LUGAR. Mr. President, I ask unanimous consent that these additional cosponsors be added: Mr. DENTON, Mr. TRIBLE, Mr. BOSCHWITZ,

Mr. PRESSLER, Mr. SARBANES, Mr. KENNEDY, Mr. KASTEN, Mrs. KASSEBAUM, Mr. EVANS, Mr. HEINZ, Mr. METZENBAUM, Mr. LAUTENBERG, Mr. WILSON, Mr. HEFLIN, Mr. JOHNSTON, and Mr. MURKOWSKI.

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

Mr. LUGAR. Mr. President, a unanimous consent agreement was reached yesterday for 1 hour of debate equally divided in the usual form on this resolution; that no amendments be in order; that no motions to commit with instructions be in order; that the agreement be in the usual form. Under that procedure, the resolution has now been offered. I yield to the majority leader as much time as he may require for an initial statement on the resolution.

Mr. DOLE. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee, and I am pleased to be joined by the distinguished minority leader, the chairman and ranking member of the Foreign Relations Committee, and a large number of other Senators, in cosponsoring a joint resolution dealing with arms sales to Jordan.

The resolution is simple. It says that, prior to March 1, 1986, no letter of offer for any sale to Jordan of advanced weapons systems included in the administration's notification of October 21 shall be valid unless "direct and meaningful peace negotiations between Israel and Jordan are underway."

This formulation has been carefully constructed to meet the needs of all the parties in the debate over this issue.

It should enjoy the support of the overwhelming majority of Senators, since it encompasses two ideas strongly felt in this Chamber: That direct negotiations between Jordan and Israel must be at the heart of any realistic effort to forge a regional peace and that such negotiations, if they take place, will do more than any arms sale to enhance the real security of both countries.

Passage of this resolution will also serve the administration's needs, and I'm pleased the administration has agreed to our action. Most important, our formulation preserves the President's strong hand as he deals with both Jordan and Israel, in an effort to get the peace process moving.

The resolution also reflects the admiration of many of us in the Senate for King Hussein's initiatives and the understanding we have of his legitimate need for an adequate defense against many of the radical forces which he confronts. For that reason, I especially regret the statement attributed to the King that our action today represents some kind of "blackmail." I hope the King didn't say that and doesn't believe it. For it's just not true. We are not trying to blackmail anyone. We are trying to take responsible actions to encourage negotiations for a true peace in the Middle East, which will be of more benefit to Jordan's security than anything else we can do.

The events of the past months—the President's diplomacy, the King's initiatives, the forward-looking speech of Israel Prime Minister Peres at the United Nations recently—all of these offer some new hope that a real breakthrough in the peace process is possible. But we are in a very sensitive period, where many threads must come together.

This resolution will keep open the window of opportunity for that process. It will preserve our options as we deal with this evolving situation. The resolution deserves our unanimous support.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield to the distinguished minority leader.

Mr. BYRD. I yield the time on my side to Mr. PELL.

Mr. DOLE. I yield the time on this side to the distingushed chairman of the committee.

Mr. LUGAR. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I ask unanimous consent to delete Senator CRANSTON'S name as a cosponsor of the resolution.

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

Mr. LUGAR. Mr. President, I yield to myself 5 minutes.

Mr. President, the resolution now before the Senate is the work of many Senators who are deeply concerned about several issues. Each Senator involved is hopeful that the peace process may continue. Each Senator is most hopeful that the action that we take in the Senate will help the peace process. In my judgment, the resolution we now have before us offers a strong opportunity for the peace process to continue, for the excellent initiatives that have been manifested by Prime Minister Peres in his United Nations speech, by King Hussein in his important comments following that speech, and comments made by our President and Secretary of State offering their good offices for all of these processes to continue.

We faced a situation yesterday in which there were those who were fearful that a time period of 30 days might run out before the peace process could come to greater flower. Many Members felt that an arms sale to Jordan would be inadvisable until the peace process had resulted in face-to-face negotiations. We have relieved that difficulty by providing that consideration of the arms sale may extend over a period of 120 days. This will prevent an unfortunate adverse vote on a subject that could have ramifications with regard to the peace process and result in discouragement not only of our Government but of King Hussein, of the Israeli leadership and others who are deeply interested. It seems to me that the interests of all parties have been considered, and let me simply reiterate what I believe those interests to be.

First of all, the President of the United States has made a proposal that he wishes permission to sell arms to Jordan. That proposal is still with us. Those who are in favor of that proposal could simply let the clock tick but now that clock must go for a period of over 120 days to March 1, 1986. Those who are opposed to the sale would have had to take action within a 30-day period under the old situation. They now have until March 1 of next year to take adverse action if they would wish to do so. A motion of disapproval would be in order at any point along the line. But it is the general desire, I think, of most Members not to file that motion or to press it until it is clear that the peace process is not coming to fruition. Therefore, all interests are protected in that respect.

Finally, Mr. President, it seems to me important to say that there are incentives for the parties to get together. Clearly, the qualifying aspect of this resolution is that an arms sale could progress if face-to-face negotiations occur; negotiations that are substantive, meaningful; that deal with peace; that move away from a status of nonbelligerency between Jordan and Israel to a question of peace. I think most Members of the Senate would agree with Prime Minister Peres' comments to Senators the other day that we ought to look first toward peace and the end of hostilities, then toward arms, that Prime Minister Peres, at least speaking for himself, said he would not object to arms sales to Jordan if Jordan was not at war with Israel, if the belligerency issue was finally removed. That is the key factor.

Let me add once again this resolution takes away no rights of any Senator. A motion of disapproval could be filed immediately if that was the wish of Senators. I hope that will not occur, but that could occur. It could occur anytime during November or December if we were in session, or in January or February. But it seems to me that the disposition of most Senators is to withhold that motion of disapproval to give people more time, to let peace have a chance and to have an opportunity for direct negotiations, given some assurances by our Secretary of State that considerable movement is now afoot in the Middle East and possibilities for peace might come about. I

hope that the resolution might find nearly unanimous favor, if not a totally unanimous vote, as a signal of our interest in keeping vigilance but likewise our desire to try to enhance the peace process.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am pleased to join my distinguished colleagues, the majority and minority leaders, and the chairman of the Committee on Foreign Relations in offering a resolution which would preclude the administration from going ahead with its proposed arms sales to Jordan before March 1, 1986.

If adopted, this resolution will give much needed time for Jordan and Israel to find a way to commence direct and meaningful peace negotiations.

Mr. President, I am convinced that, if the Congress were forced to act now, it would reject the proposed sales. I would agree with such a decision. At the same time, however, I have no doubt that there are many in this body and the House who would be very sympathetic to helping Jordan meet its genuine security needs if that nation becomes a true partner in the effort to achieve a just and comprehensive peace in the Middle East.

I believe that both Prime Minister Peres and King Hussein are genuinely interested in sitting down at the bargaining table. I hope that they will do so at the earliest possible date. Now is not the time to be debating and deciding upon a major arms sale to Jordan.

In the past, I have had severe reservations as to the wisdom of injecting massive weapons packages into the streaming cauldron of the Middle East. I have supported the provision of necessary arms to Egypt since it made peace with Israel and became engaged in the effort to work toward a just settlement.

Mr. President, in early summer, Congress adopted a provision I offered which stated it to be the policy of Congress not to provide any major arms sale until, and unless, Jordan has recognized Israel's right to exist, agreed to abide by U.N. Resolutions 242 and 338 and entered into direct peace negotiations with Israel. Those conditions were enacted in connection with the provision of $250 million in economic assistance for Jordan.

In recent weeks, we have witnessed yet another cycle of Middle East violence climaxed by the hijacking of a passenger ship on the open sea. These events and the continuing terrorist threat in that volatile region of the world only underscore the desperate need for peace between Israel and her Arab neighbors.

We abhor terrorists and we must not let them prevail. Unfortunately, they prosper in the absence of a comprehensive peace. Accordingly, it is imperative that we work with those striving for peace. Jordan is central to the possibility of that peace ever reaching fulfillment.

Mr. President, passage of this resolution will give time for the steps so urgently needed now in the Middle East to be taken. At the same time, it will preserve for the Congress the option to stop sales to Jordan if nothing happens.

Unfortunately, optimism about progress toward peace in the Middle East is seldom justified. Nonetheless, I am optimistic—I hope with justification—that passage of this resolution will prove a very wise move by leaving the way open for early progress toward peace through serious face-to-face negotiation and by providing a genuine incentive for success.

I hope no one will mistake our intent here. We intend to give time for success, but I and fully three-quarters of the Senate have indicated that Israel and Jordan must be at the bargaining table before a major arms sale may occur. It would be foolhardy to chance that the Congress will settle for anything less next year. No one should doubt our resolve in this matter.

Mr. CRANSTON. Mr. President, will the Senator yield me 3 or 4 minutes?

Mr. PELL. I yield 3 minutes to the Senator from California.

Mr. CRANSTON. Mr. President, the sale of advanced weapons to Jordan at this time would do just the opposite of what the Reagan administration says it wants: It would take away our leverage to help bring about a lasting peace in the Middle East. If America sells Jordan arms now just because Jordan is talking about peace, we will not be using our leverage wisely.

We have been down this path before.

In 1981, we conditioned the sale of AWACS to Saudi Arabia on the Saudis becoming a more constructive partner in the peace process. Since then, the Saudis have been bankrolling Syria and PLO terrorists, and we are still going to give the Saudis the planes.

I do not think it is smart to put ourselves in an analagous situation with Jordan—especially when you consider the contradictory statements which King Hussein is making about war and peace. I respect King Hussein greatly. He is striving, I am sure, for peace. But his remarks point out the need for us to remember that talk is cheap.

I have stated repeatedly that we need more from King Hussein than talk about peace talks. We need deeds. We need, as the pending resolution declares, direct and meaningful negotiations underway between Israel and Jordan. I believe we need more than that. We need to see actions for peace before we commit to arming Jordan.

Last week, at a meeting with members of the Senate Foreign Relations Committee, King Hussein, responding to a question asked by the distinguished chairman of the committee, Senator LUGAR, told us that the state of belligerency with Israel was over. But in today's New York Times, he says just the opposite. He says that a termination of the state of war can only occur after "a peace effort under the right auspices—an international conference dealing with all aspects of their problem, in particular, the Palestinian dimension and Palestinian rights."

The King's rhetoric before Congress says that the conditions for peace exist. But let us consider the current conditions that exist between Jordan and Israel:

There is no trade between those two nations.

There is no recognition of Israel's right to exist, and no peace treaty ending the Arab "holy war" against Israel.

There is the matter of the PLO—which Jordan protects as it commits crimes of terror against the people of Israel and others.

And there is the heavily armed border. When you are at the border between Israel and Jordan, as I have been, you cannot avoid thoughts about the foreboding presence of the PLO. I have walked through the line of fire of the machine guns lining the Jordanian side of the River Jordan, machine guns trained on the Allenby Bridge, the only open land route between Israel and Jordan.

These are hardly the conditions of peace. We must not consider any weapons sales to Jordan as long as there is not the reality of peace. We must wait for the King's deeds to match his words.

In conclusion, I will vote for the compromise resolution now before us because it gives King Hussein the opportunity to act for peace before we take any final action in the U.S. Senate banning an arms sale to Jordan.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I rise to support this resolution, and in doing so, I rise also to commend the efforts of Senators KENNEDY, HEINZ, DOLE, CRANSTON, BOSCHWITZ, SPECTER, PELL, and others who were involved in bringing it about. I think it is the right solution for the problem that faces us.

We are faced with the fact that 74 Senators have joined, I being one of them, and indicated that we were prepared to act to stop the sale of arms to Jordan. There is not much question that if that matter had come to the floor, it would have passed.

However, as a consequence of a number of meetings, it appeared that there might be more merit to sending a message to the King of Jordan that the Senate does not look favorably upon the sale and that the Senate and Congress and the White House really are much interested in the parties getting together for direct negotiations.

We are not just saying that we are talking about getting together for direct negotiations, having a meeting, and saying "hello" and "goodbye." This resolution goes beyond that. It talks about the fact that those negotiations shall be underway; and "underway" means that the parties will actually be involved in meaningful peace negotiations between Israel and Jordan.

That, I think, is what all who are concerned about peace in the Middle East really want to see occur. We do not want just a meeting for the purpose of a meeting. We want the parties to get together and discuss their differences and, it is hoped, be able to resolve those differences.

Some have indicated concern by saying, "What if the date of March 1 arrives and nothing has transpired at that time?" Well, if 74 Senators could sign in the first instance, 74 Senators could sign in the second instance. We have the opportunity to act, if that be necessary.

The point is that by enacting this resolution, which I hope will pass unanimously, we are sending a message to the world and to Jordan and to Israel that we are very hopeful that they will engage in direct, meaningful negotiations and sit at the bargaining table and bring about a resolution of their differences. That, in my opinion, is the objective. I think it is achieved by this effort, and I do not think it would have come about had there not been 74 Senators who first joined together in connection with the Kennedy-Heinz proposal. I think we have moved in the right direction and have come up with the right solution, and I commend all those who have been in the leadership role in causing that to come about.

Mr. LUGAR. Mr. President, I ask unanimous consent that the names of Senator ABDOR, Senator MURKOWSKI, and Senator WARNER be added as cosponsors of this measure.

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

Mr. LUGAR. Mr. President, I shall take 2 minutes at this point to try to respond to a question being asked by many Senators with respect to the March 1, 1986 date.

The question is, essentially, "What happens on March 1, 1986?" The answer is, simply, nothing, necessarily. But I think the point made by the distinguished Senator from Ohio was constructive, which is that prior to adoption of this resolution, the timeframe for a motion of disappoval was 30 days. That means that at the end of 30 days, the President would have been authorized to proceed with a letter of sale, unless the Congress acted otherwise.

The effect of this resolution is to move that 30 days all the way to March 1, 1986. It means that a motion of disapproval could be made any time during that period.

In other words, nothing necessarily happens on March 1, 1986. If it is the will of Congress to proceed with disapproval, that may occur at any point from now until March 1, at which time a sale would be possible or, if the Congress decides, additional action could be taken.

I make that point because no Senator is giving away any rights today. He can file for disapproval at any point throughout that period of time.

Many Senators felt they were constrained by having only a 30-day period and preferred not to act within that period, but might prefer to act at some other time in the event the peace process did not move along.

I make that point simply as an answer to a question that is being raised by many Senators with regard to this March 1, 1986, date.

Mr. METZENBAUM. Mr. President, will the Senator from Indiana yield for a question?

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

Mr. METZENBAUM. The Senator from Indiana speaks about a motion of disapproval. The Senator from Ohio has some concerns which have been somewhat confirmed by the Parliamentarian as to whether or not the motion of disapproval is the necessary action in order to disapprove the action of the President in making the sale and that by reason of the Chadha decision having to do with the right of Congress to act in a matter of this kind or similar nature.

Is it not the fact that in this legislation which has the force of law and does not provide any basis for question as to its validity, in effect we really are taking a much more major step, a much more meaningful step, and we totally obviate any legal question that might otherwise arise?

Mr. LUGAR. It is my clear impression that we are doing that and that this has been a careful thought behind this resolution.

Mr. METZENBAUM. I thank the Senator from Indiana.

Mr. LUGAR. I yield to the distinguished Senator from Washington for 5 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I wish to speak not just on this question of delay or even on the question of the arms sale to Jordan. But rather I wish to speak in a broader context because I have been somewhat disturbed by the ways in which we have attempted, in recent months, to influence or carry out American foreign policy.

It seems to me we sometimes forget that American foreign policy should be guided by what I conclude to be the No. 1 principle. The No. 1 principle of American foreign policy should be is what do we do in the best interests of the United States?

What we do in the best interests of the United States does not always coincide with what may be seen as the best interest of Jordan or of Egypt, or of Israel, for that matter, or even for domestic organizations as well intentioned and as good as AIPAC.

It seems to me that American best interests in the Middle East are best served if we at least try to achieve three fundamental goals, perhaps more but at least three.

One, is to continue as we have since the birth of that nation: To supporting the security, the independence, and ultimately the ability to live in peace in the Middle East of our friend and ally, Israel.

Second, is to attempt to move toward stability in the Middle East: Stability among all nations that will aid in keeping at bay the rising tide of Moslem fundamentalism as it affects governments and as it potentially affects the stability of that part of the world.

Third, in our moment of energy complacency, let us not forget that we have gone through a period of minimum dependence on foreign oil, that we are slowly, inexorably now turning around. With the increased demand for petroleum products in this country, the beginning of decline in domestic products, we are going to be increasingly dependent on external sources and they will inevitably include sources from the Middle East.

These three interests, it seems to me, are paramount for America in the Middle East. The security of Israel, the stability among nations of that part of the world, and as a result the protection and the opportunity for continued supply of petroleum are in America's best interest.

I feel very strongly, as I suspect most of my colleagues do, that we were placed in a position that was uncomfortable for all of us where an immediate vote might be placed before us and an immediate vote which, in my opinion, would be a no-win vote. It would make no difference which way that vote went. We would not be achieving the real goals of American foreign policy in that part of the world. We would either drive away Arab States and give great encouragement to the cause of the radicals in that part of the world, or we would turn aside from our friend and ally Israel.

I think we also have to understand and recognize that whatever influence we try to apply on actions of other independent nations should be done with great care and with particular understanding. Every nation, every leader has a sense of pride, a sense of independence, and a natural reluctance to react directly to the demands or threats from others.

So we have to be careful, exceedingly careful, to use our great influence wisely and well, and I think in doing so we in this Congress and particularly in the Senate, where we have such an extraordinary responsibility for foreign policy, have to have some faith and develop even closer working relationships with this administration or any administration for that matter. Our best years of American foreign policy have always been those years in which foreign policy was both bipartisan and in partnership, Congress and the President.

The PRESIDING OFFICER. The Senator from Washington has used 5 minutes of his time.

Mr. EVANS. May I ask for 2 additional minutes?

Mr. LUGAR. Mr. President, I yield 2 additional minutes.

The PRESIDING OFFICER. The Senator yielded 2 additional minutes to the Senator from Washington.

Mr. EVANS. We must be careful in these coming months, between now and March 1, 1986, to analyze the progress toward peace negotiations in the Middle East, to lower our voices, to lower our voices in order to give the tenuous moves toward peace a chance.

Last, the ultimate conditions, if any, which we apply to this or any other proposal for the Middle East, must be capable of being met by those to whom the conditions are directed. I think it is perfectly appropriate to suggest that an end to a state of belligerency is something that could be done independently by Jordan, that the opening of talks could certainly be accomplished, that a successful selection of a Palestinian delegation could be accomplished. But it is not within the purview of any one nation to conclude a peace agreement, to sign one, to finish the act, and I think that that is an inappropriate condition.

Mr. President, I congratulate the chairman and the leaders who have worked together to bring us to this point. It is the best solution given the unhappy alternatives which were in front of us, and I desperately hope, along with my colleagues, that between now and March 1 of next year we will have moved and taken several steps toward initiation of the peace process in the Middle East.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Connecticut.

Mr. DODD. I ask the distinguished chairman of the committee for 5 minutes.

Mr. LUGAR. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Thank you, and I thank my distinguished chairman.

Mr. President, I will announce in advance what I want to do at the end of the 5 minutes so Senators will have some time to think about it.

I commend, first of all, those who have been responsible for putting together this particular language in this resolution. I have no objection whatsoever to the language that is before us.

The concern I have, and I realize procedurally I am under a constraint given the unanimous-consent request, is that I am concerned that we have not provided for an expedited procedure for this body to react if during this period of time it becomes quite obvious for whatever set of reasons that the peace process is not going to be capable of going forward and that is, given the volatility of the region we are talking about, a likelihood that cannot be dismissed.

The absence of some language here, which I will ask unanimous consent to offer, does not change one period or one comma in the resolution we are considering but adds a paragraph that says the following:

> Any joint resolution introduced on or after February 1, 1986, which states that the Congress objects to the proposed sales shall be considered in the Senate in accordance with the provisions of Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

That would give us the opportunity to react.

My concern is, just as has been described by my colleagues, that we will not know or have any sense of what the President is thinking about on this matter until actually March 1, at which point the psychology changes dramatically in terms of this body reacting after the fact. I would like to give us that opportunity to react before, if we can, if, in fact, the situation is not proceeding well.

I have listened to the distinguished chairman of the committee suggest that he knows of no reason why anyone would object if things were going sour for a resolution of disapproval to be brought forward. If that is the case, then I hope there would be no objection to the unanimous-consent request that would simply add the language that would provide us that opportunity here since it does not change the substance at all of the proposition before us, but merely adds that guarantee that we would then be removing as a result of the adoption of this particular resolution.

I might add, as well, Mr. President, that I, for one, happen to have been supportive of the efforts of the chairman in trying to get an extension and, in fact, communicated to the Secretary of State, Mr. Shultz, myself, on October 16 requesting this matter not be brought up now but rather delayed until after the first of the year. So I am in total agreement with the substantive effort here.

My concern is the procedural hole or gap, if you will, that we have left ourselves here that I think that we may very well all regret.

So, for that reason, Mr. President, I ask unanimous consent to be able to offer a substitute joint resolution that includes all of the language in the resolution before us and adds the paragraph I just read.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. Mr. President, let me just say to my colleagues here—and I say this with great regret, because I really do approve of what is happening substantively—but, as a procedural matter, this is too important an issue, it seems to me, to leave without that kind of safeguard. I would say, with all due respect to my chairman, who I have deep personal fondness for and respect, that the objection, frankly, causes me concern. I do not know why there should be an objection to this. It is merely protecting the prerogatives of this body. We have adopted legislation in the past that has given us that opportunity. It is a matter of some judicial inquiry as to whether or not it is constitutional, but, nonetheless, this body has felt in the past that we ought to protect ourselves in arms sales by having the opportunity to express our disapproval of it.

This resolution denies us that opportunity, except to the extent we obviously include an appropriating process or submit all sorts of resolutions. But there is no guarantee it would be considered. Of course, one Senator here could filibuster such a proposal if it were to come and deny us that opportunity until after March 2.

As a result of that, as someone who prefers to have this kind of timeframe, I would reluctantly have to oppose this resolution.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield myself 2 minutes to respond to the distinguished Senator from Connecticut.

It is with regret that I object, but I do so to protect the interests of all Senators who are of the opinion, or at least they entered into this debate with the opinion, that there would not be amendments.

Presently, there is no expedited procedure for a motion of disapproval. This resolution supplants the 30-day motion of disapproval that we would

have voted on otherwise. There is no expedited effort there.

The Senator from Connecticut is correct, Senators have the privilege of filibustering or extending debate or employing parliamentary delays, or what have you. Many want to protect that. To change that situation in the course of this debate, and without notice to extend this resolution, is an important request, but one, in all honesty, which I feel I could not accede to, given the agreements we have reached with all parties.

I appreciate the problem. This is why I tried to respond earlier to suggest that what we have done is simply to push the period of consideration back from 30 days to March 1, 1986, so that there is a longer period in the event Senators wish to file the motion to disapprove and to get that into the normal course of debate.

Mr. DODD. Will the Senator yield?

Mr. LUGAR. I am happy to yield.

Mr. DODD. I appreciate the Senator's response to that. Does the Senator know of anyone who objects to the addition of this language?

Mr. LUGAR. The Senator does know of persons who do. I can be candid and say that one factor in going this route was the attempt to obtain consent from the Secretary of State and from the President, who indicated that, if this resolution comes to him in this form, he would sign it. That is an important point, because prior to that consent we did not know the President's views. Members, however, may speculate about vetoes, about overriding them and about the time sequence of that.

But, in the context of effective action, it seems to me that part of the agreement is the language in the resolution that was known, and this procedure, with all the options given to the parties, including the President, being protected, that lead me to object to changes at this point.

The PRESIDING OFFICER. The Senator has used 2 minutes.

Mr. LUGAR. I yield 2 minutes to the Senator from California.

Mr. WILSON. Mr. President, I commend those who have fashioned this legislation. I think it is a wise procedure. Hopefully, it is one that will produce a new leverage for peace in the Middle East.

If this sale, as proposed, were to come to a vote today, it would lose in this body. I think that there are those who are simply unwilling to proceed without having the opportunity for the kind of bilateral direct negotiations between Jordan and Israel that will lead to peace before we add to the total number of arms in that area. To put it as simply as possible, peace is likely to bring arms—arms of a kind that will be required to allow Jordan to defend itself, with its allies, against attack from radical Arab States, and that is the real threat to Jordan's security. Unhappily, history does not illustrate that arms coming first enhance the cause of peace.

I commend those who have fashioned this. I hope it will achieve the goal that all of us who support it seek for it, and that is the production of new leverage for peace in the Middle East. Jordan, I believe, is entitled to some assurance from those of us that are concerned about peace in the Middle East that we are concerned about her security, as well. I believe they are entitled to think that we will not stand idly by, as, indeed, we did not stand idly by when Israel was attacked by other radical Arab States in earlier times.

So, Mr. President, I again commend those that have fashioned this compromise. I hope that it does produce that leverage for peace in the Middle East.

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to join others in commending the various Senators who have brought us to this particular place in addressing this issue, especially the Senator from Ohio, Senator METZENBAUM, Senator CRANSTON, Senator PELL, Senator HEINZ, Senator BOSCHWITZ, Senator KASTEN, Senator INOUYE, and our leader of the Foreign Relations Committee, Senator LUGAR, and the majority leader, Senator DOLE.

Two days ago, Senator HEINZ and I introduced a resolution with 74 Senate sponsors opposing the administration's plan, announced on Monday, to sell up to $2 billion in sophisticated fighter planes, missiles, and other advanced weapons to Jordan. As the broad support for our resolution demonstrates, there is overwhelming opposition in the Senate to any such arms sale at this time.

The administration's plan is irreparably flawed, because it puts the arms cart before the peace horse. We all hope that Jordan and Israel are on the verge of a historic breakthrough for peace between their nations. It is obvious that Israel is not the obstacle to peace in the Middle East. And we are also well aware of the difficulties that confront King Hussein of Jordan in deciding whether to go forward with direct and meaningful peace negotiations with Israel.

But at least until those negotiations are underway, this arms deal is premature. There is no justification for any weapons sale to Jordan or any other Arab nation that might endanger the security of Israel.

The present resolution achieves the full goal we sought in the resolution we introduced 2 days ago, and it deserves the full support of the Senate. By our action delaying—and denying—the sale for now, we offer a clear, continuing, and appropriate incentive to Jordan to make peace with Israel. The last thing we need is to provide a disincentive to the peace process, by giving the King an opportunity to take our weapons and run.

Let us pray that 4 months from now, with good fortune and courageous leadership, we will be offering a very different resolution—praising the historic decision by Jordan and Israel to begin negotiations for peace.

If not, then we stand ready in the Senate to renew our opposition to any policy and any sale that would escalate the arms race, not facilitate the peace process, in the Middle East.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

Mr. BOSCHWITZ. I thank the Senator for yielding.

Mr. LUGAR. Mr. President, I believe 6 minutes remains; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BOSCHWITZ. Mr. President, I commend my friend from Massachusetts, Senator KENNEDY, as well as Senator METZENBAUM, Senator SPECTER, the chairman and the ranking member of the committee for coming forward with this resolution.

I might say to my friend from Connecticut that it is not my interpretation at all that the Senate has waived any rights whatsoever. The Senate is not constrained to act to reject this arms sale within 30 days. It can reject this arms sale anytime prior to delivery.

I believe there is a critical message contained in the heart of this resolution. Congress has consistently expressed its view that major arms sales to nations at war with Israel should come only after those nations have agreed to make peace with Israel and are sitting down in direct, face-to-face negotiations with Israel toward that end. Arms should not be used as an incentive for such nations to be encourage to discuss peace, but as recognition of achievements in the peace process, as was the case with Egypt, where I think we very fully came forward in meeting our commitments that were made prior to the Camp David Accords.

From the time administration first began discussing the arms package to Jordan, Congress, in keeping with its policy, has consistently urged the Executive to postpone consideration of such sales until Jordan was sitting at the peace table with Israel.

Seventy-four Senators have clearly expressed their view that now is not the time to consider an arms package of such major proportions to Jordan. Rather than rejecting the sale outright, however, which the Senate

would have done if we had insisted, an agreement has been reached that would give the King and the Israelis more time to begin face-to-face negotiations.

Prime Minister Peres, in a bold and courageous speech before the U.S. General Assembly last week, went farther than any Israeli Prime Minister has ever gone toward meeting Jordanian conditions for peace talks. Now it is up to King Hussein to meet that challenge and sit down with Israel. The days of rhetoric are over. Concrete, courageous actions are now required by Jordon. Congress, through this resolution, is giving the process a chance to unfold.

Let me clarify if there are any ambiguities or questions pertaining to the language of the resolution. The resolution delays congressional action on the President's request for 120 days. The language of the resolution, according to my understanding, does not, in effect, approve the arms sale in any way but suspends judgment on the resolution of disapproval for the period specified. The Congress may, at any time during that period or after, pass legislation prohibiting such sales to Jordan.

If direct and meaningful peace negotiations between Israel and Jordan are not underway before March 1, I am certain that Congress will act promptly to ensure that such sales do not proceed.

It is important that this legislative history serve as the clear intent of the Senate regarding its interpretation. Let me assure the President that we, in the Congress, will express our view on these sales during this period extending to March 1, 1986—and after. Through this resolution, the Senate is simply delaying action on the formal notification request.

Mr. PELL. Mr. President, I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I want to comment on a few matters that have come up during the debate.

First, as an habitual vote counter, I want to state my absolute conviction that if those of us who led the way had persisted and brought this matter to a vote within the 30-day period, we would have prevailed. The votes were here to deny proceeding with an arms sale to Jordan.

However, in the interest of comity between the two parties, between the Congress and the President, in the interest of peace and giving King Hussein an opportunity to follow through on his words about peace, we decided to work out the compromise that is now before the Senate and will soon be approved.

Second, on the matter brought up by the Senator from Connecticut, I would have liked to have seen his proposal adopted. I think it would have given us greater assurances about coming to a decision when and if we need to. But I totally understand the position of the chairman of the committee. I think he had no alternative, given the involvement and the terms of this agreement with the President, the Secretary of State, and many, many others.

My own view is that there was no certainty in any of the procedures that we were following. The original disapproval procedure had 30 days. The present procedure has 120 days.

Court decisions have created some doubt as to our capacities in this area.

However, I believe we have developed a spirit of comity on this matter. I feel confident that if those who are opposed to the Jordan sale under current conditions are still concerned in February, that the leadership in this body on the majority side will give us an opportunity to bring this matter to a vote. If we find obstacles to reaching a decision at that time, then, of course, we have a still better alternative and that is to deal with this matter on an appropriations measure. We can adopt, on a very important and significant appropriations measure, a provision stating that no funds can be spent by the U.S. Government in any way to complete the sale of arms to Jordan. We have that recourse, if we need it. I trust we will not have to.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield such time as may be required to the Senator from Connecticut.

Mr. DODD. I thank the Senator.

Mr. President, I ask unanimous consent that a copy of my joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 228

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that—

(1) Prior to March 1, 1986, no letter of offer shall be valid with respect to any of the proposed sales to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems, that are described in the notification pursuant to section 36 (b) of the Arms Export Control Act submitted to the Congress on October 21, 1985, unless direct and meaningful peace negotiations between Israel and Jordan are underway.

(2) Any joint resolution introduced on or after February 1, 1986, which states that the Congress objects to the proposed sales shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

Mr. DODD. Mr. President, I ask unanimous consent that a letter I sent to Secretary Shultz on October 16, 1985, be printed at this point in the RECORD.

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

OCTOBER 16, 1985.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: Last week during your appearance before the Senate Committee on Foreign Relations, I strongly suggested that the Administration give serious consideration to deferring until the first of the year its formal request for the proposed $1.9 billion arms sales package to Jordan.

In view of the serious and tragic events of the past several days, I urge you to give this suggestion your immediate consideration. I do so because I am more convinced than ever that the formal submission of the Jordan arms package will only serve to heighten the Middle East controversy and to reduce the prospects for moving the peace process forward.

Accordingly, I want to reiterate my earlier suggestion and urge you to reassess the timing of this request. Hopefully, the recent developments in the Mediterranean region can be sorted out. Hopefully, they will not have a lasting impact on the peace process. And hopefully, the Administration's expectations for significant progress in bringing Jordan and Israel to the negotiating table before the end of the year can still be realized.

In my judgment all of these hopes, which I know you share, will be seriously jeopardized if the Administration pursues its original plans to submit the Jordan arms proposal on October 17th. Realistically, this proposal deserves to be set aside at least for the time being, in order to guard against any further damage to the peace process and to prospects for getting it back on the track.

I deeply appreciate your timely consideration of this suggestion.

Sincerely,

CHRISTOPHER J. DODD.

Mr. DODD. Mr. President, if I could, I would like to engage my distinguished chairman in a colloquy.

I have expressed my concern about what may happen as a procedural matter, and I appreciate the comments of the Senator from California. The problem with that, of course, is once the train has left and the President has made a decision, for the sake of discussion, that the peace process has not gone forward, and the President has decided in the national interest of the country to issue the letters and for whatever reason we are foreclosed by one or two Senators who want to disapprove of it, but it goes ahead, the process of going back is a far more difficult proposition than it is to dispose of or stop the sale before it occurs.

I think we can agree on that.

My concern would be whether or not the leadership could give this Senator some cause for relaxation by guaranteeing that if a resolution of disapproval is offered on or after February 1, 1986, that we would be guaranteed the opportunity prior to March 1, 1986, on or before March 1, 1986, to vote on that resolution of disapproval. Could that guarantee be given?

Mr. LUGAR. Let me respond to the Senator. I hope he will understand. I personally cannot give a guarantee on

behalf of the leadership in the majority or the minority. I hope the Senator will understand that I frankly do not know what the parliamentary situation is likely to be at that point.

I can assure the Senator in this way: I think the Senator from California has expressed the various obstacles that have been encountered by myself and others who were trying to draft this approach, but the votes for disapproval were here and that view could be expressed.

I would simply say that on that basis, on the basis of comity within our committee, on the basis of the appropriations process, that the will of the Senate is going to be heard and will be heard in a timely manner. But I cannot offer any further assurances.

Mr. DODD. Mr. President, I see the majority leader has arrived on the floor, the distinguished Senator from Kansas, and possibly I could engage the majority leader for 1 minute.

Mr. LUGAR. I am happy to yield to the majority leader.

Mr. DODD. If I might have the attention of the majority leader for a second, I posed a question relating to a substitute that I had hoped to be able to offer that would have guaranteed us an opportunity to vote on a resolution of disapproval prior to March 1, 1986. That unanimous-consent request was objected to, and I understand the reasons why. I wonder if the majority leader could give me and those of us who are concerned about whether or not we would have an opportunity to vote on this prior to March 1, a guarantee that should a resolution of disapproval be offered on or after February 1, 1986, we would have the opportunity in this body to vote on that resolution on or before March 1, 1986. Could such a guarantee be given?

Mr. DOLE. I can offer no guarantee, but I doubt there would be any problem. As far as I am concerned, we are going to be in the same situation then as we are today. There could be at some time an effort to postpone a final resolution of the arms sale issue for another 60 days or 90 days, depending on the status of the peace process. But I can say, as far as I am concerned, that I doubt there will be a problem.

My view is that we have a good resolution. Drafting was a cooperative effort with a number of Senators on each side of the aisle. The effect of the resolution in effect is to just move everything down the road 4 months without disturbing anything else or limiting any Senator's rights.

I am willing to assure the Senator personally that I am not going to stand in the way of anybody who wants to introduce a resolution of disapproval.

Mr. DODD. I thank the majority leader.

Mr. BOSCHWITZ. Will the Senator from Connecticut yield?

Mr. DODD. Certainly.

Mr. BOSCHWITZ. There were Senators on this side, Mr. President, who were concerned that the resolution was not specific enough in disallowing other people to rise at any time and offer resolutions of disapproval.

Mr. DODD. The resolution could be offered. Whether it would be considered is the issue.

Mr. BOSCHWITZ. In the event, once again, the peace process is bogged down and not moving forward, or some other events occur, 74 Senators will certainly get the attention of the Senate. However, we believe that we have expanded, rather than constrained or contracted, the rights of the Senate by virtue of this resolution. Furthermore, just as I felt it was unnecessary to specifically prevent people from offering resolutions of disapproval, so I think the Senator from Connecticut is unduly concerned about something that will not happen.

We have negotiated this in good faith with the majority leader, with the White House, and with the chairman of the Foreign Relations Committee. I know the Senator is and has been for many years interested in the entire subject of the Middle East. I think that the concerns of the Senator are without basis. I cannot foresee another Member of the Senate or the White House trying to prevent such a resolution from being properly debated and voted upon, in the event a member would try to do that. Certainly that would assure such a resolution from succeeding. And such a resolution can arise at any time prior to delivery.

Mr. DODD. Mr. President, if I may retain the floor, the point is obvious. The resolution could be offered. You could offer 100 today. That is not the point.

I would tell the Senator from the Minnesota I hope he is absolutely right and I am wrong. But I also say, as I stand here today, I have a sinking feeling I am right and he is wrong. Now, we will know on March 1. But I would like to think that we had at least covered ourselves in this body so that we might have an opportunity to express our will. I hope I am wrong. I mean that with all sincerity. I think we have left the barn door open and we will come to regret it.

Mr. BOSCHWITZ. Mr. President, the Senate can act on this at any time prior to delivery of the weapon system in the proposed package. I think we have expanded our rights and that we constrained the rights of the administration.

The PRESIDING OFFICER. Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I think the Senator from Connecticut made a very good and very valid point. I think the majority leader gave us a very good assurance, a generous assurance. I think that point is pretty well covered.

Is there anybody else on our side who wants to speak?

Mr. LEVIN. Will the floor manager yield for a question on our time?

Mr. PELL. Certainly.

Mr. LEVIN. Can the Senator tell me whether or not the 30-day clock, which the law has, would ever, whatever weaknesses or questions that exist about it, will that 30-day clock begin to run again on March 1?

Mr. LUGAR. No, it would not. The clock would expire on March 1.

Mr. LEVIN. The clock will have expired by March 1. I think that is the point the Senator from Connecticut is making, that there are some things that we give up. It may be an imperfect clock because of Chadha, but it is a clock, and that clock would have run out by March 1. We all ought to be aware of that fact. I think the resolution is worthy of support, but there is a very critical problem with it that we are going to have to watch very, very carefully, and that is exactly the fact that the clock will no longer have any time on it by that time.

Mr. BOSCHWITZ. If the Senator will yield, my point is that it does not matter if the clock runs out. We can bring a resolution of disapproval to the floor at any time.

Mr. LEVIN. Except that clock has expedited procedures, does it not? It does not have any expedited procedures left on March 1. Those procedures may have gone down the tube in that Chadha ruled that the concurrent resolution to which it is connected went down the tube, but nonetheless you could offer a concurrent resolution of disapprovel and have expedited procedures, and then it would be a court decision as to whether or not that concurrent resolution in fact violated Chadha or not. Under this resolution, the clock runs out before March 1. There are no expedited procedures at all, as defective as they may be.

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. PACKWOOD. Mr. President, the administration's decision to hold off on the proposed $1.9 billion arms sale to Jordan should be lauded. Selling Jordan our most sophisticated weapons prior to their negotiating directly with Israel would have been a grave and costly mistake.

King Hussein has taken some initiatives recently, and I believe there is some hope that peace will prevail. I know that the King, like Prime Minister Peres, is a man of peace. However, arms sales have never induced peace in

the Middle East—a region which has suffered from perpetual war and unrest. King Hussein must back up his words with actions.

King Hussein met with Members of the House and Senate earlier this month, and told us that he recognizes the existence of Israel. He also agreed to negotiations with Israel under the auspices of an international conference. Although the U.S. Government has opposed the idea of an international conference because it invites the Soviets, the Syrians, and the PLO to place obstacles in the path toward peace, it is a start.

After years of bloodshed and constant tension, the possibility of peace between Israel and Jordan is much more than a dream. But it requires courageous steps.

I sincerely hope that King Hussein will use the next 4 months to take the necessary, irrevocable steps and engage in direct talks with Israel. When the late Egyptian President Anwar Sadat embarked upon his courageous journey to Jerusalem, he took that all-important step toward a peaceful resolution of the Middle East conflict. I am convinced that King Hussein wants peace just as much as Anwar Sadat did—all that he must do now is take the necessary steps.

I will support this resolution to delay the arms sale but let there be no doubt—if there is no movement in the peace process—if King Hussein continues to avoid direct negotiations with Israel—I will again join my colleagues in opposing this sale. As I have said many times in the past, I simply do not believe we should sell arms to countries in the Middle East that are not willing to make peace with Israel. Our interests—the interests of the United States—are served infinitely better by encouraging peace through negotiations than by contributing to instability in the region through another arms sale.

Mr. HEINZ. Mr. President, as a principle sponsor of Senate Joint Resolution 223, which would have prohibited the sale of advanced weapons to Jordan, I am pleased to join today as a cosponsor of this compromise, which halts the administration's current attempt to sell advanced weapons to Jordan.

This compromise would prohibit the President from proceeding with its proposed sale of weaponry to Jordan between now and March 1, 1986, unless direct and meaningful negotiations between Israel and Jordan begin before then. Most importantly, the compromise preserves the right of the Senate to oppose the sale after the March 1 date if direct negotiations between the two are not taking place.

In effect, the compromise achieves the objectives which 73 of my colleagues and I spelled out in cosponsoring Senate Joint Resolution 223.

In my view, the delay of this sale is vital to improving the prospects for peace in the region. The current flurry of diplomatic gestures between Israeli Prime Minister Peres and Jordan's King Hussein are cause for cautious optimism. To have proceeded with this sale at this time, however, would have been a serious threat to the delicate progress which has already been made.

It is my hope, Mr. President, that direct and meaningful negotiations between Israel and Jordan will begin promptly, and most certainly prior to the March 1, 1986, deadline which this compromise establishes.

I would like to thank the original sponsors on this bill, Senators KENNEDY, KASTEN, BOSCHWITZ, INOUYE, and CRANSTON for their efforts in halting this sale. In addition, the leadership of the distinguished chairman of the Foreign Relations Committee, Senator LUGAR, was vital in avoiding a confrontation on this issue and in crafting this compromise.

Mr. GLENN. Mr. President, I support the resolution delaying action on the proposed sale of arms to Jordan. To support an arms sale to Jordan now would surely be interpreted as suggesting that we are satisfied with the efforts that King Hussein has made toward holding direct, bilateral peace talks with Israel. Clearly this is not the case. I look upon the proposed 4-month delay as a welcome opportunity for Israel and Jordan to make a constructive move toward the peace table.

My position on the sale of arms to Jordan has been very clear. I believe that it is incumbent on the Arab nations—particularly Jordan—to move the peace process forward before I support an arms sale. To date, Jordan has not done this to my satisfaction.

Over the past months, however, statements by King Hussein have been encouraging. Recently, we have heard additional statements from the Middle East that give rise to renewed hope for the peace process. President Mubarak and King Hussein are meeting, and King Hussein has responded favorably—although cautiously—to Prime Minister Peres' recent remarks.

Mr. President, we have heard a lot of talk about peace; it is now time for action. To date, the hopeful words have not been matched by hopeful deeds. It is time for bold action by Jordan to break the current deadlock. I believe it would be foolish for the United States to jeopardize the potential for peace by premature arms sales to Jordan.

Mr. CHILES. Mr. President, I want to take just a minute to thank the leadership for its efforts to defer consideration of the pending arms sale to Jordan.

While I applaud King Hussein's efforts to advance the peace process, I am concerned that the King's insistence on an international conference including the Soviets, Syrians, and PLO, has effectively blocked any real progress in this area. Israel, on the other hand, has taken the first real steps to break the impasse. Let us wait and see if their efforts bear fruit.

One key factor in my own decision to oppose the arms sale was the uncertain funding arrangements for the sale.

Mr. President, this proposed sale represents a potential commitment to provide $2 billion in additional foreign assistance over the next 5 years. I do not believe that the budget can absorb this new commitment.

In my judgment, it does not advance American foreign policy interests for this administration to support major new foreign assistance programs, knowing that the Congress is unwilling to provide the necessary appropriations to fund these initiatives.

I hope that as the Senate considers this measure between now and March 1 of next year, the administration will seriously consider how Jordan will finance the purchase of these arms.

And, if they expect the United States to finance these arms sales, I hope they are prepared to inform the Congress of the additional funding requirements. Of course, in keeping with the Gramm-Rudman amendment, I expect the President will also be prepared to suggest which current activities he proposes to cut in order to finance this new initiative.

Mr. TRIBLE. Mr. President, I wish to express my support for this resolution postponing the time period for disapproval on arms sales to Jordan until March 1, 1986.

Let me say at the outset that were we to vote on the arms sale today, I would oppose it. The sale of these advanced weapons without tangible guarantees by Jordan would unacceptably jeopardize Israeli security. Moreover, at this time, the cause of peace is not served by the introduction of additional arms into the region.

All of us agree that the peace process must be our foremost concern and this is a critical time in that process. King Hussein has made a courageous effort to lay the groundwork for negotiations. He has worked diligently to build support in the Arab world and he has achieved substantial success. Prime Minister Peres remains eager to enter into direct negotiations.

Our action today will ensure that King Hussein's efforts at reconciliation will continue. By delaying action, we indicate to Hussein that should direct negotiations begin, our Nation will provide a full measure of support. We signal our intention to reward those who pursue the path of peace.

We must recognize that King Hussein's project stands as the best hope

for peace. A premature judgment by the Congress would undermine the cause of reconciliation.

Moreover, it would be unwise to repudiate the President. No one in Congress doubts President Reagan's commitment to the security of Israel or the peace process. The decent interval permitted by this resolution will enable the administration to maintain its role as intermediary, unencumbered by the onus of congressional disapproval.

Many obstacles remain, but those obstacles are not insurmountable, but overcoming them requires boldness, decisiveness and good will. Today's resolution encourages that risk taking.

The road to reconciliation will not be easy. Our action today acknowledges the extraordinary difficulties and eliminates a deadline which could become the death knell of the peace process. I urge my colleagues to support this resolution.

Mr. HART. Mr. President, passage of this resolution will be a major victory for all those who have urged the Reagan administration not to sell sophisticated weapons to Jordan until King Hussein agrees to negotiate directly with Israel.

As I have long argued, our efforts should focus on bringing Jordan to the negotiating table, not bringing arms to Jordan. Weapons are no substitute for diplomacy. In this case, I fear that they would forestall diplomacy.

King Hussein has helped to move the peace process forward to a limited extent. But postponing the arms sale is the only leverage the United States has to bring Jordan one step further. Unfortunately, King Hussein did not publicly announce his willingness to end the state of belligerency or enter into direct negotiations with Israel during his recent visit to the United States.

President Reagan has defined his goal as starting direct Israel-Arab negotiations before the end of this year. The resolution before us today gives the administration and the Jordanian Government time to pursue this course. This also strengthens U.S. flexibility and leverage in persuading Jordan to make concessions needed to break the current deadlock.

I urge my colleagues to support this resolution.

Mr. SPECTER. Mr. President, I want to express my strong support for this resolution which would bar an arms sale to Jordan until March 1, 1986, unless Israel and Jordan begin "direct and meaningful peace negotiations" before then.

Providing arms to Jordan before they make peace with Israel would focus attention on the instruments of war rather than on efforts to bring peace to the area. In the 1970's, the United States waited until after Egypt entered direct negotiations with Israel before supplying arms to the Egyptians. This is a basic principle that must also be applied to Jordan. Providing arms to Jordan at this time would reward them for not moving forward in the peace process.

This resolution will encourage the peace process to move forward in a positive direction. This resolution does not embarrass or rebuff King Hussein. But rather, it encourages King Hussein to move foreward. It encourages King Hussein to recognize Israel and to begin direct and meaningful negotiations.

This week, we may have seen the first step toward renewing the peace process. Prime Minister Peres of Israel, in his address to the U.N. General Assembly, and King Hussein's positive response, should be viewed in a most positive light.

In conclusion, I strongly believe that the only means to reach a peaceful settlement of the problems of the Middle East is through direct negotiations between Israel and Jordan.

Mrs. HAWKINS. Mr. President, I rise in support of this resolution to prohibit the sale of advanced warplanes and sophisticated air defense equipment to Jordan until March 1, 1986, unless King Hussein enters into direct and meaningful peace negotiations with Israel. The effect of the amendment is to extend the period in which Congress can consider this proposed arms sale from the standard 30 days, which in this case would expire on November 19, 1985, to March 1, 1986.

On Monday, October 21, 1985, the administration submitted to Congress its formal announcement of its intention to sell $1.9 billion worth of advanced weapons to Jordan. I joined 72 of my colleagues in immediately expressing opposition to this sale. This was no bolt out of the blue for the President. Several months ago, when word first began to circulate that the administration was considering such a sale, I joined at least 70 of my colleagues in writing to the President expressing our view that such a sale would be unwise and counterproductive. In spite of these clear signals of disapproval, the administration insisted in sending this proposed sale to the Senate. As a result, it should have surprised no one in the administration that this proposal would find substantial opposition here in the Senate.

The resolution that we are considering today is not the same as the one that was introduced to disapprove of the proposed sale to Jordan. This resolution, rather than rejecting the sale outright, prohibits the sale until March 1, 1986, unless Jordan and Israel begin direct peace talks. This resolution strikes at the heart of my opposition to the sale: Jordan has done nothing substantial to advance the cause of peace in the Middle East, and, in my view, has actually contributed to the tensions that have made the Middle East a powder keg. Under these circumstances, to reward Jordan with the sale of some of America's most sophisticated weaponry would be the height of folly. Rather, the consideration of an arms sale to Jordan should await positive actions on the part of Jordan to reinforce the peace efforts of the region. In this way, such a sale would at least serve to reinforce and reward the King for steps that are clearly in the interests of the United States and world peace. By refusing to wait until the King has taken these steps, I believe that we heighten the tension and contribute to the problems of the Middle East.

My reservation about this resolution is that it merely delays the possibility of the sale instead of rejecting it outright. I believe that under no circumstances, either now or in March, should we permit this sale unless Jordan has taken concrete steps to end the state of war with Israel and to enter into peace negotiations. I am supporting this resolution because of its timing. I am reluctant to hand the President a major foreign policy setback on the eve of the summit with General Secretary Gorbachev in Geneva. The President needs to enter these talks with as much support from the American people and the Congress as possible.

By passing this resolution, we prevent the sale; we avoid an embarrassing setback for the President; and we provide King Hussein with a clear-cut incentive to get his act together and take a more positive, active, and constructive role in the Middle East peace effort. And in the meantime, if by March there has been no substantial progress toward peace—and by this I mean deeds, not words—the Congress still has the opportunity to reject this proposed sale outright. Given the circumstances, I believe that this is the best course of action, but I would like to go on record as saying that if Jordan does not take positive action with regard to peace with Israel between now and March, that I plan to oppose the sale when it comes up again.

Mr. BINGAMAN. Mr. President, I rise in support of the resolution to delay the proposed sale of advanced weapons to Jordan until March 1, 1986, unless direct and meaningful peace negotiations between Israel and Jordan are underway.

We all want to see the Camp David peace process widened and have been disappointed by the unwillingness of other Arab countries to join Egypt in reaching a peaceful settlement with Israel. For the past 5 years, the United States, Israel, and Egypt have looked hopefully toward King Hussein as the next logical candidate to demonstrate

the statesmanship of the late Anwar Sadat and enter into direct negotiations with Israel. Unfortunately, those hopes remain to this day unfulfilled. King Hussein has occasionally appeared to edge toward the negotiating table, but then has backed off by raising unacceptable preconditions on such matters as PLO and Soviet participation in the talks.

I hope that in the coming months, the King will make the hard decision to sit down with Israel and engage in direct and meaningful negotiations with that government. If he does, then we should be wiling to demonstrate our support for that decision and for that negotiating process as we did in the case of Anwar Sadat and Egypt following President Sadat's visit to Jerusalem. In that instance, we did provide weapons to Egypt, including 50 F-5E air defense aircraft prior to the conclusion of the peace negotiation at Camp David.

But let me make clear that I reserve my opinion on the specific $1.9 billion arms package which the administration formally submitted to the Congress earlier this week. That package includes not F-5E's, but F-16 or F-20 aircraft and Improved Hawk and Stinger air defense missile systems. This weapons package is being justified on the basis of a Syrian threat to Jordan. Yet it would seem that the more immediate threat to Jordan once it entered peace negotiations with Israel would come from radical terrorist groups. An aid package to Jordan designed to meet that terrorist threat and to improve economic conditions for the Jordanian population would appear more likely to guarantee Jordan's internal stability, once the direct peace negotiations were underway, than the arms package sent to us by the administration. If direct talks were underway between Israel and Jordan, the external Syrian threat to Jordan would be deterred by the significant military capabilities Jordan already possesses and the likelihood of Israeli intervention to prevent Syria from setting up a hostile government along Israel's long eastern border to replace the Hussein government. I do not think that a Syrian military planner would make any assumption other than that he would have to deal with both Jordan and Israel, if the peace process were underway.

To conclude, Mr. President, I support the resolution before us. I think that it gives King Hussein a real incentive to get involved in direct negotiations with Israel. To have gone ahead and approved the sale of advanced weapons to Jordan before the King entered negotiations, as the administration proposed, would have had a negative effect on the prospects for peace and would have only eroded Israel's margin of security. If the King will now break with the Palestinian radicals and agree to sit down with Israel, I agree that we should provide him tangible support. But I remain extremely skeptical that the arms package proposed by the administration is the most appropriate means of showing that support. I reserve judgment on that until the direct negotiations we all hope for have commenced. Moreover, if such negotiations have not begun by March 1, 1986, I will support further delays in the proposed sale or outright disapproval of the sale depending on the situation at that time.

Mr. THURMOND. Mr. President, I have had a long history of support for the nation of Israel, and will continue to support the military security of Israel in the Middle East. However, I support this sale since I do not believe it will pose a threat to the security of Israel.

King Hussein is a man of honor. Therefore, I have no reason to doubt his commitment to peace with Israel. Nor do I question his nation's need for these arms.

Under the current circumstances, this resolution is the only alternative available to providing these arms to Jordan. In order to maintain the viability of this sale, I support the resolution.

Mr. McCONNELL. Mr. President, I will keep my remarks brief. Like my colleagues, I have a great deal of respect for King Hussein's apparent personal commitment to peace. In the face of Syrian threats to his life and his nation, he has cautiously edged forward in talking about peace with Israel. I am hopeful his interest will result in progress.

Senators DOLE, LUGAR, BYRD, and PELL have introduced a resolution which affords all of the parties an opportunity and time to demonstrate their commitment to peace. In delaying the decision to sell sophisticated weapons to Jordan, the resolution offers the incentive and reward to act. I support this resolution and the opportunity it offers.

However, I am strongly opposed to delivering arms before Jordan delivers on promises of peace. Under the present circumstances, if we approve the President's request, we are saying Jordan can stand still in the peace process and still benefit from American largesse. In the end, we lose our leverage.

At this point, I think it is critical we exercise this leverage. It's one thing for the King to say he is interested in negotiating a peace agreement, it is quite another to actually sit down and do it. Moreover, while the King may be interested in peace, we have all been repeatedly disappointed when his efforts fail to bring representatives of the Palestinians to the negotiating table. This frustration was experienced most recently by Great Britain when efforts were made to gain a commitment from the PLO to denounce terrorism and recognize Israel's right to exist.

Evidence of the PLO's sustained beligerency was tragically demonstrated during the recent hijacking of the *Achille Lauro*. All information points to the fact that Abu Abbas, a known Arafat loyalist, was intimately involved in the hijacking resulting in the brutal murder of Leon Klinghoffer. The PLO has not spoken of, nor demonstrated, an interest in peace.

There is one challenge: The Senate wants to see Jordan prove by performance it will negotiate a peace agreement with Israel. When these talks commence, I will reconsider my opposition to an arms sale. Unless these talks commence, I will make every effort to oppose a sale. Arms will not buy or build peace.

Mr. LEVIN. Mr. President, I want to join my colleagues in voicing my opposition to the administration's plan to sell sophisticated weapons to Jordan. The many reasons for opposing this proposed sale have already been described in detail by a number of other Senators. But I would like to reemphasize one of the most important arguments against carrying out such a sale at this time.

We must not forget that Jordan still refuses to negotiate directly with Israel. Despite that, there are many who believe that King Hussein is the best hope for the continuation of the peace process begun when Israel and Egypt signed the Camp David accords. But the King has seemed to moved a step backward from his earlier position on negotiations with Israel. In 1982, he was privately assuring the administration that he was on the verge of a decision to enter direct negotiations. But last month, during his visit to the United States, the King was saying that the PLO itself—not just individual Palestinians approved by Yasser Arafat—would have to be a party at the negotiating table. He was also telling the President that the Soviet Union would have to be a full participant as well, as part of an international conference. These positions do not indicate progress; they are a repetition of the same formulas espoused for years by the PLO, Syria, and the Soviet Union.

The President speaks of King Hussein's courageous pursuit of peace with Israel. As yet, I'm afraid I see little evidence of this courageous pursuit. Clearly, it will take courage for the King to negotiate with Israel face-to-face. He will have to do it in spite of pressure and opposition. It will take an act of courage such as that performed by Anwar Sadat 8 years ago. Eight years later, Egypt is at peace with Israel, and receives large amounts of military and economic assistance

from the United States. We should only reward genuine efforts at furthering peace in the Middle East. I hope Jordan will make such an effort in the next few months. As yet we haven't seen it.

Mr. KASTEN. Mr. President, as one of the original cosponsors of the disapproval resolution which was cosponsored by 73 Members of the Senate, I look upon this resolution now before the Senate as a good step toward possible peaceful solutions in the Middle East inasmuch as we will have more time to reason together on this issue, as well as giving more time to those in the region to talk. There is no question that the resolution will have overwhelming bipartisan support, and it is an action that has the consent and agreement of the administration.

Mr. President, this resolution will help avoid acrimonious debate and assure negative votes against arms sales to Jordan, and I believe that the chairman of the Foreign Relations Committee should be complimented for fashioning the resolution, and I compliment the administration for accepting it.

The passage of this resolution will send this message: The United States is not anxious to provide huge new arms sales in the Middle East until actual peace negotiations are in progress—it is that simple. It is somewhat unfortunate that we have had to go through this process inasmuch as I believe it was clear that this would be the result without first engaging in full consultations between the administration and Congress, and especially without developing a true consensus on the issue which the Secretary of State indicated last June that he wanted to develop before sending the package up to Congress. Obviously, that consensus is not developed. In fact the overwhelming consensus is in the opposite direction. However, I do not look upon this action as being a victory or defeat for any particular party, but as I said, rather a chance for us now to have serious discussions among all of the parties, and hopefully before the March 1 deadline, peace negotiations will be underway between Jordan and Israel.

Mr. BRADLEY. Mr. President, I am pleased to cosponsor this resolution postponing congressional action on arms sales to Jordan until March 1, 1986, at which time the President would have to resubmit his request for the sale and Congress then, as now, would have the right to reject it. I believe this outcome furthers the prospects for a serious peace process in the Middle East.

Had the request been before us today, I would have voted to disallow the sale of advanced weapons to Jordan, and indeed had already cosponsored a Senate resolution of disapproval.

For over a decade now, successive Presidents and Secretaries of State have contended that Arab States hostile to Israel could be enticed into the peace process through the sale of sophisticated U.S. weapons. However, in every case in which American arms sales were approved prior to direct, bilateral negotiations between an Arab State and Israel, the peace process either stalled or suffered setbacks.

For this reason, the right precedent for us to follow in approving or rejecting requests for arms sales is Egypt. It was only after Anwar Sadat went to Israel and Egypt agreed to direct negotiations that we agreed to supply Egypt with advanced aircraft. We should do everything in our power to encourage King Hussein to do likewise. Agreeing to arms sales in advance of such negotiations would thus be counterproductive.

In this regard, the developments of the last few days are encouraging. Mr. Peres has reaffirmed Israel's willingness to meet with a Jordanian or Jordanian-Palestinian delegation. And King Hussein has responded by calling Mr. Peres "a man of vision." In this climate, it would be foolhardy to inject the destabilizing factor of advanced weapons sales. Instead, we should be encouraging both nations to do everything in their power to pursue the course of peace.

That's what this resolution does. It encourages face-to-face discussions between Israel and Jordan. And it allows time for negotiations to take place. Finally, it preserves Congress' right to disallow arms sales should those negotiations fail to bear fruit. It therefore provides a compelling reason to move the process in a way that will be beneficial to all. For in the final analysis, no amount of arms can provide the security inherent in a just and lasting peace.

Mr. LAUTENBERG. Mr. President, I rise in support of this resolution to bar a U.S. arms sale to Jordan until March 1 unless direct and meaningful negotiations are underway between Israel and Jordan.

Mr. President, I was an original cosponsor of Senate Resolution 177, the resolution to bar the sale of advanced fighter aircraft and missiles to Jordan prior to the commencement of direct bilateral negotiations between Jordan and Israel. I continue to believe it would be unwise to make such a sale unless direct negotiations are occurring.

Now we have a different resolution before us. This resolution was crafted to prohibit the sale of weapons to Jordan until March 1, unless negotiations are underway. Its purpose is to give Jordan a window in which to move forward with the peace process, and a reason to do so, while assuring that Israel's security is protected. I am cosponsoring and voting for this resolution only because the Senate majority leader has indicated that the Senate would not be banned from considering a resolution of disapproval of the arms sale at a later time if the situation demands that we do so.

Under this resolution, Mr. President, King Hussein has until March 1 to come forward and negotiate with Prime Minister Peres while the possibility of the arms sale remains open. If he has not done so by then, I am committed to barring arms sales to Jordan. This carrot-and-stick approach buys time for the peace process to ripen, while giving King Hussein a chance to demonstrate if he is serious about moving forward.

I remain opposed to this arms sale so long as King Hussein's only contribution to the peace process is rhetoric.

Mr. President, I disagree profoundly with the administration's argument that this arms sale at this time will give King Hussein an incentive for peace. I believe an arms sale at this time will do just the opposite. It will reward King Hussein for not coming to the peace table. It will send a signal that as long as King Hussein keeps talking about peace, he need do no more.

While I welcome King Hussein's statement that Jordan is now prepared to negotiate with the Government of Israel promptly and directly under the terms of U.N. resolutions 224 and 338, from where I sit, the chairs at the peace table are still empty. In order for the peace process to move forward, King Hussein must make more dramatic moves toward peace, and take greater risks than he has. Providing him with arms now will remove his incentive to do so.

King Hussein justifies his request for advanced arms on the grounds that he needs additional protection against conventional attack if he is to risk making peace with Israel. The alleged "conventional military threat" comes principally from Syria. But, Mr. President, this alleged conventional threat from Syria has not prevented Jordan and Syria from recently agreeing on a common position on the Middle East peace process. And it has not prevented them from cooperating against Israel on the battlefield even when diplomatic tensions exist between them. While the administration says that the Jordanians need these weapons for defense against Syria, Syria supports the sale of arms to Jordan. So, to me, the proposed sale of arms to Jordan on the ground that Syria threatens Jordan does not make sense.

While Jordan's need for these weapons is not convincing, the military threat they would pose to Israel is real and demonstrable. Israel does not have enough soldiers to guard its long and vulnerable borders. Instead, it relies on a small standing army backed

by a large number of reservists. In the event of war, Israel's air force must protect the country while her reservists are mobilized. By providing Jordan with aircraft that can fly from Jordan to Jerusalem in less than 10 minutes, this arms sale would enable Jordan to drive a hole through Israel's air force defense. When the aircraft we propose to sell to Jordan is considered in conjunction with other Arab air forces, it poses an even greater threat. Jordan's combat aircraft would provide a high quality addition to total Arab air forces, which, excluding Egypt, exceed 2,100 planes.

In light of this military threat, there is no good reason to given weapons to Jordan when Jordan has given only lip service to the peace process. Israel is entitled to more than Jordan's promises that these weapons will not be used against her. Those promises have been made and broken before. And when Jordan breaks her word, Israel pays in blood.

We should not even consider arming Jordan until King Hussein sits face to face with Israel in bona fide negotiations. If King Hussein truly wants peace with Israel, he doesn't have to cross the Atlantic Ocean to meet with President Reagan. He only needs to cross the Jordan River to meet with Prime Minister Peres.

The prospect of the United States arming Israel's enemies not only threatens Israel militarily; it could cause irreparable damage to an already fragile economy. Building up Jordan's arsenals will require Israel to spend even more of her limited resources on defense. And Israel's economy, though recovering, is still in trouble.

Keeping Israel strong is in America's own national security interests. Israel is a valuable source of intelligence about the Middle East and Eastern Europe. And Israeli military experience yields critical information on how American and Soviet equipment performs in battle. Our alliance with Israel means America can count on the use of Israeli air bases and seaports in the event of a conflict in the region. Alone among the nations of the Middle East, Israel offers strategic value, military sophistication, political stability, and deep and abiding ties of emotion and tradition. We should not jeopardize the security of this valued ally without good reason. Thus far, I have heard none.

Weapons of war rarely promote the business of peace. Under present circumstances, they clearly do not. Until Israel and Jordan are engaged in negotiations, we should not go forward with this arms sale. I urge my colleagues to support this resolution, and to return in several months to disapprove this sale if no progress has been made in the interim.

Mr. KERRY. Will the chairman yield for one question?

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. I have a few seconds, and I will yield if I am able to get my point across. First of all, I ask unanimous consent that Senator DOMENICI and Senator STEVENS be added as cosponsors.

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

Mr. LUGAR. Mr. President, let me respond quickly. There are no expedited procedures under the current situation. I think it is a mistake really to get into that discussion. We are not going to add them apparently before March 1, because I have objected. I would just say Senators retain all of their rights. The clock, instead of ticking until 30 days from now, will now tick until March 1, 1986, and motions of disapproval, as the majority leader has pointed out, will be honored.

Mr. KERRY. Will the chairman yield for a question?

Mr. LUGAR. I will be happy to yield.

Mr. KERRY. Mr. President, I would state very quickly that I share my colleague's concern about this, and that while the majority leader has expressed his willingness to join with us in guaranteeing that there will be no effort to prevent a resolution of disapproval should there be a turnaround immediately after the March 1 date, I would like to know from the chairman of the committee if it would be his intention to join with us in that effort at that time, and that he also would not stand in the way of such an action of disapproval?

Mr. LUGAR. Mr. President, let me respond respectfully that I do not know what the contingencies or hypothetical situations might be on March 1, 1986. As always, I will try to entertain the viewpoints of members of our committee, as we attempted to do yesterday and today, and try to bring about a situation that conforms as best as I can to their will. But I do not know what the situation will be then, and I do not want misconstrued an advance commitment.

Mr. KERRY. I would simply state my wholehearted opposition. Obviously, as the chairman knows, we have discussed this. I am willing to join in the effort to delay it, obviously, but certainly, as the Senator from Connecticut, I do not want to be prejudiced in our current position as a consequence of doing that.

Mr. LUGAR. Mr. President, I ask unanimous consent that Senator HAWKINS be added as a cosponsor.

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

Mr. LUGAR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered previously. All time has expired.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and to be read a third time.

The PRESIDING OFFICER. The question is now on agreeing to the joint resolution. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent on official business.

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—97

Abdnor	Gore	Mitchell
Andrews	Gorton	Moynihan
Armstrong	Gramm	Murkowski
Baucus	Grassley	Nickles
Bentsen	Harkin	Nunn
Biden	Hart	Packwood
Bingaman	Hatch	Pell
Boren	Hawkins	Pressler
Boschwitz	Hecht	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd	Helms	Riegle
Chafee	Hollings	Rockefeller
Chiles	Humphrey	Roth
Cochran	Inouye	Rudman
Cohen	Johnston	Sarbanes
Cranston	Kassebaum	Sasser
D'Amato	Kasten	Simon
Danforth	Kennedy	Simpson
DeConcini	Kerry	Specter
Denton	Lautenberg	Stafford
Dixon	Laxalt	Stennis
Dole	Leahy	Stevens
Domenici	Levin	Symms
Durenberger	Long	Thurmond
Eagleton	Lugar	Trible
East	Mathias	Wallop
Evans	Matsunaga	Warner
Exon	Mattingly	Weicker
Ford	McClure	Wilson
Garn	McConnell	Zorinsky
Glenn	Melcher	
Goldwater	Metzenbaum	

NAYS—1

Dodd

NOT VOTING—2

Bradley Hatfield

So the joint resolution (S.J. Res. 228) was agreed to, as follows:

S.J. RES. 228

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That prior to March 1, 1986, no letter of offer shall be valid with respect to any of the proposed sales to Jordan of advanced weapons systems, including advanced aircraft and advanced air defense systems, that are described in the notification pursuant to section 36(b) of the Arms Export Control Act submitted to the Congress on October 21, 1985, unless direct and meaningful peace negotiations between Israel and Jordan are underway.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I call for the regular order.

THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

The PRESIDING OFFICER. The clerk will state the pending business by title.

The assistant legislative clerk read as follows:

A bill (S. 1730) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986.

The Senate resumed consideration of S. 1730.

Mr. DOLE. Mr. President, could I indicate that there are 5 hours and 18 minutes remaining on the reconciliation bill. Of course, rollcall votes will not count against that time. I know there are a number of amendments, 22 amendments that the chairman of the Budget Committee is aware of, and there may be others.

So I suggest we have our work cut out for us for the remainder of the day. If we should finish fairly early in the evening, we will go back to the State, Commerce, and Justice Department appropriations bill. If not, we will resume work on that tomorrow morning.

We are trying to work out some arrangement on the farm bill that will permit us to take up a number of amendments tomorrow and Monday, if we can work it out so Senators will be here to offer the amendments. If there are votes required we could postpone those votes to accommodate some of our colleagues who would like to be observers in Geneva on Friday and Monday. If we cannot work it out, then we will have votes tomorrow and Monday.

So I have been discussing that with the distinguished minority leader and we have not yet made any agreement.

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

Mr. DOLE. I yield.

Mr. BYRD. The distinguished majority leader has been very lenient in accommodating Senators on both sides of the aisle, who get to the Chamber after the 15 minutes allowed for the rollcall have expired.

Today he has called for the regular order on one or two occasions. He has a right to do that. I can understand his frustration when rollcalls consume 18 minutes, 25 minutes, 28 minutes, 30 minutes.

But Senators have become accustomed to the extension of that 15 minutes.

I would hope if the distinguished majority leader is going to call for the regular order, and he should do it—I do not challenge that, and I do not question the wisdom of it—but if he is going to do that, I would like for Senators on both sides to be put on notice now so that they will get here within the 15 minutes and not show up just a minute or two later and not be able to vote. I support shortening the rollcalls, but all Senators should be given advance notice that the regular order will be called for when the time is up from here on.

Mr. DOLE. I do not disagree with that. In fact, we have always—even today we let it go over 4 minutes each time, so it is really about 19 minutes and we had Senators pressing on the other side with planes to catch, witnesses waiting in the committee, and we were all waiting for Senators to show up to vote.

So, as the distinguished minority leader knows, it is not always just because you want to blow the whistle on someone. It is someone else pushing you to pull the plug.

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

Mr. DOLE. I am happy to yield.

Mr. CRANSTON. Mr. President, I applaud the efforts of the majority leader to get back to 15-minute rollcalls. We are wasting a tremendous amount of time on longer ones. I hope once the word is out we will stick to 15 minutes.

Mr. DOLE. I know as to my distinguished former friend from Minnesota, Senator BOSCHWITZ, we broke his perfect batting average today and it is very difficult.

So we do not do it with any intention to frustrate someone. But I think it is fair to say we are going to start trying to restrict these votes.

The Senator from Arizona, Senator GOLDWATER, told me a while ago we spent 2 weeks last year on rollcalls when you add up the time. About half that time was waiting for one person to come in.

Again there are going to be times when obviously we will have to make compensations but I think we all should be on notice because all of us would like to leave fairly early this year sometime. We are probably going to stick to that 15-minute rule.

Mr. DOMENICI. Mr. President, before I yield the floor, let me inform Senators that we are now on reconciliation. They heard the leader indicate that we have slightly over 5 hours. The time is about equally divided.

I am now aware of 22 amendments and they are coming in rather rapidly now that we are nearing the end of the 20 hours.

We also have the very difficult problem of the extraneous amendments, which has not been resolved. Everyone knows there are many of them. I do not yet know how this problem is going to be resolved.

Clearly we are going to have a lot of votes at the end of the process, but they will be stacked because there will be no time for debate remaining.

I urge Senators who have amendments to get them to us. Even though I already know of 22, we are going to try to accommodate as many Senators, on both sides, as possible. So if Senators have some amendments and wonder whether they are on the list, the list is right here. We will xerox it and make it available to more Senators. If Senators have additional amendments we would be pleased to try to accommodate them.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 875

(Purpose: To achieve the objectives of the Multi-Fiber Arrangement, to promote the economic recovery of the U.S. textile and apparel industry and its workers, to reduce unemployment, and for other purposes)

Mr. HOLLINGS. Mr. President, on behalf of our distinguished colleague, Senator THURMOND, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], on behalf of Mr. THURMOND and himself, proposes an amendment numbered 875.

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

Mr. EVANS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to read the amendment.

The legislative clerk resumed reading the amendment.

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

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The amendment reads as follows:

At the appropirate place, insert the following:

TEXTILE AND APPAREL TRADE ENFORCEMENT

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Textile and Apparel Trade Enforcement Act of 1985'.

"SEC. 202. POLICY.

"The policy of this title is—

"(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

"(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

"SEC. 203. FINDINGS.

"The Congress finds that—

"(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

"(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

"(3) since 1980, the objective of orderly growth of imports of textiles and textile products for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 percentum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

"(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

"(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

"(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts and sweaters exceeds 50 per centum of domestic consumption;

"(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

"(8) imports of textiles and textile products into the United States are predominantly the product of significant exporting countries, with five large exporting countries now accounting for more than 50 per centum of all imports of textiles and textile products;

"(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

"(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

"(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

"(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

"(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

"(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

"(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

"(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum; as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

"(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

"(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

"(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

"(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

"(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

"(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

"(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum, whichever is the lesser,

"(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

"(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

"(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

"(21) the establishment of import levels, and limitation on future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

"(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

"(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

"(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Milti-Fiber Arrangement and its Protocol.

"SEC. 204. DEFINITIONS.

"For purposes of this title—

"(1) The term "Textiles and textile products" includes, but is not limited to, all manmade fibers, tops, yarns, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, part 1, 4, 5 (except subpart E), 7, or 13 of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States or part 1 of the Appendix to the Tariff Schedules of the United States;

"(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

"(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

"(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

"(C) a category consisting of the manmade fiber products classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

"(D) each category consisting of each of the following products when, because of any fiber content, that product is not subject to the Multi-Fiber Arrangement:

"(i) yarn,

"(ii) fabric,

"(iii) apparel, and

"(iv) other textile products;

"(3) The term "import sensitive category" means—

"(A) a category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

"(B) a category covering wool products;

"(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on December 31, 1984), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

"(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 10 percent of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(6) The term "producing country" means a country (other than a major producing country and a country in the Carribean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(7) the term "small producing country" means a country other than a major producing country and a producing country;

"(8) The term "country in the Caribbean region" means Mexico and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C 2702);

"(9) The term "wool product" means an article containing over 17 per centum by weight of wool;

"(10) The term "cotton, wool and manmade fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

"(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States;

"(12) The term "imported" means entered; and

"(13) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

"SEC. 205. LIMITS ON TEXTILE AND APPAREL IMPORTS.

"(a) CALENDAR YEAR 1985.— Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

"(1) in the case of textiles and textile products that are a product of a major producing country other than textile luggage and textile flat goods subject (as of the date of enactment of this Act) to a specific limitation under an agreement with a major producing country, the lesser of an amount equal to 101 per centum—

"(A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or

"(B) If the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

"(2) in the case of textile luggage and textile flat goods subject (as of the date of enactment of this Act) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of the Act;

"(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of—

"(A) such products from such country classified under such category that entered during calendar year 1984, or

"(B) in the case of textile luggage and textile flat goods subject (as of the date of enactment of this Act) to specific limitation under an agreement with a producing country, the specific limitation quantity in effect as of the date of enactment of this Act;

"(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of—

"(A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus

"(B) an amount equal to—

"(i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or

"(ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

"(5) in the case of cotton, wool and manmade fiber sweaters that are—

"(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

"(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

"If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

"(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

"(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

"(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

"(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

"(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

"If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 210(b), than in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 210(b) in previous calendar years.

"(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

"(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

"(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

"(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

"then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products that may be entered from such country under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of imports from such country under such category equals the minimum quantity prescribed under this subsection.

"(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country, other than a country in the Caribbean region, and that are entered under the categories referred to in paragraph (2)(A) of section 204 equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

"(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

"SEC. 206. IMPORT LICENSING.

"In order to ensure the equitable and efficient administration of section 205 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system.

"SEC. 207. ANNUAL REPORT.

"Not later than March 15, 1986, and March 15 each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 205. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

"SEC. 208. REVIEW.

"The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult members and committees of Congress, representatives of the labor unions and the industries affected by the program, and appropriate government agencies. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

"SEC. 209. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

"Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 205(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 205(b) of such Act that adjust the quotas under such section 205(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation.	Free

"SEC. 210. EFFECTIVE DATE.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

"(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall determine, and publish in the Federal Register, the aggregate quantity, if any, of textiles and textile products that may be entered under section 205(a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products from a country under a category entered after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such country and such category during calendar year 1985 under subsection (a) or (c) of section 205, then the limit that would otherwise apply under section 205(b) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 205(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

"TITLE III—FOOTWEAR

"SEC. 301. SHORT TITLE

"This title may be cited as the 'American Footwear Industry Recovery Act of 1985'.

"SEC. 302. FINDINGS AND PURPOSE.

"(a) The Congress finds that—

"(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

"(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing on newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

"(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

"(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

"(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

"(A) the loss of 155,000 footwear jobs since 1968,

"(B) a decline in domestic production and production capacity, and

"(C) the permanent closure of over 500 plants during the same period.

"(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

"(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

"(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from 51 percent in 1981 to 77 percent in 1985.

"(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

"(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

"(11) Since the termination of the two, four-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

"(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

"(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

"(B) in the absence of and effective remedy under such process, legislative relief is essential.

"(b)(1) It is the purpose of Congress in enacting this section to—

"(A) promote and expend the economic health of the United States nonrubber footwear industry,

"(B) preserve the jobs of American workers, and

"(C) prevent the further decline of this important domestic industry.

"(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, or which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

"SEC. 303. DEFINITIONS.

"For purposes of this title—

"(1) The term 'entered' means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(2) The term 'Secretary' means Secretary of Commerce.

"(3) The term 'nonrubber footwear' means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95.

"(4) The term 'apparent domestic consumption' means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

"SEC. 304. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

"(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 percent of the estimated apparent domestic consumption of nonrubber footwear for such period.

"(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

"(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 percent of apparent domestic consumption of nonrubber footwear for such period,

"(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 percent of apparent domestic consumption of nonrubber footwear for such period, and

"(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 percent of apparent domestic consumption of nonrubber footwear for such period.

"(b) Within sixty days after the effective date of this title, and on the first day of the fourth quarter of each 1 year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1 year period and in the case of the first day of the fourth quarter of each 1 year period thereafter, the next succeeding 1 year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeeding 1 year period of permissible imports of nonrubber footwear as required by this section.

"(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

"(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

"(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

"(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

"(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

"(i) consult with interested domestic parties,

"(ii) afford an opportunity for such parties to comment on the proposed regulations, and

"(iii) consider all such comments before prescribing final regulations.

"SEC. 305. COMPENSATION AUTHORITY.

"For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).".

Mr. HOLLINGS. Mr. President, so our colleagues will understand, we are not delaying rather we are trying to handle this important matter right on top of the table. It is my intent with this particular amendment to move for a waiver of the germaneness provisions under section 904(b) of the Budget Act at the appropriate time. I have talked with my distinguished colleague from Washington. We will have 30 minutes to debate the motion on either side, and thereafter there would be other amendments to my amendment. I hope that Senator THURMOND would be recognized because he has the real amendment we want to debate.

Mr. President, I would like to take 1 minute to explain why I am offering this amendment today.

Mr. President, the textile amendment I am offering today to the budget reconciliation legislation is the same as the one the Senate discussed at great length on October 2.

Mr. President, it is highly important that the Senate take immediate action on this bipartisan legislation so we can begin turning this trade problem around. We are now at the crisis stage, not only in textiles but in a whole range of industries. How much longer can we sit here in Washington and watch the erosion of this country's productive capacity—a $150 billion trade deficit and the loss of thousands of jobs each week?

We have a measure cosponsored by more than half the Members of the Senate and 300 Members of the House. Having been told by Senator DANFORTH that it would never get out of the Finance Committee, I filed it as an amendment on the compact of free association, the Micronesia compact. We considered it October 2, had a full debate on it, voted not to table it, and it was set aside for the time being.

So, because the Senate has already spent a considerable amount of floor time on this issue, I am offering the textile bill as an amendment to S. 1730 to ensure immediate consideration.

Mr. President, every day we fail to enact this legislation is another day of lost jobs and lost productivity. We have heard talk of quotas and free trade, and how we must stand pat against protectionism. But this measure is not protectionism, or tariffs, or quotas. This measure merely calls for the simple enforcement of our trade agreements.

Right now they are not being enforced. Further, the administration has not kept its commitment to hold import growth to the growth of the domestic market. If it had there would be no need for this legislation. But it has not. And in South Carolina alone we have lost 24,000 textile jobs.

But, as I said, this is not just an issue of textiles or South Carolina. We have got to start turning things around before this country becomes solely a consuming nation and not a producing one. It is going to take some reeducation about the productivity of the American worker, the mainte-

nance of our standard of living, and the truths of international trade.

Let us imagine for a moment that we are sitting in the board room of a large U.S. industrial corporation. We have been the leading manufacturer of our product for years—at least until now. The reason we are meeting is that our chief competitor has overtaken us. He used to work for us. We taught him how to produce, how to play the game. He is aggressive. He is a fighter. And now he has taken all of our techniques, improved upon them, and gone one up on us.

What do we do? Well, someone suggests that we get our act together and start competing—become more aggressive than this upstart competitor, beat him at his own game. But no, the board determines that we should not do that. "That would be unfair," it is decided. "He might get mad at us and retaliate."

Ridiculous? You bet it is. Is this the way corporate America does business? Of course not. When competition is the game, fairness is not an issue. Businesses compete, or die. Yet, sadly enough, this is how the American Government is doing business in the international marketplace. We're not competing. There is a fierce global competition out there, and our Government is just sitting on the sidelines while American industry is getting its hind quarters kicked.

If we are to faithfully and properly discharge our duties as Senators, then it is vitally important that we be able to separate myth from reality.

I know of no issue where the distinction is so crystal clear as it is in international trade.

What is the myth? The myth is that there is free enterprise on the world marketplace—that world trade is open and fair. This is not just a myth, it is a pipe dream.

There is no free enterprise on the world market, only government-to-government enterprise. The issue is not fairness or free trade, it is competitive trade. That is the reality. And anyone who refuses to recognize that reality is being fooled.

Nearly every one of our trading partners is taking strong measures to protect home markets from foreign imports. How free is free trade when Taiwan institutes 50-percent tariffs on textile imports? How free is it when American textile importers are required to obtain a license from the Korean Textile Association to do business in that country? And how free is free trade when countries such as India ban textile imports altogether?

And that is only talking about textiles. There are countless other examples. Just ask the businessmen in this country who have tried to sell their products overseas. You cannot get a license. There are endless regulations. There are high duties and tariffs.

American businessmen try to sell their aircraft in Brazil, and are met with strict licensing and a 60-percent duty. Yet in the United States, that same American company competes against imported aircraft from Brazil which aren't subject to any duties or import licensing restrictions.

Automobiles? A Congressional Research Service survey shows that 27 of 49 countries have adopted domestic content requirements. In Japan, it takes 4 months to get an American car off the dock and into the showroom. In France, it takes 1 year.

European governments now subsidize grain. Ten years ago, Europe was a net importer of the world's wheat. Last year, it exported 20 percent of the world's wheat.

The French are subsidizing wheat 25 percent, the Japanese are subsidizing rice 25 percent, and the Brazilians are subsidizing soybeans 25 percent. Earlier this year the People's Republic of China delivered corn in Los Angeles at 18 cents a bushel cheaper than Nebraska corn.

The Japanese are the masters of them all. Not too long ago, a U.S. vitamin-E exporter found that his product was suddenly reclassified from a food to a drug and could now only be sold through pharmacies. Japanese-manufactured vitamin-E, however, maintained its classification as a food. Moreover, the Japanese product was more expensive than the American vitamin-E. The Japanese Government cited a difference in the extraction methods between the two products as the reason for reclassification, which effectively barred the United States product from the Japanese market, but anyone else would tell you that any differences between the two were indistinguishable.

These countries are taking these measures not because they dislike us. They love us. They love our market. They love it because we keep it open to their industries while they shut their own markets to our industries. Good old Uncle Sam has become good old Uncle Sucker—he has forgotten how to compete. These trading partners of ours are doing right by themselves and they are benefiting from it. It is a fierce, competitive world out there, and to the victors belong the spoils.

I am not angry with the Japanese, the Brazilians, the Taiwanese, or any of our trading partners. I am not bashing any of them. I am trying to bash Washington. The Japanese did exactly what we wanted them to do after World War II. They looked to our example of productivity and they saw success. Over the years, their government instituted more and more protective trade measures, subsidies, and the like. What they now have is state-of-the-art protectionism, a model which other newly industrialized nations are emulating—government subsidies for research and development, trade barriers to protect developing industries, targeting foreign markets.

These practices have been used effectively against us for more than a decade. Only now, when Japanese robots are assembling foreign parts in American automobile plants, are we waking up to the danger. Only now, when dozens of newly industrializing nations are following Japan's lead, are we seeing the red flags. I should say, at least some of us are.

The most discouraging aspect of all this is the refusal on the part of the administration and some Members of this body to recognize that this Nation has a serious problem. Our trade deficit soars ever higher—$150 billion this year. We export our manufacturing jobs, 1½ million of them since 1981, and along with them we export our industrial muscle. These jobs are gone forever.

Years ago, the prevailing attitude was that semiskilled industries like textiles should go to developing nations. We in America would manufacture airplanes and computers. Today, airplanes are being manufactured in Europe—Pan Am just ordered 28 airbuses—and Japan now has 44 percent of our computer chip market. We are running out of things to make in this country. I know, they say "we'll be a service economy." That is what they told Great Britain at the end of World War II. "You'll be a nation of brains rather than brawn. Instead of producing products, you'll provide services." Now, sadly enough, England is a second-rate nation. They did not learn how to compete. And we are going the exact same route—to a service economy, taking in each other's wash and making hamburgers.

Yet when anyone here in Washington stands up for our productive capacity as a world power, he or she is sure to hear from a chorus of myna birds cackling "protectionism, protectionism, be fair, be fair." Well, the American people are sick and tired of watching their Nation sink ever lower toward Third World status while their leaders operate under a free trade policy that exists only in books. It must look to them like the Caine and the Bounty were in better hands.

When are we going to wake up and realize that the trade war began more than 20 years ago? When are we going to finally admit that there is no such thing as free trade on the global market? When are we going to look out for the standard of living in this country? And by "we" I mean the Government of the United States. The American people are ready. They are waiting for Government to follow.

I have had it up to here with those who will flaunt the word "protectionism" as if it were un-American to pro-

tect the highest standard of living in the world. Why has the word taken on such a perjorative meaning? We have the military to protect us from our enemies without. We have the FB to protect us from enemies within. We have unemployment compensation to protect us from the loss of our job, Social Security to protect us from the economic ravages of old age, safety laws to protect us from injury, environmental laws to protect the air we breathe, the water we drink. The paramount function of Government is the protection of its citizens.

So on one hand, we are forcing the manufacturers to assume the cost of maintaining this standard of living. Yet on the other hand, we are doing absolutely nothing to allow them to compete against industries from countries with a lower standard of living and thus lower operating costs. Our inaction and lack of reciprocity are what is driving American industries out of business. How can the textile manufacturer down in South Carolina—despite his tremendous mechanization and modernization—how can he compete with 18-cent-an-hour Shanghai labor?

Are we to lower our standard of living to 18 cents an hour to compete? Of course not. But that appears to be the only alternative offered by the "free traders."

Article I, section 8 of the U.S. Constitution states that Congress shall regulate commerce with foreign nations. Alexander Hamilton recommended protective tariffs in his "Report on Manufacturing" so the United States could develop an industrial base. That became the policy. In the 1930's, Cordell Hull fathered reciprocal free trade, emphasizing reciprocity for those who opened their markets to us and retaliation against those who did not. And the same Congress that provided this initiative also provided protective quotas for American agriculture. In 1935, we instituted the Export-Import Bank to subsidize our grain sales to Russia. And in 1955, President Eisenhower gave us oil import quotas to protect domestic oil producers.

These are the initiatives that the Japanese, and subsequently our other trading partners, have used as the foundation of their current policies. They have improved upon them to build a state-of-the-art model of protection.

America, in the meantime, has been going the other way. We have been playing by a different set of rules. We've been abandoning article I, section 8, and with it our birthright as a leading industrial nation. Sure, its a one-world international market. It is international competition. But industries in other countries are competing with their governments at their side. Our industries are at it alone.

I repeat, there is no such thing as free enterprise on the world market. It is government-to-government enterprise.

And the absolute shame of it all is to hear the economists and editorial writers tell us that it is all because deficits have created a strong dollar, or the American worker just isn't competitive enough, or the industries we are losing are outmoded, uncompetitive, and should go anyway. It's all a lot of hooey.

The deficits are part of the problem, but by no means are they the only part of it. The dollar has risen 40 or 50 percent against European currency, and for that reason we do not deal with Europe in this amendment. The problem there can only be dealt with by getting the deficits down, and God knows that is something I have been trying to accomplish for years.

But in Malaysia, the value of the dollar has risen 1.7 percent over a 4-year period. Textile imports from that country have gone up 227 percent.

In Thailand, the dollar has gone up 7.1 percent, but the increase in textile imports is 167 percent. Much of that, I might add, is in violation of our agreement.

Taiwan? The dollar is up 7.3 percent. Textile imports up 43 percent. No, the dollar is not the problem with these countries.

Nor is the problem our industries and our workers. The American industrial worker is still the most productive in the world. That is according to the Bureau of Labor Statistics. The problem is not with the American worker, it is with the American Government. The Japanese are pulling ahead because their Government is the most productive and the most competitive in the world. The U.S. Government is not producing and not competing.

The textile industry has invested $7.91 billion in modernization since 1980. Over the next 2 years it will be investing another $2 billion. It is the most competitive industry there is. But how can it effectively compete when the odds are so heavily stacked against it?

In August and September, I spent 5 weeks visiting 41 textile mills in South Carolina. I saw the research centers, the card rooms, the spinning, the weave rooms, the dye vats, the finished cloth, the finished garment, and the most modern styles.

Talk about productivity. I saw bales of cotton put on the ramp, and without the touch of a human hand go through the cards and then to the spinning machines. I saw open-end spinning machines "put up an end" instead of threading the machine by hand. I saw threads being joined by a jet of air. I saw modern looms with 550 picks. Today a worker punches a computer causing cloth to be dyed not just 20 or 30 shades of color, but 600 shades. The operator presses a button for a certain fabric, another button for a certain cut, and another for a certain style.

In the sewing operations, machines stamp pockets and collars and cuffs on the garments. I saw research equipment that rendered 42 decisions in 20 minutes, tests that formerly took 7 hours. Another machine takes a piece of fabric and prints out its components. In some plants, the air is cleaner inside than it is outdoors.

I saw an updated, modernized, automated industry that is setting the standard for productivity. But what we now have is an imbalanced situation. The textile industry is not looking for any special advantages of its own—only a chance to compete on a level field of play. The industry is not looking for quotas or tariffs—only a government that enforces the agreements and the laws that we already have on the books. Given a chance to compete, it can do the rest of the job itself.

The legislation I offer as an amendment is designed merely to bring about enforcement of the objectives of the Multi-Fiber Arrangement. Obviously, much more needs to be done if we are to stem the flow of imports and restore our productive capacity. There are a whole bunch of other laws already on the books designed to give our own industries a fair shake—countervailing duty, escape clause, and antidumping laws. What we lack is effective enforcement as part of an overall national trade policy.

There are 25 departments and agencies involved in trade. I have heard that there are some 300 bills filed to respond to individual trade problems. We really would not need any of these bills if we have some coordinated enforcement. The solution to this problem is coordination. We need a national trade council that will coordinate, orchestrate, and begin to enforce current law and any new laws that are passed.

And this is all I am asking for—enforcement. I recently read an article by Henry Kissinger in the Washington Post. His suggestion? Negotiate target trade balances with the Japanese. Negotiate! Mr. President, I am fed up with negotiations. We have already negotiated and we can continue to negotiate until we are blue in the face—but we are not going to accomplish anything if the agreements which result from these negotiations are not enforced. And that is precisely what is happening.

Sure, the Japanese will sit down and negotiate, just like they have in the past. They sit around and jawbone. They tell us how concerned and worried they are. But then they just continue to do what is required to keep

their competitive position and their ascendancy and predomination. Their Government continues to subsidize, finance, license, inspect—anything necessary to protect their markets while they invade ours.

Negotiate! I will tell you where negotiations have gotten us. In a recent study of our bilateral trade agreements and the Multi-Fiber Arrangement, the House Subcommittee on Commerce, Consumer, and Monetary Affairs found that some of our trading partners are skirting the agreements through transshipment. Transshipment is a practice under which one country which has reached its quota limit will ship its goods to the United States by way of another country which either does not have a quota or has not used its entire quota.

The subcommittee reports that this practice has now become widespread, and indicates that transshipment through Japan is the most extensive. Quoting the report: "A serious problem exists in transshipments of textiles and apparel from Republic of Korea through Japan. Because Japan has no quota and no visa system, control of these transshipments is especially difficult."

Have we tried to negotiate a solution? Yes, of course. The United States Customs Service supplied the Japanese with investigative documents. They held a meeting with MITI officials. But according to a Customs Service cable sent after the meeting, it was evident that "no one had even examined the documents." Furthermore, the cable stated, "It is felt the meeting was held simply for the sake of having a meeting, not for the sake of accomplishing anything."

Mr. President, the Japanese and our other trading partners are not going to abide by our trade agreements unless we enforce them. It is as simple as that.

It is high time we meet the competitive challenge accordingly. We cannot continue to stand idly by while American industries fall prey to the trading practices of foreign governments. Wake up. Free trade is a myth. The reality is competitive trade. The world market is government-to-government trade. We are in the fourth quarter of a trade war, and our Government has been sitting on the bench the entire game.

The American industrial worker is the most productive in the world. American industries are the most competitive. We have the human ingenuity, the scientific imagination, the industrial muscle, the financial resources, and the zeal to ensure our productive capacity and our economic leadership among nations. What we do not have is time. We need a government that is as hungry to compete as its citizenry. And we need that government now.

Mr. President, if we want to save some time—and I know all of us are under the pressure of time because there are only about 2 or 3 hours left on this budget legislation—then I would be ready to yield back my time on this amendment, so that I could move under section 904(b) for a waiver, and then we can debate that. Is that all right with the Senator from Washington and the Senator from New Mexico?

Mr. DOMENICI. Mr. President, clearly, this amendment does not belong on this bill. If we want to see a situation where a budget reconciliation bill is totally abused, this is the one. Why do I say that?

It is absolutely known that there are Senators who desire to filibuster this amendment. Now, I am not one who likes filibusters and I might indeed vote to close off debate on this if it was a free-standing amendment not offered under reconciliation. But I make the point that what we are doing here is saying to anybody who would want to filibuster this bill: "We are using the reconciliation process to tell you you cannot do that. You have 2 hours on amendments and 1 hour on amendments to amendments and then you are going to vote."

Now I think that is pretty drastic medicine, especially when it is known that this particular bill might have been filibustered by Senators who feel strongly about it.

The Budget Act of 1974, in a very careful way, set forth an exception to unlimited debate, for our work on budget resolutions and reconciliation bills.

So you will note shortly that they will want to move to make sure the germaneness rule of the Budget Act is waived so they can have it both ways. So they can add it to a reconciliation bill and make it subject to all of the time limitations of the Budget Act. In so doing, you eliminate the rights of those who want to filibuster. I do not really think it is a good way to do business.

I am not agreeing to anything at this point, because I may want to make the point of order and let them move for a waiver after I have done so. This would establish unequivocally that the manager of the bill and the chairman of the committee are clearly aware of the kind of mischief that is going to be perpetrated on the rules of the Senate here this afternoon if we let this amendment be added onto a reconciliation bill.

Mr. LONG. Will the Senator yield at that point?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I believe I have time in opposition, do I not?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I yield to those who are in opposition to the substance of the amendments. I am not as informed on the issues as my friend from Washington and I will yield to him shortly, but, in the meantime, the Senator from Louisiana wanted some time.

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

Mr. DOMENICI. Of course.

Mr. EVANS. Will the Senator enlighten me as to precisely where we are? I thought I heard the Senator indicate he would want to make the point of order; is that correct? Are we at that point now?

Mr. DOMENICI. No, we are not.

Mr. EVANS. Or do we have to wait until a motion is actually made before we engage in appropriate debate on a motion to waive the Budget Act?

Mr. DOMENICI. We are debating the pending amendment at this point. As I understand it, I have control of 1 hour in opposition and, until I yield my time, a point of order cannot be made and a motion to waive the Budget Act cannot be made. But I am prepared to yield some of that time, because then we will debate the waiver itself in due course.

But, in the meantime, I wish to use a little bit of this time to make sure everybody understands the implications for the reconciliation process.

I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, does that not present this situation: Although we have a rule that permits rather extended debate which can only be terminated by a 60-percent majority, it would be possible under this precedent for anyone who has a measure that runs into extended debate to simply come in with a waiver on the budget reconciliation bill and pass just anything that could muster a majority of the votes. That would deny those who would want to debate a matter in honest, good conscience, the opportunity to express their views and to explain to the Senate in detail why they thought it was a bad measure and should not be agreed to.

Mr. DOMENICI. The distinguished senior Senator from Lousisiana is absolutely right. I would even add to that, when he uses the words "extended debate," in this case we are talking about extreme limitations in debate, not extended.

Mr. LONG. There have been many cases where a measure might have something very unsound about it, and those opposing it debate at considerable length and eventually prevail with a majority vote.

But sometimes it needs time, many hours, 6 or 8 hours, or maybe several days to do this. But there have been many times in this Senate that an unsound proposal has been defeated be-

cause the opposition had time to convince the Senate that they were right about the matter. Would not this procedure deny them the opportunity to make their case?

Mr. DOMENICI. That is absolutely right. There is no question about it, in my opinion.

Mr. DANFORTH. Would the Senator yield?

Mr. DOMENICI. I yield 10 minutes to the Senator.

Mr. DANFORTH. Mr. President, it is my understanding, and I may be wrong on this, that the majority leader has stated that when we finish reconciliation we will be going back to the Micronesia bill, and that this amendment has been offered to the Micronesia bill.

If that is the case, if we are going to have a bill on the floor of the Senate that can be debated, that is open to serious consideration and meaningful amendment, it would seem to me that is the way to proceed.

That is not the case if it is put on reconciliation. If it is put on reconciliation, we have a very limited time to debate a very important piece of legislation.

I would hope that on both sides of the issues of textiles we could at least agree on the fact that this is a very important piece of legislation. This is not some small, little, miscellaneous tariff matter. This is not some minor trade issue.

This is a matter of major consequence to a lot of people and, in fact, to a lot of countries throughout the world.

We are asked to decide this in a matter of just a couple of hours.

Mr. President, just to give some example of what this bill gets us into, if we were to pass the textile bill we would, in one legislative stroke, be violating not only the General Agreement on Tariffs and Trade, but also the multifiber arrangement, which is the multilateral trade arrangement dealing with textiles and apparel; we would be violating some 32 bilateral agreements with other countries.

That is no small matter, to violate 32 different agreements in 1 piece of legislation.

We would be engaging in a major alteration of our relationship with the Peoples Republic of China.

Granted, the first version of the textile bill was more onerous with respect to China than is the second version. But we would not be able to judge that fact by the comments coming out of China. They have gone into orbit on this bill.

We decided a decade ago that we were going to have a major change in our relationship with China. We believed that a new relationship with China was of crucial importance to American foreign policy and of crucial importance to American trade policy. All kinds of business people and entrepreneurs went over to China to try to make deals with them—engineers, contractors, not to mention our agricultural sector, attempting to do business in China.

There is no doubt at all that if we pass this legislation we are engaged in a fundamental alteration of our relationships with the People's Republic of China.

How about other countries? Mexico? Everybody who has picked up a newspaper or turned on a TV set has heard about the great tragedy in Mexico. With all of their other problems, with all of their population problems and economic upheaval, they have had earthquakes destroying thousands of lives and billions of dollars' worth of property. Now this bill says that imports of textiles and apparel from poor Mexico, our neighbor to the south, will be cut by 50 percent below agreed levels.

Bangladesh. When you think of poverty in the world, you think of Bangladesh. A 66-percent cut in imports of one of the few things that Bangladesh can make. That is in one bill. Do we really want to do that? Have we really considered that? Or are we simply listening to the voice of some lobbyist who is writing down a bunch of numbers of legislation that we have not looked at.

I do not have the amendment in front of me. It has to be as thick as a book. But the consequences of doing this, Mr. President, we have not considered and cannot consider because we have only a few hours.

Just as an example, there is in the city of Bolivar, MO, a small community in southwest Missouri, a little factory and it is called the Teeter Floral Products Co. What they make are polyester floral displays. People put them on grave sites and so on. That company in Bolivar, MO, is the largest employer. They need polyester flowers. Under this bill, a quota would be imposed on polyester flowers that are not made in the United States. Nobody makes them. They cannot get them anywhere but from abroad.

Do we want, without amendment, without any chance to review and change the law, to just say, "I am sorry" to these 300 people in Bolivar, MO, "You are out of luck because we did not take the time to consider polyester flowers."

I do not think so.

Mr. President, we ought to have ample opportunity to debate the question of textiles. The majority leader has promised that it will come up again. This is not the last chance. But at least give us the opportunity to amend this bill on the floor of the Senate. Do not ram it through in this fashion.

Mr. DOMENICI. Mr. President, I will yield the floor in a moment, but I want Senators to know that the Senator from New Mexico in managing this bill, and managing the time in opposition to this amendment, has no intention of using up all the remaining time on the bill.

We still have 23 amendments. About 15 of the amendments are germane, and ought to be offered. I am not going to have lengthy debate on my side. I am going to yield to a few Senators who want to oppose this measure and a few who want to oppose the motion to waive the Budget Act, if that motion is made. But I am not going to use the remaining 2½ hours to debate this issue when everybody understands it.

The issue is whether the amendment should be considered at all, not its substance. If the issue was the substance of the amendment, we would not have enough time for debate.

I understand that the Senator from Washington wants to debate. Does he want to debate the procedure by which they are avoiding a filibuster or debate the substance?

Mr. EVANS. I would much rather have us move to the motion to waive the Budget Act which would get us into the issue which should be in front of us. I would like to speak to that motion. I think that is the appropriate place to start.

Mr. DOMENICI. I thank the Senator.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am pulled in two directions. I rather agree with the Senator from New Mexico. We should yield as much time as we possibly can and get on to the motion with respect to 904(b) of the Budget Act and, thereafter, get on to Senator THURMOND'S and my amendment with respect to textiles and debate it.

I must make a couple of comments because they debate it and then they say, "Let us debate it later."

That is out problem.

With respect to the Senator from Missouri he is the last to complain. He sits in the catbird seat as chairman of the Trade Subcommittee in Finance, and he has voted out S. 1404 on trade with Japan. We have had way more hearings, way more cosponsors, way more votes all year long. This is the end of October. The Senator from Missouri has informed this particular Senator, "Senator, you shall not get your bill out of the Finance Committee"!

Thereupon, with that in mind, I had to file the textile bill as an amendment to the Micronesia bill in July. Now he says that is a good idea. Well, I guess it is a good idea on the sum total of votes, but when you have to do that on another unrelated matter,

you find that the Senator from Idaho [Mr. MCCLURE], the chairman of the Energy Committee, and the Senator from Louisiana, the ranking member, cosponsors of this particular bill, say, "Oh, no, you are messing up Micronesia."

If you get to Micronesia, he said there is plenty of time. There is plenty of time. I know that Micronesia bill—Vice President Bush asked me to refrain from offering the textile bill on the Micronesia bill. I said, "You had better take it to the Republican cloakroom; the trouble is there with your group, not ours."

This bill relates to 34 bilateral agreements. I am, by necessity, shortening a good 2-hour speech. The Chinese say a picture is worth a thousand words. We do not have photography in the U.S. Senate Chamber so it shall appear in the RECORD that the Senator from South Carolina is now waving 34 bilateral agreements entered into formally with our trading partners. What we have asked for is the enforcement of these 34 agreements.

I can turn to the agreements as we get into this debate and tell about the violations. It is very interesting to me that the President and all the media now are saying that due to the overvalued dollar, and the deficit we have come to grief. I disagree, "Oh, no, no, we have been on this the past 30 years."

I testified before the Tariff Commission when Tom Dewey represented the Japanese Government. We worked out a seven-point program under President Kennedy. We worked out the Multi-Fiber Arrangement. It was not being enforced in the Carter-Mondale administration, so we had to do the same thing in 1978.

We took the floor one afternoon on Friday and kept the Senate in until Saturday at 6 o'clock, around the clock, day and night—all Friday, all Saturday, day and night, all Sunday. Then we got enforcement.

Now comes this administration and they appointed Mr. Baldrige, Secretary of Commerce. Now, there you are. On lumber, he reads the ITC decision and he cannot find any subsidized lumber coming out of Canada.

The President reads the shoe decision, unanimously decided upon by the International Trade Commission, saying you obey the law that they now want to reverently uphold. They cannot find any violations after the ITC has unanimously decided.

And with respect to textiles, we can go to these countries that the gentleman watches.

Secretary Baldrige is chairman of a task force to find out about violations. It is like delivering letters by way of a rabbit. I have the violations all up and down here.

He has tried to get the Senator from South Carolina to eat 28 million yards of overshipments from Thailand, before he would go and jump to China. He finally put on an embargo when I appeared—thank heavens for the media.

When I appeared on David Brinkley with these treaties, then we finally got a little enforcement.

But going right to the People's Republic of China, the distinguished Senator from Missouri says China has gone into orbit. He ought to see the employees in South Carolina, where they have gone. China has gone into orbit. The truth of the matter is that China has been violative with transshipments, exceeded quotas, mislabeling shipments.

You know, Mr. President, when you get into this debate, they tell us our business leaders ought to be more competitive, they have to learn the language. That is not our problem. It is just like this crowd that is running around here, the best and the brightest, who want to make tobacco illegal and want to legalize marijuana. Our problem is not learning the language. Our problem is they have learned our language.

You know what they will do? For example, China will knit a garment in downtown Shanghai send it to Italy, and put on a "Made in Italy" tag.

China has learned our language. Our problem is we have moved into a competitive world where their Government is on their side.

We have in the United States of America the most productive and competitive industrial worker in the world. Japan is No. 7. Please write that in your news columns. Give that to Hobart Rowen. For heaven's sake, this fellow does not know about international trade.

The Japanese worker is No. 7. The United States industrial worker is No. 1, the Netherlands is No. 2, and France is No. 3. We have the most productive and competitive industrial worker. We have the most productive and competitive management. They have spent $7.91 billion in 5 years to put in new machinery, to mechanize, computerize, and data process. What is not producing and not competing is the Government, this Department of Commerce, this administration. You know it and I know it.

We have moved into international competition. Let's look at the People's Republic of China. We gave them under the Senate version—480 million square yards more than in the House bill—I thought it was to please you. I have been misled.

I objected to this. You will find the House bill on the desk—480 million square yards less than my amendment. I said why give 480 million square yards to the People's Republic of China? For the very reason the Senator from Missouri said: We want to try to make friends. We are going to make friends out there. But 18 cents an hour labor? You see, we politicians sit around and say, you have to have a minimum wage, clean air, unemployment compensation, Social Security, safe place, safe machinery. Two Fridays ago, we put $8.5 billion on them to clean up toxic waste. In downtown Shanghai, they make this shirt for 18 cents an hour, but we want to make friends with them.

I gave them the 480 million yards and I have not gotten his friendship. He still opposes my bill. I do not know what to do with the People's Republic of China. I wanted to give it instead to this Western Hemisphere, to Central America, Latin America.

And, Senator, you are mistaken. In Mexico, they are trying to compare this bill to an earthquake. Mexico not only gets a 15-percent increase over the 1984 level, but a guaranteed 6-percent increase annually thereafter.

We are trying to get it out of the Pacific Rim and get it down to this Western Hemisphere so we can get the CBI and all these initiatives going. So you are mistaken about Mexico. If you pass that amendment on the desk in the next 2 minutes, 45 percent of domestic consumption will still be imported. You are not rolling back, you are enforcing the objectives of the Multi-Fiber Agreement. What you are doing is like when you catch Willie Sutton with $100 million stolen from the bank; you take that $100 million away from Willie Sutton, you do not roll it back. You try to get what has been illegally taken. Formally entered into signed agreements, that is all we have. We want enforcement within the objectives of the Multi-Fiber Arrangement. We are taking care of Mexico.

The Senator from Louisiana has spoken honestly and in good conscience. Now we have, I say to the Senator, a wonderful thing. We have computerization and if you walk up to that desk—I do not know how to punch it, to tell you the truth. But it was punched and this is what you get:

SUBJECT HEADING(S)

Congressional Budget, Reconciliation, Germaneness.

Congressional Budget, Waive Act by Resolution or Motion, Debate of Motion.

HEADNOTE(S)

It is permissible to move pursuant to section 904(b) of the Congressional Budget Act of 1974 (PL 93-344) to waive the requirement of germaneness of amendments offered to reconciliation bills.

During the consideration of a reconciliation bill, a motion to waive provisions of the Budget Act offered in response to a point of order is debatable for one hour under the act.

Mr. LONG. Mr. President, to save the time of the Senate, I ask unanimous consent that the Senator might raise the question of germaneness and that the Chair might rule on it without

prejudice to the Senators for or against the amendment on its merits at this time.

I did not put that in there. The computer put it in there. Mr. Long put it in there.

And so the Senator from Louisiana triggered this thing. I remember it well. I was chairman of the Budget Committee and opposed it. And guess who has now persuaded me? The distinguished Senator from New Mexico. After 5 years, he won me over. He voted with the distinguished Senator from Louisiana. He voted with Senator Bellmon.

It was the oil stripper wells, they wanted to get on there. They moved at that particular time. So what am I doing here this afternoon? I am standing prepared to make that motion under section 904(b) which says, No. 1, this is in accordance with the law. No. 2, it is in accordance with the precedent that the Senator set, but he thinks now that it does not favor his particular position on the matter; it is going to destroy Government. And, No. 3, it conforms with the spirit of 904(b) because that particular provision on germaneness realizes that every committee in the world can put up whatever they want.

Here is the budget legislation, a book of it. All nongermane provisions, just about, on reconciliation. I happen to be one of those who believes this is getting out of hand. I think we ought to amend that particular section. I think we ought to amend the budget section to have authorizing committee action before even any budget is reported. But at the present time a committee chairman can add any nongermane amendment to the budget legislation.

My rationale, I say to the Senator from Missouri, is I have a bigger committee. I am not a chairman. We Democrats tried our best. But we sure have a good committee. The Committee of Commerce has 17 members. We have a committee of 55 members tried and true. We have had votes. We have stuck together as cosponsors. We are determined to have these bilateral agreements enforced.

The only way we know to get attention and get a bill through is on this bill, because when we go to Micronesia they will suggest the continuing resolution. You go to the continuing resolution and they say, "No, go to reconciliation." You go to reconciliation and they say, "Just go. Just go."

The distinguished Senator from Missouri has said:

> I am on the Finance Committee. I am the chairman of that trade subcommittee and I say to the Senator he will not see that bill come out of our Finance Committee.

Now, the distinguished Senator from Missouri was nice enough to tell me on top of the table.

Mr. DANFORTH. Mr. President, if the Senator will yield, to clarify it, I think what I told him was that I was confident there were not enough votes in the Finance Committee to report out the textile bill. I was not indicating to the Senator from South Carolina I was somehow exercising some mysterious power to keep it from being reported out. It simply does not have the votes of the majority members of the Finance Committee.

Mr. HOLLINGS. I understand. It is not mysterious. I do not reflect in any way on the Senator for having that position. I perhaps would have that myself. At the same time, we are all Senators in the body. I am ready to yield back my time so we can go ahead, make the motion, and move fast; all of us want to get our Senators back to the World Series this afternoon. We would really like to argue the merits of this particular matter. We conferred with the majority leader. We conferred with the chairman of the Budget Committee. We conferred with the ranking member. I know their position. Their position was mine. But I have now been persuaded. They are the ones who set this precedent. I did not.

We already have a House bill we cannot get up off the desk. It has been sent to us by an overwhelming majority on the House side. So what we are engaged in is political maneuvering.

This is the only maneuvering room I have. We just cannot let the Third World imports flow unimpeded into the United States. Everybody talks about the Third World. We have a Third World in the United States. We have 32 million hungry, under the poverty level. They are mainly composed of women and minorities. And here I am with the finest initiative at the Federal level—to save an industry with 29 percent minorities, 67 percent women, and we are worried about the People's Republic of China having gone into orbit.

Not true at all. They put on the full-court press on Washington. I do not fault Japan or the People's Republic. Business is business. There is no such thing, never has been, never will be, as free trade. This Government was founded on the report on manufacturing by Alexander Hamilton. He set up tariffs. We had at that time 96 percent of our people working on the farm and 4 percent in the factory, and we had to develop an industrial capacity to become a nation. Now we have 4 percent on the farm and 96 percent in the factories and service industries. But that is what built us, the protective tariff system.

The Senator from North Carolina and I did not understand that in the Southland. We were rather illiterate on that particular score. Article I, section 8, of the Constitution says Congress shall regulate commerce, but the Senator and I were rather illiterate. In 1865 they taught us how to read. We lost that war. But along came Cordell Hull and he said, "reciprocal free trade."

Do not talk about Smoot-Hawley. It is a bad historical rap. I can show you, Mr. President, in the year of the crash, trade increased, but the crash did cause the receding of trade in 1930. But Cordell Hull came along and said, "Look, we are going to have reciprocity. If they don't reciprocate, we are going to retaliate." We put in protective quotas for agriculture under the Agriculture Adjustment Act. We had protection for oil.

We put in protective quotas for oil in 1955 to protect oil producers. I have not asked for any protective quotas, tariffs, subsidies, retraining. All I am trying to do is hold on to a basic industry found by John F. Kennedy to be second most important to our national security after steel.

The Senator from Maine can talk on shoes. Let me yield time right now.

But I can tell you, Mr. President, here and now, we are ready to make the motion. I am ready to yield back the time to my distinguished senior colleague. I yield to Senator THURMOND.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I will just take a few minutes. I want to call attention of the Senate to the fact that this is not a State or regional problem. It is a national problem. There are 2 million people engaged in textiles and apparel in this country. There are 2 million more in related industries. One out of every 10 manufacturing jobs in this country is in textiles and apparel. This is a very important industry. It is so important that when we held hearings on the importance of various industries to our defense, it was brought out by the Defense Department that textiles rank second to steel in national defense. It has been predicted that if current trends continue, by 1990 we will not have any textile mills; they will all be closed.

Are we going to give up the textile/apparel field entirely? Are we going to permit foreign imports to continue to grow at increasing rates?

The commitment the President of the United States gave me when he was running in 1980 was that he would keep import growth in line with domestic market growth.

What has happened? Import growth now is 33 percent, domestic growth is 3 percent. So who is getting jobs in textiles? It is not Americans. They have lost jobs. In the last 5 years, we have lost 350,000 jobs. In my State alone we have lost 24,000 jobs. As I said, this is a national problem. Also, it is impor-

tant from the standpoint of eliminating our tremendous trade deficit. The 1984 trade deficit was $123 billion.

Sixteen-and-a-half billion dollars of this was because of imports of textiles, coming from other countries. That is, 13 percent of the entire trade deficit was caused by textile and apparel imports. Fifty percent of all the apparel and textiles used to make apparel that are sold in the United States today is imported. Think of that. Fifty percent comes from other countries. This is a serious problem.

It is argued that imports are advantageous to the consumer. I have heard that argument. Frankly, there is very little merit in it. I have some figures that demonstrate the falsity of that argument. The 1984 average retail price of men's and boys' clothing—domestic $6.68; imported $6.63. The consumer saved 5 cents. That is very little savings when you consider the thousands of American jobs that were lost.

How are we going to compete with some countries paying 15 cents an hour and other countries paying $2 an hour, while the American mills are paying $6, $8, and $10 an hour?

It is a question of whether you want to keep the jobs in America or send them abroad.

I have the greatest respect for the distinguished Senator from Missouri, the chairman of the International Trade Subcommittee. However, but we wanted to get this bill out of that committee and get it before the Senate. That has not proven possible. It has been a hard time getting it anywhere. As my distinguished colleague said, anytime you mention one bill they say, "Don't put it here." Well, we expect to put this bill on everything we can until we get results. Why? To help the American worker, to save American jobs. We have to do it to help our own people.

I believe in trade, but it must be fair trade.

Mr. President, I call the attention of the Senate to an article that appeared in the Los Angeles Times a few days ago, and I believe it also appeared in the Washington Post. It was published in a South Carolina newspaper and is entitled "U.S. Should Renounce Free Trade in Favor of Mercantilism."

I will read one paragraph; but first ask unanimous consent that this important article appear in the RECORD in its entirety at the conclusion of my remarks:

Because global influence and military strength depend on a strong economy, the United States should renounce free trade in favor of mercantilism: a policy that explicitly recognizes the need to place the nation's economic interests first in order to preserve its geopolitical power. No nation can be a great power without maintaining its basic industries, even if they are uncompetitive in the international economy.

Mr. President, it is important that we keep jobs in America. We want to trade with other countries; we want to help them; but they are taking over the entire market. The time has come to draw the line.

It is a question of whether you want to preserve jobs here or let them go overseas.

I am not going to take any more time. I think the question is simple, and everybody knows where they stand on this matter. I hope we can get this bill passed. It is a good bill, and it will be a good bill for the people of this country. I hope the Senate will see fit to pass it. I urge my colleagues to support it.

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

U.S. SHOULD RENOUNCE FREE TRADE IN FAVOR OF MERCANTILISM

(By Christopher Layne)

[Because global influence and military strength depend on a strong economy, the United States should renounce free trade in favor of mercantilism: a policy that explicitly recognizes the need to place the nation's economic interests first in order to preserve its geopolitical power. No nation can be a great power without maintaining its basic industries, even if they are uncompetitive in the international economy.]

Free trade is an attractive theory. But we live in a mercantilist world. Our chief economic competitors, Western Europe and Japan, erect tariff and non-tariff barriers to others' exports, subsidize their own export industries and control the export of their capital and technology. The developing industrial nations—Brazil, South Korea, Singapore, Taiwan—do the same. As America reaches industrial maturity, other nations are turning the multilateral free-trade system to our disadvantage. We should acknowledge those realities in our own economic policies.

As Johns Hopkins Professor David Calleo has observed, the postwar free-trade system flourished because "expanding prosperity . . . permitted a game with many winners and few losers." However, as "growth slowed, free trade was hurting more and more domestic interests everywhere, and the essentially mercantilist character of states was reasserting itself." Under such conditions, international economics diverges from the comparative-advantage, free model and begins to resemble a zero-sum game as governments become more conscious of the political and strategic ramifications of economic policy.

Free-traders justify their position by pointing out that under the doctrine of comparative advantage, everyone will gain something from international free trade. In strategic terms, however, the key question is not "Will everyone gain something?" but "Who gains the most?" It is the latter question that should guide Washington's international economic policy.

Viewed in historical perspective, the United States is at a juncture similar to Great Britain's at the turn of the century. The outward flow of British capital and technology, combined with the growth of tariff-protected competing industries in rival nations, enabled the United States, Germany and Japan to gain an ever-increasing economic and political advantage over England.

Although free trade actually undermined London's geopolitical interests, comparative advantage remained the intellectual basis of British trade policy. Few analysts, notably Joseph Chamberlain and J.A. Hobson, recognized that England could remain a great power only by adopting mercantilist policies that protected its domestic economy at the expense of its international economic commitments.

Chamberlain and Hobson were right: Commitment to a free-trade system that no longer advanced its interests was a critical factor in the collapse of British power.

For a nation suffering from political and economic decline, as America is, mercantilism is the most prudent economic strategy. Even those of us who believe in the theoretical superiority of free-market solutions must face the fact that the international economy is inherently mercantilistic and that, in a mercantilist world, free trade must end at the water's edge.

As Adam Smith said, "Defense is much more important than opulence." Thus, the thrust of our economic policy should be to maximize increase our power relative to that of other states. In this context national security is more important than economic efficiency.

Mercantilism does not mean that we no longer would have trade relations with the rest of the world. But America's approach to international economic policy must change. Trade should occur within a framework that enhances our fundamental national economic and security interests. International economic policy is too vital an instrument of statecraft, and the economy is too important as the essential foundation of national strength, to be left solely to private decision-making in a market context.

The fundamental objectives of a mercantilist policy are clear: to link American international economic policy to overall national-security policy, to preserve America's vital industries, to control domestic inflation, to discourage the outflow of capital and technology and encourage domestic savings and investment, and to minimize American dependence on markets and sources of raw materials over which our strategic control is tenuous.

America has reached a historical turning point. Rather than attempting to salvage the postwar free-trade system, we should focus instead on developing a new American international economic policy based on sound principles of political economy.

Mr. HOLLINGS. Mr. President, I yield 2 minutes to the distinguished Senator from Maine [Mr. MITCHELL].

The PRESIDING OFFICER (Mr. COHEN). The distinguished Senator from Maine is recognized.

Mr. MITCHELL. Mr. President, I thank the distinguished Senator from South Carolina for yielding. I will be very brief and not repeat what has been said.

I associate myself with the remarks made by both Senators from South Carolina. The distinguished Presiding Officer (Mr. COHEN) is my colleague from Maine, and I am authorized to say that I speak for him as well as myself at this time.

This measure deals not only with textiles but also with shoes. Whatever argument has been made with respect to the textile industry not pursuing

the legal procedures for relief from excessive imports, has no validity with respect to the shoe industry.

The shoe industry followed the rules. It brought an action. The International Trade Commission unanimously found injury, and by a vote of 4 to 1 recommended relief.

The distinguished Senator from Missouri, the chairman of the Trade Subcommittee, with whom I have the pleasure to serve, wrote an article in the Washington Post just yesterday which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MITCHELL. Mr. President, as the distinguished Senator from Missouri put it very well, "The shoe industry was wronged. It was played for a sucker. The laborious process before the ITC turned out to be a waste of time."

It is that total abdication of responsibility by the administration, not only for devising a trade policy but also for enforcing the trade laws of this country, that is so disturbing. We are the only Nation in the Western World which does not enforce the trade laws established within the framework of General Agreement on Tariffs and Trade that authorize relief from a surge of imports. The shoe industry has suffered a tremendous loss of market share to imports which have now captured 78 percent of the domestic market. The ITC unanimously agreed that the shoe industry was entitled to relief under section 201 of the Trade Act of 1974. It went through the long and expensive statutory process only to be rejected by the President. The shoe industry followed the rules and was played for a sucker.

For that reason, as well as the arguments advanced by the Senators from South Carolina, I believe this is an appropriate response to a very serious and critical situation. If an American industry suffers 78 percent import penetration and is not eligible for relief from imports under our trade laws, then I defy any Member of this body to define for me a circumstance in which our trade laws do have relevance and meaning. The fact is, of course, that they cannot and do not, under these circumstances.

Mr. President, I yield back whatever time remains to the Senator from South Carolina.

EXHIBIT 1

A RIP IN THE TRADE LAWS

(By John C. Danforth)

While the textile quota bill will pass both houses of Congress by substantial margins, much of the support for it is more embarrassed than enthusiastic. In the House, 28 cosponsors of the bill bailed out on the vote for final passage. Many Senate supporters concede that it is bad legislation, forced upon them by intense constituent pressures.

It is, indeed, a very bad bill. The best that can be said for the House version is that it would increase employment in the textile and apparel industries by about 4 percent, but it would do so at a cost to consumers of about $140,000 per job. Both bills would risk retaliation against $33 billion in U.S. exports, including farm commodities, aircraft and chemicals. Like much special-interest legislation, the bill is designed to favor a few people at the expense of everyone else.

Government can hardly be accused of turning a deaf ear to the textile and apparel industries. In fact, they have been the beneficiaries of the most elaborate and long-standing array of import protection enjoyed by an American industry. But the bill before Congress would go much further than any of the international agreements that protect the domestic textile industry.

Why, then, has it progressed as far as it has? Why has it passed the House and won the support, however embarrassed, of a clear majority of the Senate? The answer is that the executive branch, which should be the place to manage specific trade problems, is now closed to industries seeking import relief. When the executive branch is closed for business, Congress is the only place to turn, and the remedy Congress offers is quota legislation.

The president's decision in August to deny import relief to the shoe industry was a clear sign that the executive branch will no longer be a source of help for trade-damaged sectors of the economy. The president sees no distinction between import relief available under the General Agreement on Tariffs and Trade, if the proper legal process is followed, and import relief provided by Congress in violation of international agreements. To him, all forms of import relief, lawful or not, are equally abhorrent. All are branded "protectionist," and all are equally violative of his free-trade philosophy.

In fact, all forms of import relief are not the same. If proper standards are met, relief is expressly provided under Article XIX of GATT. The mechanism is legal, not political. It entails bringing a case before the U.S. International Trade Commission, proving economic injury as defined in the statute, securing a recommendation for relief from the commission, and securing relief in the form of tariffs, quotas or trade adjustment assistance from the president.

The shoe industry followed all the rules in bringing its case under the law. It did not try to throw its weight around in Congress. It did not ask for any special legislation. Instead, the shoe industry brought its complaint before the ITC, made a compelling argument for application of the law and won its case in a unanimous finding by the commission. Then, after expending unknown amounts of resources and energy before the ITC, it learned that all was for naught, that the president would give no relief at all.

The clear message from the White House is that if the shoe industry does not qualify for relief, no industry will qualify. If 78 percent import penetration in shoes is no basis for remedy, then textiles and apparel, with less than 25 percent import penetration, cannot hope to qualify. In effect, the president has blue-penciled Section 201 of the Trade Act out of the statute books.

For many years, the best shield against quota legislation has been a system of trade law that could deflect protectionist pressures toward generic solutions. The shoe industry believed it did not need special legislation. It had confidence that the basic laws were sufficient and that if it made a good case it would gain relief. The shoe industry was wrong. It was played for a sucker. The laborious process before the ITC turned out to be a waste of time.

The textile and apparel boys have the street smarts in dealing with government. Their method is to ignore the GATT, ignore existing law, ignore the ITC. They have used political muscle and have gone to Congress for help. Perhaps they will lose on a presidential veto. Perhaps this legislation, even if vetoed, will improve their position when the Multi-Fiber Agreement is renegotiated next year. Certainly they will end up better than the shoe people, who made the mistake of playing by the rules. So now the textile industry has its quota bill, and the shoe industry has gotten wise and has a quota bill of its own. Steel is not far behind.

What is truly astonishing is that the president has expressed astonishment at all the protectionist legislation.

Mr. DANFORTH. Mr. President, will the Senator from New Mexico yield 2 or 3 minutes?

Mr. DOMENICI. I suggest to my friend that there will be time in a couple of minutes on the issue, and I will yield to him. I would like to get on with the motion.

Mr. DANFORTH. I mean before we get to the motion.

Mr. DOMENICI. I yield 2 minutes to the Senator from Missouri.

Mr. DANFORTH. Mr. President, there is much to be said on the merits, and I am not going to debate the merits at this point. I hope we do not get to the merits of this matter on reconciliation. I hope we do not waive the rule of germaneness.

I have said to the senior Senator from South Carolina, and I will restate on the floor, that if this is attached to any other bill and there is a filibuster, I will vote for cloture. I do not like the idea of a textile bill; I am against it. I do not intend to slow it down by filibuster. I will vote for cloture. But that is not the issue before the Senate now.

The issue before the Senate right now should not be the merits of the textile bill but, rather, whether the textile bill is going to be taken up on reconciliation, whether the textile bill is going to be given the bum's rush through the Senate, whether the textile bill is going to be available to the Senate for only a matter of a few hours, with very limited possibility of debate and very limited possibility of amendment. That is the issue before the Senate now, not the merits, but whether this is the appropriate bill.

Mr. DOMENICI. Mr. President, on the amendment that is pending, I am prepared to yield back my time, if Senator HOLLINGS is ready to yield back his time.

Mr. HOLLINGS. Mr. President, on the pending amendment, in yielding back the time, I hope we can then move. The chairman obviously will

make a point of order. I am not trying to overrule a point of order. I am trying to get a ruling as to whether this is in conformance with 904(b). I am sure it must be, looking at the precedents.

So if we yield back the time, in all courtesy to the distinguished chairman, I will make the motion, we can get the yeas and nays, bring this to a close, and move from there.

Mr. DOMENICI. Mr. President, I understand what the Senator is going to do. We want a few minutes to argue that his motion should not be granted. That motion is debatable. Before he can make the motion, we have to yield back the time. If I then get recognized, I will make a point of order that the amendment is not germane.

The Senator has the right, under the act and the procedures, to make his motion.

Mr. HOLLINGS. That is the precedent set in 1980.

Mr. DOMENICI. I do not want to waste a lot of time. I do not want this to turn into a substantive argument over the amendment. I want Senators who have legitimate amendments to have a chance to offer them. I do not want to destroy an $86 billion deficit reduction package. That is my concern.

Mr. President, I yield back the remainder of my time, if the Senator yields back his.

Mr. HOLLINGS. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I make a point of order that the pending amendment is not germane.

Mr. HOLLINGS. Mr. President, I move under section 904(b) of the Budget Act that title III the requirement for germaneness be waived.

The PRESIDING OFFICER. The motion is debatable for 1 hour.

Mr. HOLLINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. This motion is debatable and there is 1 hour on each side?

The PRESIDING OFFICER. One hour total equally divided.

Mr. DOMENICI. A half-hour on each side, after which time a motion to table is in order.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. And not before.

The PRESIDING OFFICER. The Senator is correct.

Mr. EVANS. A parliamentary inquiry.

The PRESIDING OFFICER. Who yields time for a parliamentary inquiry?

Mr. HOLLINGS. I yield time.

The PRESIDING OFFICER. The Senator will state it.

Mr. EVANS. My inquiry is I believe that the motion that was just made by the Senator from South Carolina must be placed in writing so we know precisely what would occur if that motion were to carry because the particular wording of that motion could have a great deal of influence on the debate which could occur and the amendment which might be made afterward.

The PRESIDING OFFICER. The Senator is correct. The motion must be submitted in writing.

Mr. HOLLINGS. All right.

Mr. DOMENICI. I suggest the absence of a quorum with the time to be charged equally.

Mr. BUMPERS. Will the Senator withhold that? Will the Senator be willing to yield me 5 minutes while he is trying to work out the difference?

Mr. DOMENICI. Does the Senator desire 5 minutes to debate the issue that is before us?

Mr. BUMPERS. Yes.

Mr. DOMENICI. I yielded all my time back.

Is the Senator in favor or opposed to the amendment?

Mr. BUMPERS. I support the Hollings amendment.

Mr. DOMENICI. I have no time to yield for those who support it. Perhaps the Senator from South Carolina does.

Mr. BUMPERS. Will the Senator from South Carolina yield me 4 or 5 minutes while he is working this out?

The PRESIDING OFFICER. The Senator has submitted his motion in writing.

The motion follows:

Pursuant to section 904(B) I move to waive the germaneness requirement of the Budget Act.

Mr. HOLLINGS. I have submitted it in writing.

Now we are onto the particular motion. I am delighted to yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BUMPERS. Mr. President, I simply want to make a record on this issue because I have been one who steadfastly resisted domestic content legislation and generally supported the President's position on trade. I did it, not for ideological reasons. I did it because I thought it was fair that it was helping us with our inflation problem, and because I thought all parties were complying until GATT and the Multi-Fiber Agreements.

But now the scales have been tilted to the point that complete and unbridled free trade is no longer an equitable proposition. And in addition, our agreements are being violated by our trading partners.

I never really realized just how inequitable our trade policy was until I investigated our problem with shoe imports. I never will forget when Senator PRYOR and I went over to make our case before the International Trade Commission in 1981. We were pleading with them to hold shoe imports to 50 percent of all the shoe sales in this country. Think about that; in 1981 50 percent of all the shoes in this country were being imported, and we said we do not want to cause the people who manufacture these shoes and send them to us any undue hardship—we want to trade with them—and we will not, if you will, draw the line now, and hold imports at 50 percent.

The International Trade Commission ruled against us. So the President never really had to make a determination on the issue.

In 1985, early this year, we went back to the International Trade Commission. In the period of time since we were there in 1981, shoe imports had increased from 50 to 75 percent. That was early this year. And the International Trade Commission finally agreed, on a unanimous vote, I believe, to support our position. We only asked that we should not permit more than 63 percent of all the shoes sold in this country be imports.

That is not discriminatory. That is not trying to do in the Third World. That is simply saying let us be reasonable about this because our shoe manufacturers will never be able to compete with $3- and $4-a-day wages.

The International Trade Commission ruled in our favor and the President overrode that decision or at least refused to accept that recommendation, and at this very moment shoe imports run 77 to 80 percent all shoes sold in this country.

In 1984, the biggest economic growth year in the history of this country since the post-World War II era, shoe manufacturing in this country declined 13 percent. This year, shoe manufacturing in the United States declined 22 percent.

As the Senator from South Carolina has said time and again, there is no education in the second kick of the mule. Maybe if we redefined national security & determined shoes necessary, we could get the Presidents attention. Manufacturing combat boots should be on the national security list.

We produce fewer shoes in this country right now than we did in 1921.

I realize that the textile and apparel industry has also been plagued by increasing foreign imports. Since 1981, textile import growth has averaged 19 percent annually—and last year imports soared 32 percent over 1983 levels.

I do not like to see Congress getting into this whole arena on an ad hoc basis. Today it is textiles and shoes and tomorrow it will be aluminum and next day it will be steel and next day it will be something else. Tht is not the way it should work.

But our trade policy is not working at all now and, in my opinion, Congress has no alternative but to at least get the President's attention and say to the President, "We are not asking for Smoot-Hawley protectionism. We are not asking for that kind of relief. We are saying give us a trade policy. I believe Congress will not let their issue die. The President can run, but he can not hide.

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

Who yields time?

Mr. DOMENICI. I yield up to 15 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. EVANS. Mr. President, there will be some time presumably, if, in fact, this motion passes, to debate the merits of the issue, not enough, perhaps not enough opportunity to attempt to perfect the bill, but that is not what is before us. What is before us is a question of waiving the Budget Act and it is to that I will turn in just a moment.

But let me say, first, in answer to my distinguished colleagues who have spoken that this is not a question of China, or Korea, or Taiwan, or any other foreign nation compared to this Nation. It is a question of whether we are going to engage in a new civil war, a new civil war of East versus West instead of North versus South. In the first vote on this bill several weeks ago, all but five Senators west of the Mississippi voted against the bill, and all but five Senators east of the Mississippi voted for it.

It could very well be a question of whether we sacrifice an aerospace job in order to save a textile, job, whether we drive one more farmer into bankruptcy to preserve a seamstress.

I might say, in passing, that unemployment in South Carolina and North Carolina and the other States in this bill are substantially lower than unemployment in my own State of Washington, or Oregon, or California, or most of the States of the West.

But let me turn to what is really at stake. I have not been here long. But I came, as my colleagues know, in an unusual fashion. I had one of those rare opportunities to make a choice, to make a decision whether to accept an appointment of my Governor. I came here to the Senate because I respected its history and its tradition, and because I felt this was an unusual body, worth coming back here te represent my State and my country.

This fundamental question is not textile protectionism. The fundamental question is whether this Senate will retain its unique position as the only legislative body in the world devoted to unfettered and yes—even at times—extended debate, whether this body will continue to cherish the right of even a minority of one to express opinions, challenge majority opinion, to shape legislation, and to give colleagues a chance for a second thought.

The history of cloture I think is important to discuss. We have had 196 years of this Republic. Never in 196 years have we attempted in this body to strangle debate as we are going to do it today. There was no cloture rule at all until 1917. Our predecessors in the great debates of the mid-1840's leading up to the Civil War and many of the other great debates which have engaged this Senate did so without any limit whatsoever on debate.

In 1917, rule XXII was adopted. Two-thirds of those present and voting would be required to limit debate. In 1949, we reverted to two-thirds of the entire body. In 1959, we limited debate by two-thirds of those present and voting within 2 days of debate before a cloture vote and, in 1975, the present day cloture rule was adopted, three-fifths of the Senate except when we are engaged in a rules change.

Today we may well take the last step, the last step of majority rule; of majority rule where the rights of the minorities are going to be squashed.

Well, let me advise this Senate that if, indeed, this procedure is to be allowed, then it is time to throw the doors wide open. If 51 Senators choose, then we can add this bill or its successor as each year passes Grove City, without debate; line-item vote, without debate; nominations—for instance, the nomination to the Ambassadorship of the People's Republic of China, without debate; abortion; school prayer—you can add to the list better than I. Is that what we are going to do? Is that what this body is all about?

All that is spoken on the floor of the Senate becomes part of the RECORD. Hundreds of thousands of pages make up the history of this body. The rules of the Senate are important and so are the precedents. The Senate, in a very real sense, is history.

The way to discover the spirit and the importance of this body and of our concept of democracy lies in the pages of our Journal. Reading through the Journal holds out the key to recognizing the importance of this body's tradition of lengthy debate.

It is difficult to trace the roots of our tradition of free and open debate. It is impossible to select a single precedent that allows each Senator to be heard on any matter brought before the body. And yet, this right has been subject to some of the most eloquent speeches and debates on the floor of this Senate. Let me read from a few.

First, from Senator Robert LaFollette, March 8, 1917.

Mr. President, believing that I stand for democracy, for the liberties of the people of this country, for the perpetuation of our free institutions, I shall stand while I am a Member of this body against any cloture that denies free and unlimited debate. Sir, the moment that the majority imposes the restriction contained in the pending rule upon this body, that moment you will have dealt a blow to liberty, you will have broken down one of the greatest weapons against wrong and oppression that the Members of this body possess. This Senate is the only place in our system where, no matter what may be the organized power behind any measure to rush its consideration and to compel its adoption, there is a chance to be heard, where there is opportunity to speak at length, and where, if need be, under the Constitution of our country and the rules as they stand today, the constitutional right is reposed in a Member of this body to halt a Congress or a session on a piece of legislation which may undermine the liberties of the people and be in violation of the Constitution which Senators have sworn to support. When you take that power away from the Members of this body, you let loose in a democracy forces that in the end will be heard elsewhere, if not here.

I ask unanimous consent, Mr. President, that further statements of our distinguished colleague, Senator STENNIS, and from then Senator Lyndon Johnson be printed in the RECORD. And I would like to read briefly from a fourth one and ask unanimous consent that the entire statement be printed in the RECORD.

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

SENATOR JOHN STENNIS—MARCH 7, 1975

Personnel can come and go, ideas and opinions and conclusions can vary, and will, but this body will never be the same parliamentary body again if this final step, this fateful step, is ever taken.

There is a yearning and a distinctive feel about coming to the U.S. Senate and it has been true for many, many, many decades, and I hope it will be true for a thousand years . . .

If we just make it a body now where the majority is going to control and can write the rules, or rewrite them, the majorities with all their virtues are impulsive at times, if we are going to make it into that kind of a body, we will take off something that has a great deal of attractiveness, a great many of the attractive features of being here.

I have a great respect for the House of Representatives . . . and I think no man could have a greater honor than to serve with fidelity . . . in the House of Representatives. But at the same time, many men who have served there want to come on over here.

Why is that? I could not describe why, but I believe a part of it is that the membership in this body just cannot be pushed around, and that is what it amounts to.

Perhaps those who have joined us lately have not yet had enough experience here to feel this quality that I am talking about, but wait until someone attempts to push them around, wait until they have experiences

where they see, except . . . they could have been pushed around and then they will get a better understanding of what I am trying to transmit to them, and in a very feeble way.

We call ourselves the deliberative body. That is a little more, I think a good deal more than a self-serving declaration, and that deliberative body, the fact that it is that kind of body, has had tremendous influence in public affairs.

As a young lawyer, in the 1930's, I remember what has become known as the attempt to pack the Supreme Court and I remember my first impulse to the argument was so smooth and so plain and all, I said that maybe it is my duty to consider that further. Under the circumstances, it had some attraction to it, maybe.

But anyway, as I started reading and reading and looking and relooking and getting into the mores of our system, instantly it became clearer and clearer and clearer to me that that would be an awfully bad step, a nagging precedent, and a body blow that would, in effect, destroy that body, restrict and restrain it so.

I came here later and understood from men who were here—I could call names but I will not—but many of them said, and some of these were in favor of President Roosevelt's recommendation, that without a question, without a question, it was the influence of rule XXII looming as a possible roadblock that made it known one could not rush the plan through.

I do not think there are many who have been here long that could avoid saying, admitting and agreeing, that this was a downgrading of the Senate, to go to the rule of majority of those present and voting could change the rule and make it possible to cut off debate on a bare majority vote.

SENATOR LYNDON JOHNSON—MARCH 9, 1949

If I should have the opportunity to send into the countries behind the iron curtain one freedom and only one, I know what my choice would be. I would send to those lands the very freedom we are attempting to disown here in the Senate. I would send to those nations the right of unlimited debate in their legislative chambers.

If we now, in haste and irritation, shut off this freedom, we shall be cutting off the most vital safeguard which minorities possess against the tyranny of momentary majorities. I do not want my name listed as one of those who took this freedom away from the world when the world most needed it.

SENATOR STROM THURMOND—MARCH 7, 1975

This motion would effectively give absolute rule to little more than a mere majority of Senators. A Senate majority does not necessarily represent a consensus of the people or of the States. Many times popular opinion on an issue does not develop until after prolonged discussion of the matter in the Senate has served to publicize the issue. In this sense, prolonged debate may prevent hasty majority action which would be out of harmony with genuine popular consensus; whereas simple majority cloture will not allow for a sober second thought of the American people.

Majority cloture in the Senate would destroy its deliberative function.

Mr. President, prolonged debate is not resorted to lightly or at the whim of a few Senators. To do so would destroy its effectiveness. It is only when an issue of vital importance is presented, that a minority of Senators, concerned with their roles as "ambassadors of the States," engage in extended debate in order that all viewpoints may be presented and all options considered.

If this resolution passes, it is then theoretically possible for the members of the majority party to close off debate on a highly partisan issue, thus effectively negating the rights of the minority. I wish to remind Members of the Senate that today's majority may be tomorrow's minority.

Mr. EVANS. From one of our colleagues who is engaged in this debate today, the senior Senator from South Carolina, STROM THURMOND:

This motion would effectively give absolute rule to little more than a mere majority of Senators. A Senate majority does not necessarily represent a consensus of the people or of the States. Many times popular opinion on an issue does not develop until after prolonged discussion of the matter in the Senate has served to publicize the issue. In this sense, prolonged debate may prevent hasty majority action which would be out of harmony with genuine popular consensus; whereas simple majority cloture will not allow for a sober second thought of the American people.

And I am glad my distinguished colleague from South Carolina has arrived to hear his words, so eloquently spoken years ago, read back.

Mr. President, prolonged debate is not resorted to lightly or at the whim of a few Senators.

And I can say to this body I have not engaged in prolonged debate very often.

To do so would destroy its effectiveness. It is only when an issue of vital importance is presented, that a minority of Senators, concerned with their roles as "ambassadors of the States," engage in extended debate in order that all viewpoints may be presented and all options considered.

Mr. President, let us return to the matter particularly before us. While many have strong feelings on both sides of the textile issue, there should be no disagreement about what we are debating at this moment. The issue at hand is whether or not the Senate should purposefully circumvent its own rules; whether it will decide today to allow the will of a simple majority to silence the voice of a strong opposition.

Should any simple majority, 51 Members, be allowed to silence all other Members on any matter before the body, possible destruction of the constutitionai role of the Senate as a body of deliberation would follow. We would, in my opinion, die as a unique body and take our place in a long and dismal line of ordinary Parliaments and Congresses.

We have a choice. Mr. President, we have three choices, in fact. If we turn down this motion to waive the Budget Act and destroy the Senate and its long tradition of debate, immediately after the conclusion of the reconcilation bill we do return to the Compact of Free Association on which this textile amendment is already attached. If that is insufficient, we have at the desk a House bill, already passed, which has a textile bill attached. And if no bill passes this Congress, we will shortly engage in the renegotiation of the Multi-Fiber Agreement and our agreements bilaterally with each nation. And I believe, and would join with my colleagues in believing, that these ought to be strengthened and changed and modified to better serve the needs and the problems of our Nation.

The alternative to that, to any of those three choices, is to destroy our heritage, wreck our committee process, divide this Senate, and hurt the comity which binds us together, all for a monetary advantage.

And I say for shame, for shame, if we waive these rules for no earthly purpose.

I urge—no, I plead with my colleagues to defeat this proposal. Let us finish reconciliation. In fact, let us finish reconciliation in two ways: On perserving the Senate as we would like it to be and on the reconciliation bill in front of us, and then turn next to the compact and debate the textile issue. It is an issue of major importance. It deserves to have adequate opportunity for amendment and perfection and it may well have support sufficient to pass. And if that is true, so be it. But that is the way in which we do our business. And, Mr. President, that is the way we ought to do our business.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. How much time does the Senator need?

Mr. LONG. Three minutes.

Mr. DOMENICI. I yield 3 minutes to the distinguished senior Senator from Louisiana.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order.

The Senator from Louisiana.

Mr. LONG. Mr. President, in years gone by I have voted for the type of measure the Senator seeks to enact at this point.

I have supported the Senator on occasion when he has added measures of this sort to a Finance Committee bill, and I have gone to conference having voted for his amendment. I think the Senator knows that very well. In fact, on occasions the Senator thanked me for fighting harder than anybody on the conference in trying to get his amendment agreed to. I have no quarrel with the Senator on the merits of what he seeks to achieve here. I cosponsored the bill when it was introduced as a bill, and I even voted on this measure on the Micronesia bill.

But, Mr. President, I could not agree more with what the Senator from Washington has said here today. My first speech in the Senate was in favor

of free debate in the Senate. I was a member of the Rules Committee at that time, and served with the senior Member of the Senate, JOHN STENNIS. We fought at that time to preserve the right of free debate in the Senate. What I said then, and what JOHN STENNIS said at that point, still makes sense as far as the Senator from Louisiana is concerned.

In my judgment, if this tactic is to be permitted to succeed, then as long as this is available, any Senator has the option, if he has a simple majority, to deny other Members of this body an opportunity to make their case against a proposal. This is a way that one can bring a controversial proposal to a vote with only a modicum of consideration. That is totally contrary to the intent of the reconciliation process.

Yes, I heard the Senator cite the time when Senator Bellmon of Oklahoma offered an amendment dealing with stripper wells. Senator Bellmon asked appropriately, as he should have asked, for a waiver under the budget resolution to offer his amendment. I voted for it. Mr. President, that was not an attempt to deny others the right to debate the stripper well amendment. We had debated stripper wells many times, voted on it many times before, and we voted on it many times after that. But as much as I would like to see the Senators prevail in seeking consideration for the industries for which they speak, and they are entitled to consideration, I completely disapprove of this approach. And because I love this body and love this institution, Mr. President, I wish that the Senate would refuse to take this approach. It was never the intention when we voted to establish the reconciliation process that it should be used to deny Senators a right to free debate, to have their day in court to explain why they are for or against a measure, and make their arguments for an amendment. There is nothing so desperate about this textile matter that it cannot be considered in an orderly legislative fashion.

There are many measures that come from the Finance Committee on which I would be happy, as one of those who voted to report the bill, to support the Senator's amendment. If the Senator wants to offer his proposal on the trade bill that was reported by that committee, I would be glad to support his amendment. There will be all sorts of opportunities to offer this measure, and have it voted on in the orderly process, without prejudicing the rights of anybody in the Senate. But to agree to the procedure that is being sought here at this moment, knowing the Senators want to debate this matter in considerable length, and some perhaps might even want to filibuster, means that we will be setting a precedent that can be invoked time and again, and that really means the end of free debate in the Senate as we have known it.

I think, Mr. President, it is not necessary to do business that way. It would not be wise. I do not think it would justify using this means even to enact that measure.

So while on the merits I would like to see the Senator prevail on what he is trying to achieve, I thoroughly disapprove of this method, and I hope very much it will not be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 3 minutes to Senator BAUCUS.

Mr. BAUCUS. Mr. President, let me state, so everyone knows, that I am opposed to the underlying amendment. I think if the textile act passes and becomes law, it will be a bill which we in this country will regret having adopted for a long, long time. I oppose the textile bill for many reasons. It violates the MFA. It will be extremely costly to American consumers—about $23 billion a year, or about $450 per family per year. It will begin us in a downward spiral of protectionism.

But these concerns are not what lead me to speak. I am rising to speak because I believe very deeply, and very sincerely that this is the wrong place to have the wrong bill at the wrong time. Every Senator knows it is highly improper to bring this textile bill up as an amendment to the reconciliation bill. We all know that privately. In the few years I have been here I have seen this body slide. We respect the rules of this body less and less. The Parliamentarian's ruling as to whether a motion is germane is now disregarded in the Senate. Senators seem not to care one whit about the rules. Senators now vote on rulings of the Chair— not according to the basic question of germaneness or on whether the issue should be in order but according to their own substantive preferences. I have seen us begin down the slippery slope just in the years I have been here. Soon we will get to the point where we have no rules at all. The Senate will then be absolute chaos, and it will be ruled by brute force, and brute majority will. The special protections for the minority will be gone. That is about where we are coming to right now.

So I stand firmly with my colleagues who argue that we should vote against addressing the textile bill at this time. There will be another time. This body operates on comity and on trust. If we work together we will find a way to bring the textile bill up, but we should not do so now because it is a violation of the rules.

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

The Chair would hope we would stay within the prescribed time limits.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that an article entitled "Mexico Welcomes U.S. Textile Bill" be included in the RECORD at this time.

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

MEXICO WELCOMES U.S. TEXTILE BILL

(By Susan Jansen)

The Mexican textile industry looks favorably on last Thursday's decision by the U.S. House of Representatives to reduce sharply textile imports from 12 countries, mainly in Asia.

"If the legislation passes, we feel it would be advantageous for Mexico because we are considered with the Caribbean countries. And within possible negotiations of the Multi-Fiber Agreement (MFA), Mexico would not be subject to the same roll back," Max Grunstein, first vice-president of the National Chamber of the Textile Industry said this weekend.

Grunstein told The News Mexico would probably return to 1984 levels of export quotas to the United States, with the possibility of a 15 percent increase.

Some of the Mexican textile industry's problems would be alleviated if exports to the United States were boosted, said Grunstein, although he pointed out that Mexico could never reach the textile export levels of the Asian countries.

Increasing exports to the United States would be "an important relief at this moment" for the Mexican textile industry, he said.

The U.S. House of Representatives decision is a message to the White House that the United States needs a tougher trade policy to open up world markets, said House Speaker Thomas O'Neill, according to press reports after the decision. O'Neill said House supporters of the bill are "just sick and tired of being the lone free traders, the lone patsies of the world," stated the press reports.

If the U.S. House decision becomes law, it will cut severely imports from Hong Kong, China, Taiwan, South Korea, Japan, Pakistan, the Philippines, Thailand, Brazil, Singapore, Indonesia and India.

Grunstein agreed with charges from the United States that the MFA has been widely violated. Many countries export more than their quotas permit and manufacturers receive government help—"call it subsidies if you will," said Grunstein.

He also said many violations are in the form of "triangular trade," with the country of origin in dispute. For example, a country with a small quota, such as China, will sell textiles to a country with a large quota, such as Hong Kong, which in turn exports the material on its quota, said Grunstein.

"We feel the MFA should be revised and renegotiated, but it is a good vehicle for the integration of the world textile market," Grunstein said.

As for accusations of Mexico's violation of the MFA, Grunstein said that Mexico is a small exporter to the United States, and that Mexico has proved in the past—and is in the process of proving—that Mexican textile subsidies are "minimal if any."

One year ago, the United States fixed an 11 percent countervailing duty on Mexican textiles. Mexico fought the move and the duty was reduced to 3.7 percent, Grunstein said. "And we feel it will be reduced further."

He said this proves Mexican textiles are not subsidized and therefore are not subject to countervailing duties.

The Mexican textile industry "unfortunately has no lobby group in Washington," said Grunstein. Negotiations are carried out through the Chamber and the Secretariat of Trade and Industrial Development's international negotiations department.

He said textile negotiations between the two countries are a constant process.

Grunstein said representatives of the Mexican textile have been in contact with the American Textile Manufacturing Institute to convince them that Mexico does not present a problem to the United States. "We face the same problem, the Asian problem," said Grunstein.

The U.S. House of Representatives decision "has taken on an air of being anti-Asian," press reports cited Representative Sam Gibbons as saying.

Mr. HOLLINGS. I want to emphasize the information that has been given out. This bill has been compared to an earthquake. Now it is being compared to the end of the Senate. My colleagues know differently. I hope we can amend the reconciliation process. You are looking at the first chairman of the reconciliation conference, and we passed it.

In 1980 the Democratic majority had been defeated. I went to President Carter and said we could not leave a deficit in excess of the one we inherited from President Ford, around $66 billion. And the President asked how large would the deficit be. I said it could get up to $75 billion. I was frightened at the $75 billion deficit. He said, "What can I do?" I said, Mr. President, there's a funny word called reconciliation. If you leave us alone, we can get some cuts. I went to my friends, the Senator from Wisconsin, Gaylord Nelson, the Senator from Washington, Warren Magnuson, the Senator from Idaho, Frank Church, the Senator from South Dakota, George McGovern. I said look, we Democrats are going in the books as big spenders. You've got to help us. We brought up the reconciliation bill, they helped me, gave me the vote, and we cut back.

The deficit when President Carter left went back down to $58.7 billion rather than $66 billion. So let us not lecture about reconciliation and the process, after you have already argued it, and won your point on Micronesia. The only reason I went on Micronesia was because it was a "must" bill. Now I find out they could care less. Nobody would care much for Micronesia except the Senator from Montana, and a few others. They have amendments. All the other Senators have amendments. They are sitting around waiting to get that so-called very generous cloture just on an amendment so they can go the "Allen" route of 30 and 30 amendments—some 60 amendments. So the majority leader would then stand in the well, and say I cannot wait 60 hours to complete Micronesia. We have to get appropriations. We have to get the farm bill, and the rest of the calendar.

We have debated this all year long. This side of the aisle has special orders in the morning. We have already debated trade. Now the administration and the other side of the aisle has picked it up. Everyone has a trade bill. There is no question about unlimited debate. We argued this for almost 6 hours on the Micronesia Compact. What we have to do is move in accordance with the law. I did not like the law. I have stated so on the floor. I do not like it now. I have the same misgivings. But on the question of germaneness, the Senator from Washington, just raised the point of germaneness with his amendment on the corporate average fuel economy standards on an appropiations bill. I went along with him. This bill provides for a waiver of germaneness, not a point of order. It is a motion in accordance with the law and the precedents.

Some are worried about the future of the body. But they know differently. It is said this is the instrument that will break the camel's back, but look at the reconciliation bill. It has all kinds of things including trade adjustment assistance. These are not really germane, under the rules.

In any event, they put in what they want. You can get a tobacco bill, public corporations, anything you want. Open the book. There it is.

All of a sudden, this is the amendment.

When we go under the law, when we go under the precedent, when we go under the spirit of the act, when we are trying to get a measure ready to pass in both bodies, of course some are ready to pull the administration's coals out of the fire and keep threatening about the veto.

With respect to the comments of the distinguished Senator from Washington, this is not an East-West aerospace versus textile issue, farmers versus seamstress. I have a shirt from Oregon, they have a very viable textile and apparel industry on the west coast.

There has been a development over the years. The Senator from Washington has been talking about 20 years ago. I remember it well. We had one price for cotton. We had to fight to get it. After that particular debate in the early sixties, 25 years ago, it was like damming half of a river. We had to move to wool and man-made fibers. Now we have come down the line with respect to farmers.

I remember a question asked me a couple of years ago on radio station WHO, in Des Moines. They said, "Senator, you are from textiles. You want protection, protectionism. We farmers do not believe in protectionism."

The farmers are the ones who got protective quotas back in the early thirties. They got subsidies provided by the Export-Import Bank. I said we did not want that, we have the Multi-Fiber Agreement. Our agreements have been solemnly signed, dotted and with the T's crossed. We are not asking for tariffs. There are no tariffs in this bill with respect to textiles.

But I said, "You know, I just rounded the corner coming to this particular station in Des Moines and they had on one corner the tractors from Byelorussia, the U.S.S.R., and on the other corner was International Harvester going broke." I said, "You do not understand, but you have moved into international competition on farm equipment. If you want to pay those in International Harvester $1 an hour, with no Social Security, no unemployment, no clean air, no clean water, that will be fine. But you are in international competition on that equipment. More than that, we have just left Washington debating the Egyptian wheat contract and the Egyptians are beating us out with a 25-percent subsidy in wheat. Your wheat has moved into international competition."

True it is, that 18 years ago the European Economic Community was a net importer of the world's wheat and last year they exported 20 percent with subsidies.

We have come down the road and farmers will begin to stop, look and listen. The cotton farmers who were once worried, now support us. The National Cotton Council supports this particular bill.

The wool-growers began to realize that if you could not manufacture textiles in this country, they were not going to sell any wool.

If you want to talk about so-called free trade, we can later on in the debate. Here is a free trade document outlining the restrictions and prohibitions against our textile and apparel exports. They talk about free trade. It is compiled by the U.S. Department of Commerce and is entitled, "Foreign Regulations Affecting U.S. Textile and Apparel Exports, January 1985."

We will see how free it is. It is a 1-inch volume, 251 pages. I want you to look at that one.

So we have picked up the wool-growers and the cotton council.

Also, the American Agriculture Movement, the National Farmers Union, the National Farmers Organization have all endorsed this bill. It is not farmers against the seamstresses. It is the matter of asking one's government to compete.

Do not talk about ports and trade. We have a dynamic port operation that I have worked for years developing. I have traveled the countries of Latin America. Luther Hodges of North Carolina and I made the first trip to Europe, the first trips to Latin

America to promote international trade. We are proud of the 13 Japanese companies from which we solicited investments. We are not troubled whatever, Mr. President, by this kind of competition. We are troubled by our Government.

Hobart Rowen talks about bashing Japan. I am trying to bash Washington. I am not trying to bash Japan. I am trying to wake up our own crowd so we can have not just free trade, and fair trade, but competitive trade.

We are entitled to make this motion, bring this amendment under this particular rule, under the law. The law is there and if you want to change it, you have my vote on changing the law, but do not change the law on me when we come under the precedent set in 1980, where the distinguished chairman and the distinguished Senator from Louisiana and others voted the other way. Now that I want to use it the sky is falling, the Senate is going to end.

We have had too much debate already on this textile bill and this is our only chance.

Mr. President, my distinguished colleague, the chairman, the Senator from New Mexico, has advised me that the written motion is not in the appropriate language. Therefore, if I can amend the motion, I will have it read:

I move, in accordance with section 904 of the Budget Act to waive the provisions of title III of the act requiring germaneness of amendments with respect to the pending amendment.

The PRESIDING OFFICER (Mr. SYMMS). Is there objection?

Mr. DOMENICI. I reserve the right to object, Mr. President. I have no objection provided the modification in no way changes the time allowed on the motion, that it does alter the time allotment under the Budget Act.

The PRESIDING OFFICER. Are there objections?

Mr. EVANS. Reserving the right to object, a parliamentary inquiry. As the motion is now worded, would it allow even an amendment to the amendment, a perfecting amendment or a modification of the amendment as was proposed?

The PRESIDING OFFICER. There would still be the possibility of amendments to this motion at the end of the time.

Mr. EVANS. Amendments to this motion to waive the Budget Act?

The PRESIDING OFFICER. The Senator is correct.

Mr. EVANS. But as the motion is now written, if it were to be adopted, then what rights will there be subsequent to that for proposed amendments and amendments to those amendments?

The PRESIDING OFFICER. There would be no restriction on germaneness.

Mr. EVANS. Would there be any restriction on amendments thereto?

The PRESIDING OFFICER. There would be no restriction on amendments thereto or germaneness.

Is there objection?

Mr. DANFORTH. Reserving the right to object, Mr. President, may I inquire how much time is left on the reconciliation bill?

The PRESIDING OFFICER. One hour 22 minutes for Senator Domenici and 1 hour 38 minutes for Senator CHILES.

Mr. DANFORTH. So, Mr. President, that would be about 3 hours, is that correct, total, on the reconciliation bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. And that 3 hours would encompass everything we did with respect to textiles and any other amendment that we would have relating to textiles, of which there will be many.

The PRESIDING OFFICER. That is correct.

Mr. DANFORTH. And further, any other amendments to reconciliation? All of that would have to be encompassed within less than 3 hours; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. I thank the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. EVANS. Mr. President, reserving the right to object, I wish to ask a further question. I am not sure my question was responded to. Perhaps I did not pose it correctly, or perhaps did not understand the response. The wording now of this motion is: "I move to waive title III of the germaneness requirement of the Budget Act with respect to the pending amendment." Is that the current wording?

The PRESIDING OFFICER. The clerk will read the suggested modification.

The legislative clerk read as follows:

I move in accordance with section 904 of the Budget Act to waive the provisions of title III of the act requiring germaneness of amendments with respect to the pending amendment.

Mr. EVANS. Mr. President, may I ask what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is No. 875 by the Senator from South Carolina.

Mr. EVANS. The senior Senator or the junior Senator?

The PRESIDING OFFICER. Both the junior and the senior Senators.

Mr. EVANS. It is my understanding that if this motion were to pass and a subsequent amendment were to be offered it would not be under this amendment.

The PRESIDING OFFICER. If the motion is so modified, that is correct.

Mr. EVANS. In other words, as I understand the Senator from South Carolina, this amendment was to be the first amendment and a shell amendment, and that he was to offer another amendment subsequent to getting a waiver. Yet the way this is worded, that waiver would not cover the subsequent amendment. Is that correct?

Mr. HOLLINGS. Not necessarily.

The PRESIDING OFFICER. That is correct.

Mr. HOLLINGS. A perfecting amendment would be covered, would it not, I ask the Chair?

The PRESIDING OFFICER. Only if it is germane.

Mr. DOMENICI. A parliamentary inquiry—germane to what?

The PRESIDING OFFICER. Either this amendment or the bill.

Mr. HOLLINGS. So it would be.

The PRESIDING OFFICER. Is there objection?

Mr. EVANS. Still reserving the right to object.

Mr. HOLLINGS. Mr. President, does it require unanimous consent? I would let the RECORD show that I made my motion just as it was read. He asked for it to be reduced in writing. It has been done. I do not know whether I have to get unanimous consent to give my writing up there. Let the RECORD show it. I would ask the reporter to read back my motion.

The PRESIDING OFFICER. It does require unanimous consent. The yeas and nays have been ordered on the motion. Therefore, the Senator has lost the right to modify.

Mr. HOLLINGS. Mr. President, I am not trying to modify. Let the clerk read exactly what I put in.

I said "In accordance with 904(b) I move to waive title III of the germaneness requirements of the Budget Act" on this motion.

I think I can definitely see what the Senator from Washington is concerned about and I was concerned about that; namely, that the next amendment by my distinguished senior colleague be germane. As I understand it, my senior colleague will submit an amendment, if and when recognized, and it will be germane to this and will not require that section 904 be waived if we obtain that particular waiver on this vote.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. EVANS. Mr. President, may I ask one more question, then? Subsequent to the adoption of this modification, as long as the amendments are germane to the textile bill or the reconciliation bill, they will continue to be allowed and no rights are lost under this to offer amendments, especially to the pending amendment, the textile bill?

The PRESIDING OFFICER. This is correct.

Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, and I have no objection at this point, this waiver will permit amendments to the amendment that is pending, if they are germane to it. Is that correct?

The PRESIDING OFFICER. Or to the bill.

Mr. DOMENICI. Or to the bill. And is it not correct that that germaneness test is the same as the germaneness test under reconciliation?

The PRESIDING OFFICER. That is correct.

Is there objection?

Hearing none, it is so ordered; the motion is so modified.

The motion as modified is as follows:

I move in accordance with Section 904 of the Budget Act, to waive the provisions of Title III of the Act requiring germaneness of amendments with respect to the pending amendment.

Mr. DOMENICI. Mr. President, how much time do I have left in opposition to the motion?

The PRESIDING OFFICER. The Senator from New Mexico has 9 minutes.

Mr. HOLLINGS. How much time has this side?

The PRESIDING OFFICER. The Senator from South Carolina has 12 minutes.

Mr. DOMENICI. On our side, could we use as little as possible? We are not going to have any time for what I now think are 32 amendments.

Mr. EVANS. Mr. President, let me add two items to the remarks I made earlier. Let me be very clear about it. There is simply no question. Let me reiterate what my chairman has just said.

It is my understanding that there are now 32 amendments pending on the reconciliation bill. I am absolutely positive, absolutely positive that we will take the remaining time—all of it or virtually all of it—on this textile amendment if, indeed, we waive germaneness. There have to be opportunities to offer appropriate amendments. Each amendment takes some time to discuss. If we are going to be rolled over, we are going to take the maximum amount of time to get rolled over. It means that all of those other 32 amendments will not have time to be heard and some of them are very important amendments and ought to be heard.

My second point, Mr. President, is that adding this proposal to the reconciliation bill, in my view, and I believe it is an accurate view, will almost certainly bring a Presidential veto.

All those who have proposals that are now in the reconciliation bill, all those who are concerned about our deficit and the very tough choices we have made to try to bring the deficit under control—I might add to my colleague from North Carolina, his tobacco support program and the pending amendment which relates to offshore oil leases and a number of proposals on Medicare and Medicaid—all will fall, all will fall if the President vetoes this bill, as he almost certainly will. He then very likely will send back to the Senate and to the House of Representatives a message saying "Why." That "why" will very likely list a number of things he would like out of the bill, and I think those of us who have an interest in proposals which have already been adopted or are in this bill ought to think very carefully about adding one more anchor which, in my view, is going to sink the ship.

Mr. DOMENICI. Mr. President, I yield myself 1 minute. I am then prepared, if Senator HOLLINGS is, to yield back the remainder of my time. I hope everybody understands that this reconciliation bill, which will save $86 billion over 3 years, is in jeopardy. If we are going to proceed to waive the Budget Act for this issue, there is not any question that we will place the reconciliation bill in jeopardy. But I am hopeful that after we take a couple of votes, the parties to this amendment will get an idea of where they stand on this legislation and it will have served that purpose.

It is my hope that we will not have to include this bill as part of reconciliation. I am hopeful that we can finish reconciliation tonight or tomorrow and get on with it. I am prepared to yield back the remainder of my time if the Senator is. I am prepared to move to table the amendment.

Mr. HOLLINGS Mr. President, the Senator from South Carolina has been as considerate as he can be. If you want to be considerate to the same extent, as is the Senator from South Carolina's desire, I would as soon have brought this up at the end of the bill and run through the votes. Some of our colleagues said, "Well, that would be rather arrogant; you wouldn't have any time to discuss the amendment. I said, "It's been debated in the halls and on the floor. Everybody is talking about it."

They have talked about it in both caucuses. They defeated it. We have already had a vote. We are not trying to roll over anyone by using all the time. The distinguished Senator has that right, and I understand it to be the case.

Simply put with respect to the President, he has already said through his Chief of Staff, Don Regan, given a list on tobacco, Medicare, and several other measures that he is prepared to veto. So we all know that without even this particular measure being on it. So this is not a measure that is going to cause a veto. This is a measure of serious consideration that has been tried at every angle. It is in accordance with the law. It is in accordance with the precedent set, and it is in accordance with the spirit of that particular precedent.

So unless there is someone else on our side who desires to speak, I am ready to yield back our time.

Mr. DOMENICI. I yield back my time.

Mr. HOLLINGS. I yield back my time.

Mr. DOMENICI. I move to table the pending motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion of the Senator from South Carolina [Mr. HOLLINGS].

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS (When his name was called). On this vote I have a pair with the distinguished Senator from Missouri [Mr. EAGLETON]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Virginia [Mr. TRIBLE], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Missouri [Mr. EAGLETON] is necessarily absent.

I further announce that the Senator from New Jersey [Mr. BRADLEY] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 38, nays 55, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—38

Abdnor	Durenberger	Mathias
Andrews	Evans	Matsunaga
Armstrong	Exon	McClure
Baucus	Garn	Nickles
Bentsen	Goldwater	Packwood
Boren	Gorton	Pressler
Boschwitz	Gramm	Quayle
Chafee	Grassley	Simpson
Chiles	Hart	Stafford
Cranston	Hecht	Symms
Danforth	Kassebaum	Wallop
Dole	Long	Zorinsky
Domenici	Lugar	

NAYS—55

Biden	DeConcini	Harkin
Bingaman	Denton	Hatch
Bumpers	Dixon	Hawkins
Burdick	Dodd	Heflin
Byrd	East	Heinz
Cochran	Ford	Helms
Cohen	Glenn	Hollings
D'Amato	Gore	Inouye

Johnston	Metzenbaum	Rudman
Kasten	Mitchell	Sarbanes
Kennedy	Moynihan	Sasser
Kerry	Murkowski	Simon
Lautenberg	Nunn	Specter
Laxalt	Pell	Stennis
Leahy	Proxmire	Thurmond
Levin	Pryor	Warner
Mattingly	Riegle	Wilson
McConnell	Rockefeller	
Melcher	Roth	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, for.

NOT VOTING—6

Bradley	Hatfield	Trible
Eagleton	Humphrey	Weicker

So the motion to table was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the motion of the Senator from South Carolina to waive the Budget Act.

Mr. HOLLINGS. Mr. President, if I may move to withdraw the yeas and nays so we can save some time, I so ask unanimous consent.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Carolina to waive the Budget Act.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays then, if Senators want to do it.

I thought the leader wanted to save some time.

Mr. WEICKER. Let us go ahead and have the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the role.

The bill clerk proceeded to call the role.

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

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

Mr. WEICKER. Mr. President, I ask unanimous consent, and this will not affect the outcome of the vote, that the Senator from Virginia [Mr. TRIBLE] and myself be permitted to be recorded on the last vote.

We were waiting for a subway for 5 minutes from the Hart Building. We were in the building. We were unable to be here because there was no transportation.

I did not want to violate the rules of this body. And if I were out of the building—does the same hold true?

The PRESIDING OFFICER. The Chair will state it again. It is against the rules even to ask that question.

Mr. WEICKER. By unanimous consent?

The PRESIDING OFFICER. Even to ask unanimous consent for that question, to add names to a vote after it has been announced.

So the request is not in order.

Several Senators addressed the Chair.

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

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

The question is on agreeing to the motion of the Senator from South Carolina to waive the Budget Act.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. Mr. President, on this vote, I have a pair with the distinguished Senator from Missouri [Mr. EAGLETON]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Missouri [Mr. EAGLETON] is necessarily absent.

I further announce that the Senator from New Jersey [Mr. BRADLEY] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 57, nays 39, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—57

Biden	Heflin	Murkowski
Bingaman	Heinz	Nunn
Bumpers	Helms	Pell
Burdick	Hollings	Proxmire
Byrd	Inouye	Pryor
Cochran	Johnston	Riegle
Cohen	Kasten	Rockefeller
D'Amato	Kennedy	Roth
DeConcini	Kerry	Rudman
Denton	Lautenberg	Sarbanes
Dixon	Laxalt	Sasser
Dodd	Leahy	Simon
East	Levin	Specter
Ford	Mattingly	Stennis
Glenn	McConnell	Thurmond
Gore	Melcher	Trible
Harkin	Metzenbaum	Warner
Hatch	Mitchell	Weicker
Hawkins	Moynihan	Wilson

NAYS—39

Abdnor	Durenberger	Lugar
Andrews	Evans	Mathias
Armstrong	Exon	Matsunaga
Baucus	Garn	McClure
Bentsen	Goldwater	Nickles
Boren	Gorton	Packwood
Boschwitz	Gramm	Pressler
Chafee	Grassley	Quayle
Chiles	Hart	Simpson
Cranston	Hecht	Stafford
Danforth	Humphrey	Symms
Dole	Kassebaum	Wallop
Domenici	Long	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, against.

NOT VOTING—3

Bradley	Eagleton	Hatfield

So the motion was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion to waive the Budget Act was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 876

(Purpose: To achieve the objectives of the Multi-Fiber Arrangement, to promote the economic recovery of the United States textile and apparel industry and its workers, to reduce unemployment, and for other purposes.)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] (for himself, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. HELMS, Mr. HEFLIN, Mr. HEINZ, Mr. COHEN, Mr. WARNER, Mr. KENNEDY, Mr. MITCHELL, Mr. EAGLETON, Mr. SPECTER, Mr. EAST, Mr. COCHRAN, Mr. TRIBLE, Mr. DENTON, Mr. D'AMATO, Mr. SASSER, Mr. HATCH, Mr. PELL, Mr. MATTINGLY, Mr. ROCKEFELLER, Mrs. HAWKINS, Mr. GORE, Mr. DIXON, Mr. DODD, Mr. SIMON, Mr. FORD, Mr. DECONCINI, Mr. PRYOR, Mr. MATHIAS, Mr. LONG, Mr. LEAHY, Mr. METZENBAUM, Mr. RIEGLE, Mr. WEICKER, Mr. MCCONNELL, Mr. KASTEN, Mr. GLENN, Mr. BUMPERS, Mr. NUNN, and Mr. BYRD) proposes an amendment numbered 876.

Mr. THURMOND. 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:

Beginning on page 1 of the pending amendment strike all after line 3 and insert the following:

"This title may be cited as the 'Textile and Apparel Trade Enforcement Act of 1985'.

"SEC. 1202. POLICY.

"The policy of this title is—

"(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for

orderly and nondisruptive growth of imports of textiles and textile products; and

"(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

"SEC. 1203. FINDINGS.

"The Congress finds that—

"(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

"(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

"(3) since 1980, the objective of orderly growth of imports of textiles and textile products for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 per centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

"(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

"(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

"(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts and sweaters exceeds 50 per centum of domestic consumption;

"(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

"(8) imports of textiles and textile products into the United States are predominantly the product of significant exporting countries, with five large exporting countries now accounting for more than 50 per centum of all imports of textiles and textile products;

"(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

"(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

"(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

"(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

"(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United Stats cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

"(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

"(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

"(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum; as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

"(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Title;

"(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

"(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

"(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

"(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

"(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

"(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum, whichever is the lesser,

"(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

"(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

"(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

"(21) the establishment of import levels, and limitation on future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

"(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

"(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

"(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Milti-Fiber Arrangement and its Protocol.

"SEC. 1204. DEFINITIONS.

"For purposes of this title—

"(1) The term "Textiles and textile products" includes, but is not limited to, all tops, yarns, piece goods, made-up articles, apparel, manmade fibers, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, part 1, 4, 5 (except subpart E), 7, or 13 of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States or part 1 of the Appendix to the Tariff Schedules of the United States;

"(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

"(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

"(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

"(C) a category consisting of the manmade fiber products classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

"(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

"(i) yarn,

"(ii) fabric,

"(iii) apparel, and

"(iv) other textile products;

"(3) The term "import sensitive category" means—

"(A) a category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

"(B) a category covering wool products;

"(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on December 31, 1984), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

"(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 10 percent of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(6) The term "producing country" means a country (other than a major producing country and a country in the Carribean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(7) the term "small producing country" means a country other than a major producing country and a producing country;

"(8) The term "country in the Caribbean region" means Mexico and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C 2702);

"(9) The term "wool product" means an article containing over 17 per centum by weight of wool;

"(10) The term "cotton, wool and manmade fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

"(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

"(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

"SEC. 1205. LIMITS ON TEXTILE AND APPAREL IMPORTS.

"(a) CALENDAR YEAR 1985.— Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

"(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage and textile handbags, and textile flat goods subject (as of the date of enactment of this Title) to a specific limitation under an agreement with a major producing country, the lesser of an amount equal to 101 per centum—

"(A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or

"(B) If the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

"(2) in the case of textile luggage and textile handbags and textile flat goods subject (as of the date of enactment of this Title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this Title;

"(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of—

"(A) such products from such country classified under such category that entered during calendar year 1984, or

"(B) in the case of textile luggage and textile handbags and textile flat goods subject (as of the date of enactment of this Title) to specific limitation under an agreement with a producing country, the specific limitation quantity in effect as of the date of enactment of this Title;

"(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of—

"(A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus

"(B) an amount equal to—

"(i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or

"(ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

"(5) in the case of cotton, wool and manmade fiber sweaters that are—

"(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

"(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

"If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

"(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

"(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

"(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

"(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

"(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

"If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 1210(b), than in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 1210(b) in previous calendar years.

"(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

"(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

"(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

"(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

"then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products that may be entered from such country under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of imports from such country under such category equals the minimum quantity prescribed under this subsection.

"(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country, other than a country in the Caribbean region, and that are entered under the categories referred to in paragraph (2)(A) of section 1204 equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

"(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

"SEC. 1206. IMPORT LICENSING.

"In order to ensure the equitable and efficient administration of section 1205 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

"SEC. 1207. ANNUAL REPORT.

"Not later than March 15, 1986, and March 15 each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 1205. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

"SEC. 1208. REVIEW.

"The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult members and committees of Congress, representatives of the labor unions and the industries affected by the program, and appropriate government agencies. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

"SEC. 1209. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

"Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"'385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 205(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 205(b) of such Act that adjust the quotas under such section 205(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation.	Free

"SEC. 1210. EFFECTIVE DATE.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

"(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall determine, and publish in the Federal Register, the aggregate quantity, if any, of textiles and textile products that may be entered under section 1205(a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products from a country under a category entered after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such country and such category during calendar year 1985 under subsection (a) or (c) of section 1205, then the limit that would otherwise apply under section 1205(b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 1205(b) or (c) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

"TITLE XIII—FOOTWEAR

"SEC. 1301. SHORT TITLE

"This title may be cited as the 'American Footwear Industry Recovery Act of 1985'.

"SEC. 1302. FINDINGS AND PURPOSE.

"(a) The Congress finds that—

"(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

"(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing on newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

"(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

"(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

"(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

"(A) the loss of 155,000 footwear jobs since 1968,

"(B) a decline in domestic production and production capacity, and

"(C) the permanent closure of over 500 plants during the same period.

"(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

"(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

"(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from 51 percent in 1981 to 77 percent in 1985.

"(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

"(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

"(11) Since the termination of the two, four-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

"(12) The domestic nonrubber footwear industry has not been afforded adequate

and appropriate relief from imports; therefore, the Congress concludes that—

"(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

"(B) in the absence of and effective remedy under such process, legislative relief is essential.

"(b)(1) It is the purpose of Congress in enacting this section to—

"(A) promote and expend the economic health of the United States nonrubber footwear industry,

"(B) preserve the jobs of American workers, and

"(C) prevent the further decline of this important domestic industry.

"(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, or which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

"SEC. 1303. DEFINITIONS.

"For purposes of this title—

"(1) The term 'entered' means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(2) The term 'Secretary' means Secretary of Commerce.

"(3) The term 'nonrubber footwear' means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95.

"(4) The term 'apparent domestic consumption' means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

"SEC. 1304. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

"(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 percent of the estimated apparent domestic consumption of nonrubber footwear for such period.

"(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

"(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 percent of apparent domestic consumption of nonrubber footwear for such period,

"(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 percent of apparent domestic consumption of nonrubber footwear for such period, and

"(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 percent of apparent domestic consumption of nonrubber footwear for such period.

"(b) Within sixty days after the effective date of this title, and on the first day of the fourth quarter of each 1 year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1 year period and in the case of the first day of the fourth quarter of each 1 year period thereafter, the next succeeding 1 year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1 year period of permissible imports of nonrubber footwear as required by this section.

"(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

"(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

"(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

"(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

"(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

"(i) consult with interested domestic parties,

"(ii) afford an opportunity for such parties to comment on the proposed regulations, and

"(iii) consider all such comments before prescribing final regulations.

"SEC. 1305. COMPENSATION AUTHORITY.

"For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 1304 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).".

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, how much time is allotted on each side?

The PRESIDING OFFICER. Thirty minutes is allotted to each side on the second-degree amendment.

Mr. THURMOND. Mr. President, we are willing to use only 10 minutes instead of 30 minutes if the other side agrees.

The PRESIDING OFFICER. Is the Senator putting that in the form of a unanimous-consent request?

Mr. THURMOND. I put it in the form of a unanimous-consent request.

Mr. DANFORTH. Mr. President, reserving the right to object, I wonder if the Senator from South Carolina can describe to the Senate what the second-degree amendment does?

Mr. THURMOND. It is similar to the amendment that was previously offered and includes only a few technical changes.

Mr. DANFORTH. Basically, the purpose is to shut out other amendments. Is that correct?

Mr. THURMOND. Basically, the purpose is to pass this textile amendment to save jobs for American workers. [Laughter.]

Mr. DANFORTH. I understand the Senator. I was just concerned and interested in what the tactic was. As I understand it, the purpose here is to have a second-degree amendment which is a perfecting amendment.

Mr. THURMOND. This is a perfecting amendment. That is correct.

Mr. DANFORTH. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, reserving the right to object, I have no idea how many people want to speak in opposition to this amendment and to the bill before us. I have withheld speaking on it to see if we were going to override the rules of the Senate on germaneness as it related to the Budget Act. I think it is important that this bill be debated, and I unless I can get some assurance that I will have an opportunity to speak in opposition to what I consider to be raw protectionism against the interests of the American people, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from South Carolina has 30 minutes. The opposition to the amendment has 30 minutes.

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I called attention earlier today to the article in the Los Angeles Times by Mr. Christopher Layne. I hope every

Senator on the floor will read this article.

Quoting again from that article:

As Johns Hopkins Professor David Calleo has observed, the postwar free-trade system flourished because "expanding prosperity . . . permitted a game with many winners and few losers." However, as "growth slowed, free trade was hurting more and more domestic interests everywhere, and the essentially mercantilist character of states was reasserting itself." Under such conditions, international economics diverges from the comparative-advantage, free model and begins to resemble a zero-sum game as governments become more conscious of the political and strategic ramifications of economic policy.

Free-traders justify their position by pointing out that under the doctrine of comparative advantage, everyone will gain something from international free trade. In strategic terms, however, the key question is not "Will everyone gain something?" but "Who gains the most?" It is the latter question that should guide Washington's international economic policy.

Viewed in historical perspective, the United States is at a juncture similar to Great Britain's at the turn of the century. The outward flow of British capital and technology, combined with the growth of tariff-protected competing industries in rival nations, enabled the United States, Germany and Japan to gain an ever-increasing economic and political advantage over England.

Although free trade actually undermined London's geopolitical interests, comparative advantage remained the intellectual basis of British trade policy. Few analysts, notably Joseph Chamberlain and J.A. Hobson, recognized that England could remain a great power only by adopting mercantilist policies that protected its domestic economy at the expense of its international economic commitments.

Chamberlain and Hobson were right: Commitment to a free-trade system that no longer advanced its interest was a critical factor in the collapse of British power.

For a nation suffering from political and economic decline, as America is, mercantilism is the most prudent economic strategy. Even those of us who believe in the theoretical superiority of free-market solutions must face the fact that the international economy is inherently mercantilistic and that, in a mercantilist world, free trade must end at the water's edge.

As Adam Smith said, "Defense is much more important than opulence." Thus, the thrust of our economic policy should be to maximize, increase our power relative to that of other states. In this context national security is more important than economic efficiency.

Mercantilism does not mean that we no longer would have trade relations with the rest of the world. But America's approach to international economic policy must change. Trade should occur within a framework that enhances our fundamental national economic and security interests. International economic policy is too vital an instrument of statecraft, and the economy is too important as the essential foundation of national strength, to be left solely to private decision-making in a market context.

The fundamental objectives of a mercantilist policy are clear: to link American international economic policy to overall national-security policy, to preserve America's vital industries.

That is what we are trying to do here.

to control domestic inflation,

That is what we are trying to do here.

to discourage the outflow of capital and technology and encourage domestic savings and investment

That is what we are trying to do here.

to minimize American dependence on markets and sources of raw materials over which our strategic control is tenuous.

And that is what we are trying to do here.

America has reached a historical turning point. Rather than attempting to salvage the postwar free-trade system, we should focus instead on developing a new American international economic policy based on sound principles of political economy.

Mr. President, this article is by Christopher Layne, who is an attorney and foreign policy expert from Los Angeles. He said it about as well as anyone can say it. The question is whether we are going to maintain the jobs for Americans or let them continue to go overseas.

Already, as I said earlier, half or more of the textile and apparel in this country is imported. We are depriving our own workers of the opportunity to work and in my judgment that is a great mistake.

Still, Mr. President, one out of every 10 manufacturing jobs in this country is in the textile and apparel industry. That is more jobs than automobiles and steel combined.

Mr. President, I am an agricultural supporter—I grew up on a farm and I am interested in the American farmer. Many of our farmers are having a tough time. This amendment would also help them. If import growth continues at current levels, cotton producers face the elimination of most of their domestic market in 4 years. Wool growers, whose production has dropped 75 percent since World War II, would also benefit from this legislation. By keeping textile and apparel manufacturing in this country we are also helping our American farmers.

This amendment merely limits somewhat the imports which have taken over more than half of the American markets, and which have destroyed millions of jobs here. By 1990 it is estimated that imports could destroy the entire textile apparel industry which, the Defense Department says, is second in importance to steel for national defense. We must not stand idly by and let our industry be wiped out.

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

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I yield time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I rise in opposition to this bill because every argument made in favor of it is false. This bill would be counterproductive to America. It would lower employment. It would raise prices. It would discourage world economic growth and it would destroy the progress of the postwar era.

In the postwar era, America has broken away from a policy of protectionism. Under John Kennedy we negotiated a new trade system that has produced economic growth in the Western World. Since that time, there has been general agreement among Democrats and Republicans that protectionism was not in America's interest and though it might be in the political interest of one given party at any given time, we would leave that issue out of the public policy debate because it was not in America's interest.

But unlike historical protectionism, which simply argues the special interest, something we see on the floor of Congress every day, now protectionism is cloaked in new garb. Now, we are told, it is almost American to be protectionist, that we are protecting American jobs.

I will give some quotations that we hear over and over again:

We export not goods, but jobs today.

Every $1 billion in deficits in the U.S. trade balance represents 25 million jobs lost in the United States.

Current trade deficits we are told represent the export of 3.5 million jobs.

Where are those jobs going? Where are they leaving from? That is not to say that there are not industries affected by foreign trade. But what are the facts?

In the last 3 years, we have created 8 million new jobs in America. And look at the nations with a big trade surplus. What has happened in Japan? While unemployment in the United States has fallen every year for 3 years, unemployment in Japan has risen every year for 3 years. Their unemployment rate has risen by 13 percent in the last 3 years with a trade surplus.

The European Economic Community, where all these jobs are supposed to be going, has not created a job in a decade.

The truth is that the United States in the last 3 years has created more jobs than Europe and Japan have created in almost 2 decades.

We hear talk about the need to protect textiles. Well, let me remind you, Mr. President, that we are already protecting textiles.

Since 1981 we have had more than 300 quotas established on textile imports. Textiles are already the most protected products in America: An average of 22.3 percent in tariffs, very stiff quotas, as compared to very little in the way of quota protection for any

other industry, and an average of a 5-percent tariff for all manufacturers.

What about unemployment? We are hearing some Senators talk about unemployment and how they need our help.

Let us take the top five textile States in America.

North Carolina, the top textile State in America, had unemployment of 5.5 percent in the June 1985 spot estimate on unemployment.

Georgia had 7 percent; New York, 6.6 percent; South Carolina, 6.6 percent. Only Pennsylvania, with 9.1 percent, had a higher unemployment rate than the national average.

In fact, the top five textile States are among the lowest unemployment States in America.

The truth is that we are asking States that, on average, have higher unemployment than the textile States to pay higher prices for textile products in order to protect jobs in States that have lower unemployment than we do.

Why do we have a trade deficit? Why is the dollar "overvalued"? The value of the dollar is set by the supply and demand for dollars. We have a trade deficit because we have a massive inflow of capital. Why are people investing in the United States? They are investing in the United States because we have the highest real interest rates in the world. If you want to do something about that—and the Senate has—do something about the deficit, the real deficit, the deficit in the Federal budget. If we bring that deficit under control, that will bring interest rates and the value of the dollar down, and encourage exports.

What nations are targeted in this bill? Who are the villains here? The first villain is Hong Kong. That is an interesting villain. How many people have stood on this floor and said, "We want fair trade, free trade, but fair trade. These nations are cheating, they protect their markets against American goods."

Mr. President, there are many countries in the world you can point the finger at in that regard, but Hong Kong is not one of them. One of the hardest hit nations here in the repeal of a movement toward freer trade started by President Kennedy is Hong Kong, the only place on Earth that has no quotas and no tariffs, that has a free and open market, where we can sell any American goods in any amount without facing a quota or a tariff.

Why have they been singled out? Where is the unfair trade there? How is this anything but raw protectionism?

What is the second target? Korea. The real economic miracle of the postwar period. The Marshall Plan rebuilt Europe and rebuilt Japan, but they had been developed. We simply provided capital. They put their capital markets to work and they rebuilt their economy. But the American miracle in the postwar period, the one nation that we have developed into a modern economy, is Korea, the nation that spends more on national defense as a percentage of national income and GNP than we do. So we single them out and hit them in an industry where 35 percent of their jobs depend on textiles.

What is the third target? Taiwan. Interestingly enough, these protectionist bills related to textiles are aimed at not hitting China—Communist China—because they might retaliate as they did once before. So we hit Taiwan.

That we take a nation divided by political philosophies and leave the Communist part alone but zap the part that has modeled its very existence after America is an interesting paradox.

Mr. President, this is bad legislation. It has a special interest appeal. We have all gotten thousands of letters in support of it, we have all had lobbyists knock on our doors. But the truth is this bill will not solve our problems. Any progress we make with these quotas in reducing American demands for foreign goods will reduce the demand by Americans for foreign currencies, it will drive up the value of the dollar on the world market and discourage American exports in areas where we are competitive and encourage American imports in other areas. This bill cannot lower the trade deficit. All it can do is make people in this country pay more for textiles. It can trigger another trade war and the whole world will lose in the process.

It so happens my State is in the top 10 in textile production, but I do not believe that a bill that will be so bad for America and everything we stand for in the world and everything we have done in the postwar period can be good for Texas. If it is bad for America, it is going to be bad for Texas and that is
bill. That is why I shall work to see that the President vetoes this reconciliation bill if this bill is a part of it.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I seek recognition.

Mr. THURMOND. Mr. President, how much time does the Senator want?

Mr. MOYNIHAN. Five minutes.

Mr. THURMOND. How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator from South Carolina has 21 minutes, 13 seconds.

Mr. MITCHELL. Would the Senator from South Carolina yield to me?

Mr. THURMOND. I shall yield 5 minutes to the Senator from New York. I just wanted to make sure it could go around.

Mr. MOYNIHAN. Mr. President, the distinguished Senator from Texas has spoken inaccurately about the movement for freer trade that was started by John F. Kennedy. That, of course, was the Trade Expansion Act of 1962 and the Kennedy Round that followed.

May I, for the RECORD, say that at that time I was an Assistant Secretary of Labor and one of a group, a party of three persons, that was sent by President Kennedy to negotiate the Long-Term Cotton Textile Agreement. The negotiation and conclusion of that agreement was a condition for Congress approving the Trade Expansion Act and the Kennedy Round—which together with the Trade Act of 1974 and the Tokyo Round greatly transformed the world trading system exactly as the Senator from Texas has said. The President reached an understanding with the Congress at that time that with respect to textiles and apparel, the growth in imports had to be steady. There was no question of fixing any level—only that imports would grow at a steady rate. Most recently, the Multi-Fiber Agreement, which succeeded the Long-Term Cotton and Textile Agreement in 1973 and which was last renegotiated in 1981, provided generally that imports under quota be allowed to grow at 6 percent annually.

The distinguished Senator from Missouri, who is chairman of the Subcommittee on International Trade of our Committee on Finance, on which I serve, observed in the Washington Post yesterday that the problem with the present administration is that it cannot distinguish between protectionism and the rules of international trade. I think he is right.

I would like to repeat to the Senate that the beginnings of the modern era of expanding international trade was premised on an understanding that imports of textiles and apparel would be subject to some limitations. Had those limitations been enforced by the administration in the last 3 years, I do not think we would be on this floor with this legislation.

I do not welcome this kind of action. What the Senator from Texas said about Hong Kong not having trade barriers is correct: but Hong Kong was present in 1962 at the Long-Term Cotton Textile Agreement negotiations and agreed that their share of the market would grow, but would not grow at disruptive and finally annihilative rates. That is what is at issue here.

We ought not to have to do this. We ought not to have to do it on a reconciliation bill. But it is a consequence of an administration that the Senator from Missouri has very accurately said

cannot distinguish between enforcement of rules and plain-out protectionism.

Multilateral agreements to gradually increase the market share of foreign imports in textiles and apparel—first negotiated in 1962 and renegotiated several times since—are generous agreements and farsighted ones. They have to do, in my view, with the nature of the textile and apparel industry. If only we had kept to the process for limiting imports set forth in those agreements, had enforced them, we would not be here today. And in this Senator's case, it is with some considerable reluctance that I am here today.

Mr. President, I yield back such time as I have remaining.

Mr. DANFORTH. Mr. President, I wonder if we could have 1 minute on this side to respond to the Senator from New York?

Mrs. KASSEBAUM. Mr. President, I am glad to yield 1 minute.

Mr. DANFORTH. Mr. President, the argument is frequently made that this is a problem of enforcement and that if only the United States enforced international agreements, in this case the Multi-Fiber Agreement, we would not be in this situation, but the special legislation is necessary to make up for nonenforcement. I call to the Senator's attention a report made by the Congressional Budget Office. This is a staff working paper of September 1985 that was sent to me by Rudolph Penner in a letter dated September 25, 1985.

One of the things concluded in the letter is the following sentence:

> Moreover, despite recent rapid growth, total textile and apparel imports in 1984 were 18 percent of the level they would have reached if they had grown by 6 percent per year since 1972.

So we are only at 81 percent now of the maximum level that was permitted in the 1972 agreement.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Maine.

Mr. DOMENICI. Mr. President, I wonder if the distinguished Senator from Maine would permit me to speak for just 1 minute?

Mr. MITCHELL. Certainly, Mr. President.

Mr. THURMOND. Not charged to our time.

Mr. DOMENICI. Not yielded on the Senator's time.

Mrs. KASSEBAUM. I will be happy to yield 2 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not going to speak on the substance of this legislation. I am simply going to tell the Senate how I feel, and I hope it has some relevancy to what happens.

For those who do not like the reconciliation process, I would like to remind them that this procedure has probably in a very healthy way saved more than $300 billion through changes made by committees in laws within their respective jurisdictions. What I am seeing is a bill containing at least 100 extraneous provisions, because there is no law that says they cannot be included in the bill.

For those who are worried about deficits of $180 billion and more, it would seem to me that we are about to see this process reach a breaking point. I would not be the least bit surprised if few people will want to use this process in the future even for legitimate purposes. Today we have a bill before us with scores of provisions that under the broadest interpretation should not have been in this bill and now we are about to adopt a far-reaching textile bill as an amendment.

I hope that everyone will understand that in the next few hours, and maybe for part of tomorrow, we have a responsibility to clean up this bill. I do not know how yet, but I hope everybody understands that we are not going to get anywhere if we pass this bill with all these extraneous provisions, a textile amendment, and maybe a Grove City amendment. We will have been here for a couple of weeks and have accomplished nothing. I urge everyone in their best conscience to be concerned as we try to do something about this. I yield the floor.

Mr DOLE. Mr. President, I wonder if somebody might yield me 2 minutes.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. I will be happy to yield to the majority leader.

Mr. DOLE. I want to meet with the distinguished minority leader. As I said publicly before, I was going to support the textile bill but not on a reconciliation bill. I think what we are demonstrating here, if we need to, is that this whole process is about to come unglued. I have been advised by the White House that this is just another good reason to veto the reconciliation bill. Now, I understand Grove City is going to be the next amendment offered, then prayer in school, abortion, line item veto——

Mr. DOMENICI. Busing.

Mr. DOLE. Busing, anything else you cannot get cloture on—this is open season.

So the theory may be to load this bill up after the time has expired. Then we can have votes on all these great ideas, and then maybe recommit the bill to salvage what may be left. So it would be in the interest of good legislative process, if those who support the textile bill on some other amendment are willing, to sit down with me and the opponents of the textile bill to see if we cannot offer it on another bill—to avoid a filibuster. I think those who support the textile legislation might be willing to do that if those who oppose it are also willing. That would at least let us put textiles on a separate piece of legislation so we can preserve what is left of the reconciliation process.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I thank the Senator from South Carolina.

I would like to return to the substance of the issue and respond specifically to the arguments advanced by the Senator from Texas a few moments ago in opposition to this legislation.

Using 1982 as the base period, the Senator said this legislation should be defeated because we have had a lot of job creation and a decline in unemployment since then. I would point out that 1982 was the depths of the worst recession in the past half century in this Nation, and that in fact the rate of job creation in this country during the last 5 years has been one of the slowest rates in modern American economic history. The Senator suggested, because 8 million jobs have been created in the 4-year period since 1982, that is a sign of economic success.

Well, by that standard, the 4 Carter years were a spectacular success, because from 1976 to 1980, 12 million jobs were created in this country. The decline in unemployment since 1982 has been caused almost exclusively by the fact that in 1982 the unemployment rate in this country was the highest it had been in over 40 years. From 1940 to 1981, unemployment in America never once reached 9 percent. Between 1981 and 1983, it exceeded 9 percent for 23 months and for half of that time was over 10 percent. So the fact that it has declined from 10 percent is no evidence of economic growth. It is a demonstration of the fact that we merely are in the upward turn of the business cycle and unemployment is still much too high. In the 1960's, unemployment in America averaged 4 percent, in the seventies 6 percent, and now in the eighties it will average 8 percent. That is not a record of success. That is a record of dismal failure in terms of unemployment.

Finally, I want to comment on the Senator's last point about Korea which he described as an American miracle, a miracle in the Far East he said, how they have succeeded. I commend to the Senator from Texas, I

commend to every Senator to take a look at this document—I am glad the Senator has returned to the room—a document published this year by the U.S. Department of Commerce entitled "Foreign Regulations Affecting U.S. Textile Apparel Exports." Twenty pages of it are consumed in describing in small print the limitations that Korea places on importation of textile products. Essentially, if American manufacturers of textiles want to sell in Korea, they must get a license. And from who do they have to get a license? The Korean Textile Manufacturers Association. That is, the very people who make the products in Korea with whom our manufacturers must compete have essentially the authority to veto any imports. If that is an example, of an American miracle in the Far East, then perhaps we ought to take a look at the 20 pages of minute restrictions on textile imports that Korea imposes on their country. The fact is this document lists several hundred pages of restrictions placed by countries all over the world.

We have a very serious problem occasioned by the total lack of a trade policy in this administration, aggravated by the failure to even enforce the laws that exist, the only Nation in the Western World which does not enforce those laws authorized by the General Agreements on Tariff and Trade to protect those American industries which are suffering from imports, and as a result millions of American jobs are being lost and they are not being replaced at a reasonable rate, as the rate of job creation in this country is now far slower than it has been in previous years.

This is not a good way to adopt trade policy; we must all acknowledge that, but it has been made necessary by the abject failure of this administration to develop, advocate, and implement a trade policy of any kind except for one principle, and that is to encourage imports into this country in every sector of the economy, in every type of product, because it is now the principal mechanism by which the administration hopes to maintain the fight against inflation. And as a consequence, millions of American jobs have been lost, are being lost and will continue to be lost until we take the kind of meaningful action that this bill proposes.

I comment finally on the shoe industry, which I spoke of earlier, which went through the legal process, which obtained a unanimous vote by the International Trade Committee of injury, in which foreign products have taken 78 percent of the domestic market.

The PRESIDING OFFICER. The time of the Senator from Maine has expired.

Mr. MITCHELL. I conclude by saying that I think we need this legislation because we do not have a policy by this administration.

Mr. THURMOND. Mr. President, I yield 1 minute to the Senator from Georgia.

Mr. MATTINGLY. I thank the distinguished senior Senator from South Carolina.

Mr. President, the chairman of the Budget Committee spoke with reference to the relevancy of amendments on the reconciliation bill. I think that this textile-footwear amendment is relevant to this reconciliation bill. I feel that the closer the textile-footwear amendment gets to the White House, the closer and the sooner we are going to have a trade policy in the United States.

It is very similar in purpose to the proposal put forth by the junior Senator from Texas, referring to Gramm-Rudman. The closer that comes to being law, the sooner we will get control of our Federal budget.

As the Senator from Maine just said, what we really need in this country is a trade policy, which we do not currently have.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MATTINGLY. This amendment will force formulation of a trade policy, and the sooner we pass the amendment, the sooner it is on the way to the White House, and the sooner we will have action.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield myself 2 minutes.

Mr. President, I have great affection for the distinguished Senator from Texas, but he gave the impression that we were harming Taiwan to the benefit of the People's Republic of China. Let me make it clear that I yield to no one in my consideration for Taiwan. The Taiwanese are our good friends. Currently, Taiwan is sending in 1 billion 578 million square yard equivalents of textile products and People's Republic of China is sending in 990 million square yard equivalents. Taiwan is the largest textile/apparel importer into this country now and will continue to be under this amendment.

In 1995, for instance, imports from Taiwan will be allowed to increase to 1.220 billion, while the People's Republic of China will be allowed imports of 1.093 billion.

So we are not discriminating against Taiwan, compared to the Republic of China. Taiwan will remain ahead of them by a considerable margin.

The PRESIDING OFFICER. Who yields time?

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Washington?

Mr. DANFORTH. First, Mr. President, a parliamentary inquiry. How much time remains on the entire reconciliation bill?

The PRESIDING OFFICER. Two hours and 45 minutes.

Mr. DANFORTH. How would that be divided?

The PRESIDING OFFICER. On the present amendment——

Mr. DANFORTH. Not on the present amendment, but on the entire reconciliation bill, how much to a side?

The PRESIDING OFFICER. One hour and 12 minutes to the majority, and 1 hour and 28 minutes to the minority.

Mr. DANFORTH. Mr. President, I am prepared to yield time. I know that Senator EVANS wants to speak, and I am told that the occupant of the chair wants to speak. I also know that a number of Senators have amendments, not only on the subject of textiles, but also on other matters that should be in the reconciliation bill, or at least arguably should be in the reconciliation bill. So I urge Senators to be somewhat cautious in speaking for great lengths of time.

How much time would the Senator from Washington like?

Mr. EVANS. Four minutes.

Mr. DANFORTH. I yield 4 minutes to the Senator from Washington.

Mr. EVANS. Mr. President, I first comment to my friend from Missouri that I agree with him, with one major exception. We should have thought of that, and the Senator should have been a little more thoughtful before the last vote. If we had not added this bill onto the reconciliation bill, we would not be where we are; but I suspect that there a number of colleagues who have amendments which are important, which are germane, and which are necessary to offer—if, in fact, this amendment is going to remain as part of the reconciliation bill. Therefore, I suggest that it is highly unlikely that any time will be remaining for other amendments. I do not think that those who have opposed this textile measure should share any of the blame for that.

I point out to the Senator from Maine, who talked about records of recent administrations, that we had two referenda on the question of economic policies and American well being—one in 1980 and one in 1984. I think that would let the record stand better than anything he might argue.

Let me go through several simple and straightforward facts.

Fact No. 1: The textile industry, from 1980 to 1984, did have a job loss of about 100,000 people, but no loss whatsoever in production. That does not sound very much like losses to foreign people, losses to other countries. It sounds a lot like efficiency and better management and getting more out of the number of people who work in an industry. I might say that that

has gone on in a number of other industries in the United States.

Fact No. 2: We are already seeing a shrinkage in import from the countries which would be affected by this bill. So far in 1985, the imports from Taiwan are down by 10 percent. The imports generally from the countries covered are down. The imports are up by 40 percent or more from the countries of the European Economic Community and others which are not even covered by this bill.

With this protectionist measure, you would stick your finger in one dike while the whole dike is breached from the other side of the Atlantic.

Fact No. 3: Exports peaked in 1981. We have not really lost our ability to compete, lost our strength. It has occurred almost exclusively from the strength of the U.S. dollar, as we all know. It has affected the textile industry and has affected all industries in this country.

I think we took strong action just a few weeks ago with the Gramm-Rudman amendment, and the faster that becomes law and takes effect, the better we are going to be, and the better the textile industry and all other industries in this country are going to be.

Fact No. 4: No matter how they wiggle, no matter how they would suggest otherwise, the fact is that this amendment would abrogate 34 bilateral agreements of this Nation and the Multi-Fiber Agreement itself and the General Agreement on Tariffs and Trade. I think that is a pretty monstrous step for this country, which has always prided itself in living up to treaties, to take action so swiftly and unilaterally.

Fact No. 5: The penetration in terms of foreign imports into the United States currently is 27 percent for apparel, 22 percent for textiles—that comes from the textile industry's own figures—and that is nowhere near as high as a good many other relatively nonprotected industries in the United States.

Fact No. 6: The textile industry itself is already the most protected industry in the United States against foreign imports.

The PRESIDING OFFICER. The Senator has used the 4 minutes yielded.

Who yields time?

Mr. DANFORTH. Mr. President, I yield 4 minutes to the Senator from Montana.

Mr. BAUCUS. Mr. President, I rise in opposition to the textile amendment.

Some have argued that the textile bill is needed because the administration has no trade policy. I agree that the administration has no trade policy. But two wrongs do not make a right.

The proposal before us is bad trade policy. We may not have a trade policy today, but that is no reason to vote for this bill.

This proposal is bad policy for all the reasons my colleagues have already given. I will not spent time repeating the arguments.

I would, however, like to raise an issue which has not been mentioned. If this bill ever becomes law, who is going to bear the brunt of retaliation? It is going to be the American farmer.

All of us know the dismal plight of American agriculture today. Farm income has plummeted in the last several years. Land values have fallen over 15 percent in the last year alone. Agricultural exports—our strongest exports—have fallen dramatically. No relief is in sight for the American farmer.

This is not the place to discuss the causes of the farmers' plight. The bottom line is that American agriculture is today in the worst state since the depression; some will even say conditions are as bad or worse than during the depression years.

If this bill passes, life for the farmer will get worse.

Most of the countries affected by this bill are major purchasers of U.S. agricultural products, and we know that those countries will retaliate. Why? Let me just touch on some reasons.

First, all grains, wheat and feedgrains, are what the economists call fungible. That is, durum wheat is durum wheat. Grain is grain. Countries that today buy grain from the U.S. will go elsewhere. They can do so easily. There are other countries eager to step in and take our markets. Purchasing countries will take their business elsewhere.

They will do so in part because this bill violates the MFA. It violates bilateral agreements, and it violates the GATT. That is a good excuse for a country to go elsewhere.

Just put yourselves in the shoes of politicians and officials in those countries affected by this amendment. This proposal will cause unemployment, a loss of foreign exchange and a loss of wealth in textile producing countries. These are not wealthy nations. The people in those countries will be outraged, and it is not hard to imagine against whom they will turn their wrath? They will turn against the nation they see the cause of their problem, the United States of America. There will be tremendous political pressure in those countries to go elsewhere for agricultural products. China has already promised retaliation. The American farmer cannot take much more. Do not add this burden.

Let me conclude repeating: two wrongs do not make a right. We know the administration has no trade policy, but do not compound the problem by enacting bad trade policy. If this bill is enacted, we will all pay a very high price.

The PRESIDING OFFICER (Mr. EVANS). Who yields time?

Mr. DANFORTH. Mr. President I yield 3 minutes to the Senator from Washington and then 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, on the merits of this particular amendment, the distinguished occupant of the chair at the present time and my good friend from the State of Texas have already spoken so eloquently and so completely against. There is nothing that I can add to their case.

On the procedure, however, on the way in which this amendment has come before us, the very fact that we are debating this proposal at this point is a simple and unmitigated disaster. It is a matter of intense regret to me that the very senior Members of this body who have through their career in the Senate been most solicitous in protecting the rights of minorities to extended discussion of important issues before this country now propose to render the Senate literally a lawless body. They propose that the Senate be able to breach any of its rules no matter how ancient or how wise by a temporarily stampeded majority.

That loss of the comity owed by one Senator to another, that loss of the deliberate nature of this body is a disaster far greater than any possible gain from the passage of any bill before this Senate, even if that bill were a good one, which this is not.

This amendment will clearly destroy the attempt of the Senate of the United States to reduce the budget deficit. It is only through the reconciliation process that that deficit reduction can become a reality, and this bill, should this amendment be attached to it, will clearly and appropriately be vetoed. The proponents will gain nothing. The country will lose a great deal not only from this amendment but from the loss of reconciliation.

Mr. President, I state very sincerely the only proper course at this point in this debate is for the majority leader to come before the Senate and to take this bill down, to take it off the calendar for discussion by the Senate until such time as a rational and appropriate attitude in conformance with the rules relating to reconciliation bills is once again the course of action which the majority of Members of this body are willing to follow.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 2 minutes to the Senator from Nebraska.

Mr. HELMS. Mr. President, I am in control of the time.

The PRESIDING OFFICER. The Senator from North Carolina is controlling time for the proponents?

Mr. HELMS. That is correct.

The PRESIDING OFFICER. I ask the Senator from North Carolina to whom he yields time.

Mr. HELMS. I inquire how much time remains on either side.

The PRESIDING OFFICER. The time of the Senator from South Carolina is 8 minutes and 3 seconds; the time for the Senator from Missouri is 2 minutes, 24 seconds.

Mr. HELMS. Eight and two, approximately.

The PRESIDING OFFICER. That is correct.

Mr. HELMS. I thank the Chair.

Mr. President, I had not planned to get involved in the discussion today. This measure has been cussed and discussed for a long time around this place.

But when I hear what I consider to be outrageous statements about retaliation I have to ask who is going to retaliate? Is Taiwan going to retaliate? There is not a better friend of Taiwan in this Chamber than the Senator from North Carolina. Is Korea going to retaliate? There is not a better friend of Korea in this Chamber than the Senator from North Carolina.

Mr. President, I can tell you that this argument that we are going to have all this retaliation is not only nebulous, it is ridiculous.

Furthermore, I wonder if Senators who are making such comments about retaliation have even read the bill and if they know what it provides.

All this bill provides and requires is that our trading partners, friends, and otherwise, abide by the agreements they have signed.

We have had the anomaly all these years, Mr. President, where we have been abiding by the trade agreements and others say, "Well, you know, Uncle Sugar over there is not going to protest. We will overload. We will transship. We will do everything we want to."

Now, let us keep this argument on a reasonable, rational, and factual basis.

Retaliation is not reasonable because it is not going to happen. Taiwan and Korea need us a lot more than we need them, and I say that as a friend of Taiwan and Korea.

Mr. President, I am troubled to see that Senators who see the handwriting on the wall, who know what the vote count is, are all of a sudden saying, "We better draw this bill down."

I hope it will not be drawn down because there are 300,000 people out of jobs who are expecting and have a right to expect this Government of ours to insist that our trading partners abide by the trade agreements into which they entered.

I yield the floor.

Mr. FORD. Mr. President, I rise in support of this amendment and thank my distinguished colleagues from South Carolina, Senator THURMOND and Senator HOLLINGS, for working so diligently to get this important measure before the Senate. I was a cosponsor of the original bill, S. 680, and of the revised version which was offered as an amendment to the Micronesia bill, and I am pleased to be a cosponsor of this amendment offered today to the reconciliation bill. There are over 32,000 Kentucky workers who are impacted by our growing textile import problems, and it is time that the Senate was allowed to work its will on this measure.

The Textile and Apparel Trade Enforcement Act is the result of months of negotiations of a bipartisan coalition of textile, apparel, manmade fiber, and agriculture labor and industry leaders. Its purpose is simple: to put teeth in the Multi-Fiber Arrangement in an attempt to stop the export of American textile jobs overseas. As imports of textile and apparel products have soared, thousands of American workers have been displaced. Since 1980, imports of these products have grown at an annual rate of 19 percent, a figure far higher than envisioned under the MFA, and now account for 13 percent of the U.S. merchandise trade deficit. During the last 4 years, an estimated 300,000 American workers have lost their jobs as imports continue to rise unchecked. The Multi-Fiber Arrangement has simply proved insufficient to hold textile and apparel imports within negotiated limits, and this administration has repeatedly refused to provide relief for American industries which are being devastated by foreign imports. It is time for the Congress to act.

The State of Kentucky has a big stake in this debate. The textile and apparel industry employs more than 32,000 workers in 90 communities across my State. Many of these plants are located in small, rural communities and provide the main source of employment for the area. There are 38 cities in which this industry employs more than 300 workers, and 6 cities in which the textile and apparel industry provides jobs for over 1,000 people. Textiles and apparel make up the second largest manufacturing industry in Kentucky in terms of employment and provide security to many families who are primarily employed in farming and coal mining. Last year, this industry supported a payroll of $225 million in Kentucky.

As imports have risen dramatically in recent years, Kentucky has felt the effect as plants have closed across the State. Some of our communities have been able to respond, but many times they cannot replace all the jobs lost. When you have an industry that employs 750 workers in a town of 2,500, any loss of jobs severely impacts the entire community. This is the typical situation in my State.

Mr. President, I know that there are those who feel that this bill is not the answer, that it will drive up consumer prices on imported clothing which may have a domino effect on jobs in other industries. While I am concerned about such an effect, I do not believe that this amendment will lead to the widespread layoff of employees in the discount clothing industry. I firmly believe that we cannot continue to ship our American jobs overseas to areas which have lower labor costs due to depressed standards of living. Labor and management alike, in this Nation, have worked hard to eliminate sweatshop conditions and slave-labor wages in our textile and apparel industry, conditions which still exist in those countries which currently export these products to the United States. We should be proud of the accomplishments we have made in this direction, and should not turn back the clock on the progress we have made in raising the standard of living for these workers. To continue to allow imports from nations which support poor working conditions and low wages to come into this country unchecked, is contrary to all that we have worked for over the years. It is time to let our American workers know that we will not allow them to lose their jobs in order to support the depressed conditions of workers abroad.

I am grateful to my colleagues for pressing for action on this important legislation. The House has acted on this issue and it is time for the Senate to join with our colleagues in the other body in sending a message to this administration that it is time to take action to reduce the flow of textile and apparel imports and preserve jobs at home. This measure does not eliminate imports, it simply ensures that reasonable limits are placed on their growth rates. It is a responsible response to a growing problem, and I urge my colleagues to support this amendment.

Mr. SASSER. Mr. President, I am pleased to join with my colleagues today in offering legislation to come to grips with the truly devastating situation in the shoe and textile industries.

Like my colleagues, I was shocked and appalled at the insensitivity shown by the President in rejecting the advice of the International Trade Commission and refusing to grant import relief to the domestic footware industry.

If ever an example were needed of what constitutes serious injury due to imports, the nonrubber footwear industry provides it. Between 1968 and

1984, imports increased 233 percent. The net decline in the number of plants totaled 507, costing over 112,700 workers their jobs. Production has fallen to the lowest levels since the depression. Import penetration is now 77 percent.

The footwear industry followed the procedures laid down in our trade laws to prove injury—and they proved it to the satisfaction of every single Commissioner on the International Trade Commission. They also offered a comprehensive 5-year plan which the industry agreed to undertake during the quota period.

If the trade laws will not work for this industry, it is doubtful they will work for any industry.

When Congress wrote the trade laws it intended they be used. We did not intend them as a rhetorical statement whose practical application was to be avoided at all cost.

Far more is at stake there than the fate of a single industry. Frankly, we are dealing with the credibility of our entire system of trade law, with the viability of our most basic American industries, and with the future health of our national economy.

Since, the administration will not act, Congress must. This bill will provide the footwear industry with the stability and the time it needs to modernize its manufacturing and marketing processes. It provides for an 8-year quota period during which imports will be held to 60 percent of the U.S. domestic market. That is a far higher level of penetration than our trading partners allow in their domestic markets.

We simply must bring some relief to our domestic footwear industry. As I travel around my State, I continually see the effects of shoe imports on our citizens. Seven shoe facilities were closed in Tennessee last year. In these towns, shoe workers are already out of work or will be put out of work in the near future. I talk to individuals who have lost their jobs in the communities where they have lived and worked for years. They face the future with no prospects of new jobs. There were over 100 communities across the Nation who shared this devastating experience last year.

My own State of Tennessee is the fifth most important footwear producing State in the United States. The industry employs about 11,000 workers in 33 factories and generated in excess of $96 million in payroll dollars last year. We simply must preserve these businesses and these jobs for our citizens.

The footwear industry is the leading employer in 6 counties in Tennessee and is among the top 3 employers in another 14 counties. It is a significant industry in 28 counties. Twenty-four of these 28 counties have populations under 50,000. Sixteen of them have populations under 25,000.

These figures are more than mere statistics. They represent real people and real jobs. The closing of a shoe factory can be devastating to a local community. Many such facilities are located in rural areas. They are often the major employer in the area—areas which have few comparable jobs to which workers may transfer their skills. Many people are prevented by family obligations and ties from moving to a new area—especially when there is no guarantee that they will not face the same situation sometime down the road.

Mr. President, I am also pleased that we are addressing the situation in the textile and apparel industry. They are facing the same problems as the shoe industry.

Those of us who represent textile and apparel producing States have watched the growing import penetration with a rising sense of apprehension. Back in 1981 we thought we had a stable marketing mechanism. However, the Multi-Fiber Agreement that was supposed to ensure an orderly international market has never been enforced and textile and apparel imports have soared.

My own State of Tennessee ranks third in the textile and apparel industry. It employs over 94,000 people, with a payroll of $658 million. However, the textile and apparel industry in Tennessee is facing the same pressures from imports as is the rest of the industry. Last year, textile and apparel imports cost over 4,000 Tennesseans their jobs.

The legislation we are offering includes an assurance of stability for the textile industry. What it says is that we are going to enforce our trade agreements. We are going to make our trading partners adhere to the treaty they signed.

Mr. President, it is past time that some measure of relief is offered to our domestic shoe and textile industries, and I urge passage of the amendment.

Mr. TRIBLE. Mr. President, I rise in support of the amendment offered by the Senators from South Carolina.

Our textile industry is in peril. America's textile workers, among the world's most productive, are threatened with the loss of their livelihood. The reason for this is simple. America's textile workers have been the victims of predatory foreign competition which has the effect of eliminating our domestic textile industry.

Nowhere in the world are the textile and apparel markets really free. For 20 years a complex market-sharing pact—the Multi-Fibers Agreement—has regulated the rate of growth of textile imports to Western Europe and the United States. This agreement was undertaken a generation ago because a political decision was made by our Motion to avoid sending textile production entirely to the Third World.

Despite the Multi-Fibers Agreement, Third World textile production has soared. The Multi-Fibers limits have been overwhelmed by developing nations that have targeted textiles as a vehicle for economic development. Asian textile exporters like Korea and Taiwan, and that shining example of free trade, the PRC, not only subsidize the development of their textile industries but also protect their own textile markets against one another. You won't find a Korean shirt in Taiwan or vice versa.

Japan and the European Community, meanwhile, have dramatically limited their textile imports. The United States is the only nation with anything close to an open market in textile imports and we have become the dumping ground for textile and apparel products. Today we buy an astounding 60 percent of Third World textile imports.

Moreover, I would point out that the U.S. textile industry is not a turn of the century phenomenon. A visit to textile facilities in Virginia reveals state-of-the-art technology and productive workers. Nationally the textile industry has reinvested more than 80 percent of its retained earnings in modernization and has a productivity growth far in excess of the national average.

These are the realities of the world and the sky will not fall if the Congress acts to restrict imports. Rather, the Third World may stop overbuilding textile factories. The U.S. textile industry will get some breathing space and continue to automate. Our industry would not survive into the next century when smart capital will be more important in world trade than cheap labor.

So perhaps it's time to stop being quite so dogmatic about free trade. Our agricultural sector has long been a huge exception to the free trade regime. We limit imports of many crops and we have an elaborate system of price support. We also have the world's cheapest food.

The United States is no longer powerful enough to be the world's largest free trade zone while other nations, rich and poor, subsidize their industry, protect their markets, and engage in predatory pricing.

It's time to formulate a trade and currency and growth regime that responds to the realities of the international marketplace. Mr. President, I urge the adoption of this amendment.

Mr. MATHIAS. Mr. President, I am a cosponsor of the Textile and Trade Enforcement Act and have supported efforts of the footwear industry to gain import relief this past summer. I will, therefore, support the amend-

ment which the Senators from South Carolina have proposed. The difficulties facing the domestic textile and apparel industry and the domestic footwear industry must be recognized and dealt with. Too many hardworking Americans are being forced onto unemployment rolls because of a laissez-faire attitude toward trade policy. Industries are dying and, until now, our Government has been standing by to watch. It is high time action was taken.

I want to make clear, however, that I am disappointed that the Senate has voted to use the budget reconciliation legislation as the vehicle for this amendment. The use of this vehicle removes the trade issue from normal Senate deliberative procedures. It shields it under the wing of legislation which, under the Budget Act, is highly protected against amendments and on which debate is strickly limited. When we voted to waive the Budget Act's rules with respect to this matter, we opened a Pandora's box. We exposed ourselves to the potential of an unending flow of unrelated, inappropriate, and highly controversial amendments which have no place being debated under extremely tight time constraints. Clearly our trade policy is an important matter to be addressed, but this is the wrong place and the wrong time. Furthermore, our cavalier treatment of the rules applicable to budget legislation must cast doubt upon the sincerity of the Senate's recent passage of sweeping new rules to govern our efforts to reduce the deficit. Finally, on a purely practical level, the reconciliation legislation, which the President has already threatened to veto for reasons unrelated to this amendment, seems to be a peculiarly unattractive vehicle.

Mr. President, the Senate, the greatest deliberative body in the world, has taken a wrong turn. This complex legislation, which has not been reported by a Senate committee, and which could, in my view, be improved by amendments, can only be dealt with in the most fleeting way. I will support this amendment because I want the White House, our trading partners and the people of the textile and footwear industries to know how urgent this matter is. But I do so with reluctance and with a foreboding of the precedent we may have wrought for the future of this body.

PIGSKIN FOOTWEAR

Mr. LEVIN. The domestic footwear industry has been seriously hurt by foreign imports and I support the efforts made to curb those imports. I want to emphasize, however, that some parts of the footwear industry face competition in unique product areas which make them especially vulnerable to import competition, specifically, to pigskin footwear.

The evidence presented to me from the largest manufacturer of pigskin footwear headquartered in my State, but with factories in Missouri, Arkansas, Maine, Massachusetts, New Hampshire, and New York, leads me to the conclusion that pigskin footwear deserves special consideration due to the threat of future increases in pigskin imports.

I would like to make clear that I hope the Department of Commerce will address the serious problems created by imports of pigskin footwear in drawing up the regulations implementing this legislation.

Mr. COHEN. I would just like to lend my support to the points raised by the Senator from Michigan and agree that pigskin footwear will continue to be subject to injury from excessive foreign imports. I, too, urge the Commerce Department to give consideration to the special problems the footwear industry faces when implementing quotas set by this bill.

Mr. HOLLINGS. The concerns raised by the Senators from Michigan and Maine are valid and deserve our attention in this debate.

Mr. BINGAMAN. Mr. President, I rise to oppose the Hollings-Thurmond amendment, the Textile and Apparel Trade Enforcement Act of 1985.

This amendment is an inappropriate response to the profound trade problems facing the U.S. textile and apparel industry. By passing this amendment the Congress would be opening the door to further protectionist trade measures, thereby sending a wholly improper and destructive signal to our trading partners. We must remember the United States led the world in creating the General Agreement on Tariffs and Trade after World War II, calling for a policy of worldwide free trade. Since that time, successive administrations have consistently pursued the goal of liberalized trade working to reduce international trade barriers. It would be a disservice to our efforts to regain our competitive position and open foreign markets to our own goods if the United States were to begin erecting protectionist barriers at this time.

The amendment offered by the two distinguished Senators from South Carolina would limit and regulate the growth of textile imports into the United States from the different producing nations by a system of quotas. It also directs the Secretary of Commerce to establish an import licensing system for such imports. I recognize the damage that imports have done to our domestic textile and apparel industry and deplore the failure of the Reagan administration to deal with this problem through effective negotiations. Nevertheless, I have many concerns that lead me to oppose this amendment.

The legislation purports to "implement the objectives of the Multi-Fiber Arrangement (an existing trade agreement for textile and apparel trade)." However, it is, in fact, as I understand it, a serious and unilateral violation of the international obligations of the United States. Nothing in the Multi-Fiber Arrangement authorizes the United States unilaterally to roll back textile imports to 1982 levels. The amendment would establish permanent protection for the textile sector in violation of U.S. bilateral commitments.

Because the bill would cut back textile imports in violation of the GATT and the MFA, it invites foreign retaliation against American exports. The 12 major textile-producing nations targeted by this legislation imported $33 billion in U.S. goods last year, including large quantities of American soybeans, wheat, aircraft, cotton, and tobacco. The Council of Economic Advisors estimates that the bill could expose our exports to $4.9 billion in foreign retaliation. The loss of vital export markets would represent a serious and potentially irrevocable blow to America's hard-pressed farmers.

The amendment would also hurt many U.S. consumers. The Council of Economic Advisers has estimated that the amendment would cost consumers $14 billion per year at the wholesale level, $28 billion at the retail or $450 per family. This burden would fall disproportionately on low-income consumers. The Council of Economic Advisers analysis shows that each job saved by the bill would cost American consumers $140,000.

I would be one of the first in the Senate to speak in favor of protecting U.S. jobs, but this legislation is not the way to do it. We have serious trade problems in this country. We need a coherent trade policy, we must improve and enforce our trade remedy laws to combat unfair foreign trade, and we must do more to enhance exporting. I have tried to fashion legislation in each of these areas to address our near-$150 billion trade deficit and stop the loss of jobs.

While the bill assumes that subsidies are the sole cause of the economic difficulties of our domestic textile industry, the damage to the industry is not the result of Government subsidies or unfair practices by other nations—as is the case with some of our other hand-hit industries. The problem here is cheap labor abroad and the inability of our domestic industry to compete with production that takes advantage of that cheap labor. In passing this legislation we are confirming that the United States has lost a significant part of its international competitive position; that we can only react to trade policies that are not favorable to our own industries. A more positive

show of strength would be to pass provisions that empower our present trade remedies to focus on retooling our domestic industries and management policies.

Therefore, Mr. President, I oppose this legislation because it does not achieve any of these positive and necessary trade goals. I urge my colleagues to oppose its passage.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield me 2 minutes?

Mr. THURMOND. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, quickly on a matter following up the distinguished Senator from North Carolina, I have in my hand an agreement with the American Institute of Taiwan. It was signed in November 1982 by Dr. Cyrus Ping of the Taiwan Government.

That is all we are asking for. What we are asking for is that this agreement be enforced that they particularly signed.

Now, I say to the Senator from Montana, they have already retaliated against agriculture. They did not have to wait for textiles. Business retaliates. It reciprocates. It deals. It does business.

Last year there was an order of 550,000 tons from the Soviet Union of our good, American wheat, and there was an order from the People's Republic of China of 250,000 tons, both canceled, both retaliated, not last year on account of a textile bill, but on account they could get it 23 percent cheaper in Argentina.

We politicians better wake up. We are living in international competition where you can produce anything anywhere and the governments of our competitors are a decisive factor in the trading equation or deal.

With respect to our Government, the best example of working out among government, business, and industry—at one time they were all running around on the Senate floor about picking winners and losers. I never did agree with that. But I always believe there should be a better working relationship among Government and labor and business, and we have that in the multifiber arrangement. It is the best example to give stability to jobs, stability to investment and stability to international trade.

Finally, with respect, of course, to the matter of the reconciliation bill, this is most appropriate, in that trade adjustment assistance is considered to be an important part, coming from the Finance Committee. What we are trying to do is save the moneys that will be paid out under the Trade Adjustment Assistance Act by saying we do not want assistance, we just want stability, some reliability for the most productive workers in the entire world, and that is the American textile workers.

So you do not have to say the bill ends and we are going to call it down and everything stops because we got our amendment.

The PRESIDING OFFICER. The Senator from South Carolina has utilized his time.

Mr. DANFORTH. Mr. President, I yield the remaining time on our side to the Senator from Nebraska.

Mr. EXON. Mr. President, I would like to ask the Senate to pause and consider what it is doing. I think that the procedure that we are working on here is not going to be the finest hour in the history of the U.S. Senate when we look on it. It makes a myth out of the traditional position that the U.S. Senate is the most deliberative body in the world. It is not now. It is not today. I think we are about ready to make a big mistake.

I would certainly add to that, Mr. President, that those who have attached this measure here have done it for one reason and one reason only: To stay away from the filibuster and fair and deliberate consideration. That is bad.

Mr. President, I sympathize with the textile people and I would be normally interested in giving them some help. But this is taking only one part of the disaster that we have in international trade today and saying, "Let us fix that and let the others stand alone."

In the Armed Services Subcommittee this morning, we heard of another terrible situation with regard to unfair international trade. It is with regard to the fact that we have all but eliminated the industry of making commercial ships in the United States. It is going to come to an end because we can make it cheaper in Singapore and Korea and other places. We are in for an economic disaster.

I do not believe that this one bill that affects textiles only is the ultimate answer. I simply say that we have no trade policy in the United States today, regardless of whose fault it is. But this is not going to be the salvation. Until we can step back and take an overall look at this, until we can see what it is adversely going to do to agriculture, until we can unite on a trade bill, I suggest, Mr. President, we are making a hasty and ill-advised mistake if we pass the legislation before us.

I reserve any time that we have remaining on this side of the issue.

The PRESIDING OFFICER (Mr. NICKLES). The Senator's time has expired. The Senator from South Carolina controls the remaining time.

Mr. THURMOND. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 20 second remaining?

Mr. THURMOND. Mr. President, in closing, I just want to say that this bill is important to the economy of America. This bill is important to the defense of this Nation. This bill is important to the millions of people who have jobs in textiles and related industries—2 million in textiles and apparel and 2 million more in related jobs. Studies show that by 1990, unless something is done, we may not have any textile/apparel jobs left in this country. They will all be gone. This is a fair and just bill which we ought to pass. This bill merely limits import growth by seeking to limit the growth in imports to the growth of our domestic markets.

Mr. President, I hope the Senate will think over this matter carefully and vote to preserve jobs for the people here in America.

So far as the farming States are concerned, I want to say again that if import growth continues at the current level, the cotton producers face elimination of most of their domestic market in 4 years. The wool growers, whose production has dropped 75 percent since World War II, export almost no product at all, which leaves every imported item of wool fabric or apparel to be added to the negative trade balance.

As far as the consumer goes, the consumer is not benefiting here. I gave some figures here earlier today that showed on men's and boys' clothing, you save 5 cents on an item. Who makes the big profit? It is not the consumer. It is the retailer who is reaping the profits by buying cheap and selling at practically the same price as American goods.

So we are not helping the consumer by voting against this bill. It is better for the consumer if we vote for this, because consumer choice of quality goods would be limited if U.S. producers continue to go out of business.

Mr. President, the United States imports two-thirds of all textile/apparel products manufactured in developing countries while other industrial countries have refused to absorb their fair share. The only way we can provide for orderly, nondisruptive import growth is to pass this amendment. And the only way I see to get it into law is to put it on the pending bill.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from South Carolina [Mr. THURMOND].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. Mr. President, on this vote, I have a pair with the Senator from Missouri [Mr. EAGLETON]. If

he were present and voting, he would vote "aye." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay".

Mr. CRANSTON. I announce that the Senator from Missouri [Mr. EAGLETON] and the Senator from Alabama [Mr. HEFLIN] are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama [Mr. HEFLIN] would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 54, nays 42, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—54

Bentsen	Helms	Murkowski
Biden	Hollings	Nunn
Bumpers	Johnston	Pell
Byrd	Kasten	Proxmire
Cochran	Kennedy	Pryor
Cohen	Kerry	Riegle
D'Amato	Lautenberg	Rockefeller
DeConcini	Laxalt	Roth
Denton	Leahy	Rudman
Dixon	Levin	Sarbanes
Dodd	Long	Sasser
East	Mathias	Simon
Ford	Mattingly	Specter
Glenn	McConnell	Stennis
Gore	Melcher	Thurmond
Hatch	Metzenbaum	Trible
Hawkins	Mitchell	Warner
Heinz	Moynihan	Weicker

NAYS—42

Abdnor	Domenici	Kassebaum
Andrews	Durenberger	Lugar
Armstrong	Evans	Matsunaga
Baucus	Exon	McClure
Bingaman	Garn	Nickles
Boren	Goldwater	Packwood
Boschwitz	Gorton	Pressler
Bradley	Gramm	Quayle
Burdick	Grassley	Simpson
Chafee	Harkin	Stafford
Chiles	Hart	Symms
Cranston	Hecht	Wallop
Danforth	Humphrey	Wilson
Dole	Inouye	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stevens, against.

NOT VOTING—3

Eagleton	Hatfield	Heflin

So the amendment (No. 876) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I suggest the absence of a quorum, with the time not to be charged to either side.

The PRESIDING OFFICER. The clerk will call the role.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object for just a moment.

The PRESIDING OFFICER. The objection is heard.

The bill clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator may not reserve the right to object.

The Senator from Alabama.

Who yields time?

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator may proceed for 1 minute.

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

ANNOUNCEMENT OF POSITION ON VOTE

Mr. HEFLIN. Mr. President, I missed that last vote. I happened to be in the doctor's office. I asked specifically if they had clocks and bells to notify that we were having a vote. They malfunctioned, they did not work. That is the reason I missed the vote. I would have voted "yea" if I had been present for the Thurmond-Hollings bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

Mr. DOLE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

AMENDMENT NO. 877

(Purpose: To delay the application of the import quotas and to condition the application of the import quotas on injury determinations by the United States International Trade Commission)

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

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 877 to Amendment No. 875.

Mr. DANFORTH. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

AMENDMENT NO. 877

At the end of the matter proposed to be inserted, add the following:

SEC. . (a) Notwithstanding any other provisions of this Act, any limitation imposed by this Act on the quantity of any textiles, textile products, or nonrubber footwear that may be entered, or nonrubber footware that may be entered, or withdrawn from warehouse, for consumption in the customs territory in the United States—

(1) shall not apply with respect to textiles and textile products before August 1, 1986,

(2) shall not apply after the first date on which the President provides—

(A) import relief under section 203 of the Trade Act of 1974 (19 U.S.C. 2253) that is substantially equivalent to the import relief recommended by the United States International Trade Commission under section 201(d)(A) of such Act in connection with an investigation conducted under section 201(b) of such Act (19 U.S.C. 2251) with respect to imports of textiles and textile products, and

(B) import relief under section 203 of such Act that is substantially equivalent to the import relief recommended by the United States International Trade Commission under section 201(d)(1)(A) of such Act on June 12, 1985, in connection with the investigation conducted under section 201(b) of such Act with respect to nonrubber footwear, and

(3) shall not apply with respect to textiles and textile products after the date on which the United States International Trade Commission makes a negative injury determination under section 201(b) of such Act with respect to imports of textiles and textile products.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this amendment is easy to explain. It is designed to take care of two problems that are pointed out in the amendment that was offered by the two Senators from South Carolina. Those are the problems of our shoe industry and the problems of our textile industry.

The question is, if we are going to take care of the shoe people and the textile people, how do we do it? Do we do it by special legislation offered on the floor of the Senate, offered in a reconciliation bill with very little time to debate it and work on it, are we going to go down the road of special legislation protecting one industry after another, or, instead, is there another mechanism that already exists to take care of troubled industries?

The answer to that question is there is a mechanism which is presently in existence.

Mr. President, there is a mechanism that is already in place. It was written into the Trade Act back in 1976. It is section 201 of the Trade Act. It is specifically recognized under the General Agreement on Tariffs and Trade, article XIX of the GATT, which provides under certain circumstances for safeguard relief for industries which are impacted by imports.

Section 201 is on the books. Section 201 has worked in the past and section 201 should work now.

Why are we here now? Why do we have this great clamor for industry-specific protectionist legislation? Why do people suggest that we need quota

bills? The answer to those questions is that they have given up on the more generic relief that is available pursuant to international agreement in section 201. I think they have given up largely because the President, this past summer, denied relief for the shoe industry even though the shoe industry pressed its case before the International Trade Commission and, in fact, won the case and proved injury and got a recommendation for relief from the ITC.

The President turned down the shoe industry and therefore, the general view around the country, and I think it is the correct view, is that right now, section 201 of the Trade Act is a dead letter. it gets nowhere. It offers no hope for those who pursue it. It is a waste of time. Now, it is my view that there is an alternative to quota legislation and this is to revive section 201; that we do not need quota legislation and we should not have quota legislation provided we have section 201 of the Trade Act that works, and that is precisely what this amendment is designed to do.

This amendment provides that with respect to textiles the Thurmond-Hollings provision will go into effect, not immediately but on August 1. It will go into effect if nothing else is done. But if a section 201 case is brought, and it obviously would be if this amendment were passed, and if injury were found pursuant to the statute and relief were recommended by the ITC pursuant to the statute, then the President would have to provide relief that was substantially equivalent to what was recommended by the International Trade Commission.

And with respect to shoes where there already has been a section 201 case that has gone through the ITC, with respect to shoes the quota relief provided in this bill would not be provided if the President implemented section 201 and put in place substantially equivalent relief to that which was recommended by the ITC. In other words, Mr. President, the issue is very simple: can we reinvigorate the existing trade laws in a way that makes the existing trade laws credible? Can we utilize them again for the purpose for which they were designed or instead are we going to go down the road that we are pointed to by the amendment that was just passed? Are we going to go down the road to quota legislation?

I want the Senate to understand that if we move away from the General Agreement on Tariffs and Trade, if we move away from the 201 relief for which this amendment stands, then there is no end in sight for special legislation. If we say yes to every interest group that comes in the door, we cannot say no to the next one that comes in the door. And, believe me, there will be others. Shoes have come in already in this bill, steel will be next, and on and on and on. So, Mr. President, I think that the issue is whether Congress is going to be the forum for a politicized version of managing trade policy or, instead, whether we can deflect some of this pressure that is now on Congress for special legislation into a renewed version of section 201 of the Trade Act.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, it occurs to me that we may have a problem on how we are going to dispose of the reconciliation bill without a lot of other amendments that would not be offered because of filibusters, cloture, whatever. We have been having a discussion between the distinguished minority leader, myself, the chairman of the Budget Committee, Senator DOMENICI, and the ranking member, Senator CHILES. We are not yet certain how to proceed, but it would seem to me that there should be some indication that this is not the way we intend to operate in the future. And so I ask unanimous consent that we temporarily set aside the pending amendment and the amendment to the amendment and that we might let the distinguished minority leader offer an amendment. It deals only with procedure, not with any amendment that is pending.

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

AMENDMENT NO. 878

Mr. BYRD. Mr. President, I send to the desk an amendment sponsored by myself, Mr. DOLE, Mr. CHILES, Mr. STEVENS, and Mr. DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. DOLE, Mr. CHILES, Mr. STEVENS, and Mr. DOMENICI, proposes an amendment numbered 878:

At the appropriate place add the following: When the Senate is considering a reconciliation bill upon a point of order being made and sustained by any Senator, any part of the bill not in the jurisdiction of the reporting committee or extraneous to the instructions given that committee shall be deemed stricken from the bill and may not be offered as a floor amendment. No motion to waive germaneness on reconciliation bills shall be agreed to unless supported by three-fifths of the Senators duly chosen and sworn, which super majority shall be required to successfully appeal the ruling of the Chair on these matters.

Mr. BYRD. Mr. President, the amendment speaks for itself. I would just say that we are in the process now of seeing, if we have not seen earlier, the Pandora's box which has been opened to the abuse of the reconciliation process. That process was never meant to be used as it is being used. There are 122 items in the reconciliation bill that are extraneous. Henceforth, if the majority on a committee should wish to include in reconciliation recommendations to the Budget Committee any measure, no matter how controversial, it can be brought to the Senate under an ironclad built-in time agreement that limits debate, plus time on amendments and motions, to no more than 20 hours.

It was never foreseen that the Budget Reform Act would be used in that way.

So if the budget reform process is going to be preserved, and more importantly if we are going to preserve the deliberative process in this U.S. Senate—which is the outstanding, unique element with respect to the U.S. Senate, action must be taken now to stop this abuse of the budget process.

Mr. HART. Will the minority leader yield for a question?

Mr. BYRD. May I just finish my thought and I will be happy to yield.

Mr. President, the Senate is a deliberative body, and the reconciliation process is not a deliberative process. It not a deliberative process. Such an extraordinary process, if abused, could destroy the Senate's deliberative nature. Senate committees are creatures of the Senate, and, as such, should not be in the position of dictating to the Senate as is being done here. By including materal not in their jurisdiction or matter which they choose not to report as separate legislation to avail themselves of the nondeliberative reconciliation process, Senate committees violate the compact which created both them and the reconciliation process.

There is a way, pursuant to section 904 of the Budget Act, to add extraneous material which the Senate decided only a few days ago to require a three-fifths vote to accomplish. That is what we did on the Gramm-Rudman package. As a matter of fact, that is about the only item in that package that I fully supported. The three-fifths vote was an improvement over the present requirement of a majority vote.

What the Senate was willing to deny to itself as a whole in the absence of a three-fifths vote, these committees, by being faithless to their instructions, are arrogating to themselves by votes of a mere handful of Senators—a majority of a committee quorum.

The Senate must protect itself from this attack by its own committees, and, if necessary, the reconciliation bill will be amended to the extent necessary to achieve a preponderance of nonreconciliation matters and thus return this bill to a nonprivileged status.

Under the Budget Reform Act, other committees are mandated to make recommendations to the Budget Committee—those committees make their recommendations to the Budget Committee, and the Budget Committee cannot

add to or subtract from those instructions. It cannot amend the instructions. It cannot take from those instructions. It cannot add its own. It merely is to perform an administrative function—and that is, to put all such recommendations into a single package which, when sent to the floor and taken up, is covered by an overall 20-hour time limit.

Normal cloture is but an infinite speck on the horizon as compared to this kind of cloture. Under normal cloture, we have 100 hours. Each Senator has 1 hour, theoretically. But under the restrictions of the Budget Act, 20 hours is all there is on a reconciliation bill.

We saw a moment ago how much time can be taken by one amendment. First there is the waiver. That is an hour. Then there is the amendment. That is 2 hours. Then there is an amendment to the amendment. That is another hour.

So, when all is boiled down, we have not only an abuse of the budget process by way of which other committees recommend to the Budget Committee any controversial bill they want—repeal of the Hobbs Act, acid rain, you name it—but also, when reconciliation comes to the floor, one or two Senators can offer an amendment, and consume at least 4 hours out of the 20 hours, if they want to take all the time that is available with regard to the waiver, the amendment, the amendment to the amendment, quorum calls, and so on.

So, Mr. President, I have offered this amendment, which is being cosponsored by the other Senators whose names have been stated, in order to correct this abuse in the future.

This provides that if a point of order is raised and upheld against extraneous matter in the reconciliation bill or matter that has been recommended by a committee whch does not have jurisdiction over the subject matter, then all such matter that is in the bill will fall and is not subject to being offered as a further amendment thereto.

Mr. DOLE. Mr. President, will the Senator from Colorado permit me to ask one question? Will the Senator from West Virginia yield for a question?

Mr. BYRD. I yield.

Mr. DOLE. We discussed this in the Senator's office, and I think that for the record it sould be stated that there is nothing in this amendment, if adopted, which would affect the pending amendment of any other amendments to be offered to this reconciliation bill. Is that correct?

Mr. BYRD. The Senator is correct.

Mr. DOLE. We are talking about a bill we will have before us next year. It will not affect any appeal from the ruling of the Chair or waiver or motion with reference to the bill before us at this time.

Mr. BYRD. The Senator is correct. The amendment is prospective in nature only.

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

Mr. BYRD. I yield.

Mr. HART. The minority leader suggests that procedural changes contained in this would affect only the reconciliation bill, or would it alter in any material way the rules and procedures of the Senate itself?

Mr. BYRD. No, it does not. It does not change the Senate rules, and, therefore, would not require, for example, a two-thirds vote for cloture.

Mr. HART. Does the Senator's amendment set any precedent with regard to the procedures or rules of the Senate that might be used to substantially change those rules?

Mr. BYRD. It does not. It does not affect the Standing Rules of the Senate and does not open any way whereby it might in the future affect the Senate rules or bring about further standing rules change. Any such changes in the future would have to be dealt with on an ad hoc basis by the Senate itself.

Mr. HART. I thank the minority leader.

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

Mr. BYRD. I yield.

Mr. McCLURE. First, I want to make a very brief comment.

Whether or not it is a rules change—and I think the Senator from Colorado is right in asking the question—I certainly would not raise any question at that time. But I would like to reserve at least to make plain that I am not certain that I agree with that interpretation, because I think there is a serious question as to whether it affects the procedures of the Senate and how we accomplish that by statutory change.

I think the Senator from West Virginia would be the first to agree that we need to be cautious when we get into that area.

My question is this: Under the existing practice, a point of order being raised as to germaneness is not ruled upon by the Chair. Immediately then a motion is made to suspend the provision, pursuant to the Budget Act. It is my understanding, as this amendment was explained, that this amendment would change that practice and require a ruling by the Chair, to be followed by a motion. Am I correct?

Mr. BYRD. At the present time, no point of order at all may be made against extraneous matter such as I hold in my hand—six pages of extraneous matter contained in this reconciliation bill. No point of order can be made against 122 extraneous items already in the bill. A point of order can only be made against an amendment from the floor. But my amendment would allow a point of order to be made against extraneous matter that is in a reconciliation bill as brought to the Senate by the Budget Committee.

Mr. McCLURE. Mr. President, if the Senator will yield further, a little earlier when the point of order was made against the Hollings-Thurmond amendment, the Chair did not rule on that point of order.

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

Mr. McCLURE. We proceeded immediately to the motion by the Senator from South Carolina, pursuant to the Budget Act, to suspend the requirement for germaneness.

My question is whether this will change that practice, because it seems to me that we are now suggesting—I understood the Senator to say in his explanation of the amendment—that following the ruling by the Chair, it would then require a vote, if it was ruled by the Chair. That would be different from the practice we followed a few short hours ago.

Mr. DOMENICI. Mr. President, will the distinguished minority leader yield?

Mr. BYRD. I yield.

Mr. DOMENICI. I say to the Senator from Idaho that under the Budget Act, the Chair would have ruled on my point of order, but before the Chair could rule, the motion to waive was made. This is to be contrasted with the way it is done on appropriations bills, where the Chair submits questions of germaneness to the Senate.

Mr. McCLURE. That may be what was done earlier, but it was not done earlier today.

As a matter of fact, this Senator made an inquiry about whether or not the Chair should rule and was advised that the Chair does not rule, under the Budget Act waiver procedure.

Mr. DOMENICI. The germaneness.

Mr. McCLURE. The germaneness question.

I understood the Senator from West Virginia to say in the explanation of this amendment that there would be a ruling of the Chair, to be followed by the motion. All I am trying to get very clearly stated is whether or not my understanding of the explanation is correct, that it would contemplate a ruling, to be followed by the motion.

Mr. BYRD. Yes, it would contemplate such a ruling and it would only apply to the extraneous matter that is already in the bill which is reported to the Senate by the Budget Committee.

Mr. McCLURE. If the Senator will yield further, it is not his intention to apply this same process to an amendment that might be offered on the floor?

Mr. BYRD. That is correct. The amendment which was offered deals

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only with extraneous matter in the bill as it is brought to the floor.

Take, for example, the amendment that has just been set aside. The Senators, Mr. HOLLINGS and Mr. THURMOND, came in through the front door. They were forthright. They used the present rule, played everything right on top of the table, and they moved to waive. That is within the present rule.

But I am dealing with matters that are sent to the floor in the bill. It may be we would want at some point to deal with motions that are offered on the floor.

We have 122 extraneous matters here that are in this bill. Some may be controversial; some may not be.

Mr. McCLURE. Mr. President, will the Senator yield further?

Mr. BYRD. Yes.

Mr. McCLURE. I thank the Senator for the explanation.

Let me say I will support the amendment. But I am a little puzzled as to why we would make it the process more restrictive on committee actions than we would make it upon individual Senators who would come to the floor. It seems to me that if there is abuse here, and there very well may be, and I hope the Senate will note that the Committee on Energy and Natural Resources did not do anything of this nature, although certainly it crossed the minds of individual Members, that it may be more competent for a committee after deliberation and a vote of the committee to bring matters of this nature to the floor than it is for an individual Member to come to the floor and offer an amendment.

This amendment would make it more restrictive on the committee process than it would upon the individual Member.

Mr. BYRD. Yes, it would.

Mr. McCLURE. While I support the amendment, I hope we will look at the other end of it also and suggest that still we might desire to say that the committee has perhaps a process that is better and, therefore, more worth of protection than is the individual amendment that might be offered by an individual Senator.

Mr. BYRD. The distinguished Senator makes a good point, except as I said a moment ago, no point of order may currently be made against the extraneous matter already in the bill as it is reported from the committee.

If the Senator wishes to take advantage of the waiver provision in the present Budget Reform Act as it is written, he may do so. A point of order can be made as to germaneness of a floor amendment but such language already in the bill is protected against points of order.

So Senators can protect themselves on this floor. Under the present situation the Senate will vote, and a majority will decide. Senators may move to waive the germaneness requirement, or they may make a point of order as to the nongermaneness of an amendment that is offered from the floor.

But with regard to extraneous matters already in the bill as it comes to the floor, no point of order can be made. The protections that are available for the Senate to utilize under the budget reform process when an amendment is called up from the floor are not when available when extraneous matters are brought to the floor in the reconciliation bill. My amendment will extend those protections to cover matter put into the bill at the committee level.

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

Mr. BYRD. I yield.

Mr. JOHNSTON. I say I support very strongly what the Senator is trying to do, but for purpose of setting the legislative record, I would like to get an understanding what happens in some instances.

First of all, according to the amendment when a matter is not within the jurisdiction of the committee or is extraneous to the instructions, that matter shall be deemed stricken from the bill. Now the question is: Where you have a whole provision, some of which is germane and some of which is not, does the Parliamentarian go through that and excise those sentences or clauses or subsections which are nongermane or extraneous and leave the rest, or does he excise the entire section as to which there is offending language?

Mr. BYRD. I am not sure I can answer that question with respect to what the Parliamentarian will do.

It might depend upon whether or not the language is divisible. I do not know. Perhaps the distinguished Senator would want to address his question to the Chair on this particular question.

Mr. JOHNSTON. When it says, "Any part of a bill not in the jurisdiction of the committee," I am just wondering what the intent of the authors is with respect to "any part of a bill." Does it mean the entire portion of the bill reported by a committee, or just as the offending extraneous or nongermane language?

Mr. BYRD. If it is any part of the bill that is not within the jurisdiction of the reporting committee, it would fall. If it is not within the jurisdiction of the——

Mr. JOHNSTON. When you say "part," if you have, let us say, a 30-page section of legislation as to which there is one subsection that is not germane, would you simply knock out the subsection or would you take the whole 30-page section?

Mr. BYRD. I think the Senator may be confusing—let me say this: the Senator is talking about germaneness?

Mr. JOHNSTON. The Senator is correct.

Mr. BYRD. And also talking about legislation that has been reported by a committee which does not have jurisdiction over the subject matter. So there are two different things.

The language, I think, would explain the answer. Any part of the bill not in the jurisdiction of the reporting committee, whether it is germane or not, any part that is not within the jurisdiction of the reporting committee, would fall.

Mr. JOHNSTON. For example, we usually put a severability clause in legislation which means that if any section of the bill is declared unconstitutional by the Court, then the rest of the bill does not fall.

I am asking, I guess, whether you intend for there to be, in effect, a severability clause here, or whether the whole section as to which there is any offending language falls.

Mr. BYRD. I say any part of the bill that is not within the jurisdiction of the reporting committee would fall.

Mr. JOHNSTON. You can take out that part and in effect rewrite the bill by striking sentences, clauses, subsections.

Mr. BYRD. That are not within the jurisdiction of the reporting committee.

Mr. JOHNSTON. All right.

My next question is this: Your amendment states: No motion to waive germaneness shall be agreed upon unless supported by three-fifths of the Senators."

Now, you do not have a statement as to waiving extraneousness. What happens in the event language is ruled extraneousness? Can such a ruling be waived and, if so, by what vote?

Mr. BYRD. If it is extraneous, it comes out.

Mr. JOHNSTON. And it cannot be waived even by three-fifths?

Mr. BYRD. No. The three-fifths applies to the vote of the Senate to overrule the ruling of the Chair on a point of order.

(Mr. MATTINGLY assumed the chair.)

Mr. BYRD. It would take three-fifths to override the Chair. If the Chair sustains the point of order, an appeal from the ruling of the Chair would require a three-fifths vote.

Mr. JOHNSTON. As to extraneousness, as well as germaneness? The amendment speaks in terms of motions to waive germaneness, but you also mean extraneousness, as well; is that correct?

Mr. BYRD. That is right. If the point of order is made and is sustained that there is matter in a given reconciliation bill that was reported by another committee rather than the committee which has jurisdiction under rule XXV of the Senate Standing Rules, then that would fall.

Mr. JOHNSTON. It can or cannot be waived by three-fifths? Can the point of order as to extraneousness be waived, and if so, by what vote?

Mr. BYRD. The three-fifths vote applies to the overruling of the Chair on the point of order that has been made.

Mr. JOHNSTON. On germaneness and extraneousness?

Mr. BYRD. That is right. It would be a point of order made and the Chair rules on the point of order. If the Chair rules the point of order is well taken, then it would take 60 votes of the Senate, the same as in the case of cloture, to overrule that Chair.

Mr. JOHNSTON. My final question has to do with the meaning of the word "extraneous" and what your intention is as to how that is interpreted. Frequently, in fact, usually directions are given by the Budget Committee in the very broadest of terms, and the authorizing committees report legislation which is detailed and which, in one sense, might contain matter that is extraneous. It might be germane to the instructions, but extraneous in the sense that it is not specifically called for within the four corners of the instructions from the Budget Committee to the authorizing committee. Could the Senator tell me what he means by "extraneous" in this context of that question?

Mr. BYRD. I beg the Senator's pardon. I was distracted and, I must say, I should have been listening to the able Senator.

Mr. JOHNSTON. If I may repeat it. The question is as to the meaning of the word "extraneous," as used in this amendment. It says matters shall be stricken from the bill if they are extraneous to the instructions given by the Budget Committee.

Now, as I said, instructions by the Budget Committee are generally very, very general in terms. They will usually say: "Save so much money in budget authority, so much in outlays." They may, as in the case of our amendment on the Outer Continental Shelf, give a formula for the division of revenues in escrow, But they, in general terms, are very general instructions.

Now, authorizing committees frequently, in fact, usually report back detailed legislation which will meet the targets of those instructions, but contain a lot of other matters germane to that committee and perhaps germane to the instructions. But the question is: What is the meaning of the word "extraneous"? Do you mean that it must be contained within the four corners of the instructions from the Budget Committee, or may the Budget Committee supplement those instructions by filling out the spirit of the instructions within the jurisdiction of that committee and all within the germaneness rule, if the Senator understands the question?

Mr. BYRD. The word "extraneous" here would be interpreted in the future just as it is presently being interpreted. And I understand that, at the present time, "extraneous," in the context, is determined by whether or not the language contributes to reducing the deficit and balancing the budget; otherwise, it is extraneous. So the same interpretation that is now given to the word "extraneous" would continue to be given.

Mr. JOHNSTON. So, for example, a committee would be able to go beyond the instructions and save more money?

Mr. BYRD. Well, if such language does not serve to balance the budget or to reduce the deficit, the language would be extraneous—then it would be up to the Chair to determine whether or not the point of order is well taken.

Mr. JOHNSTON. I thank the distinguished minority leader.

I see the distinguished chairman of the Budget Committee may have a comment on this question.

Mr. DOMENICI. Will the distinguished minority leader yield?

Mr. BYRD. Yes.

Mr. DOMENICI. First, let me ask the distinguished minority leader a question and then I would like to comment on what I think has developed and evolved as a definition of "extraneous material."

As I read the amendment, I say to the distinguished minority leader, the second part of this amendment—"No motion to waive germaneness on reconciliation bills shall be agreed to unless,"—I understand that this applies to an amendment offered on the floor by a Senator. Is the Senator from New Mexico correct?

Mr. BYRD. The Senator is correct and I was incorrect.

Mr. McCLURE. Will the Senator yield on that point? I read the language the same way the Senator from New Mexico reads it. I appreciate what the Senator from West Virginia has said, because I think it strengthens and makes more uniform the application and, therefore, is an even better amendment. I am thankful for the clarification on that matter.

Mr. BYRD. The Senator is correct. That sentence was added by me just a few minutes prior to my calling up of the amendment. The Senator is correct.

Mr. DOMENICI. Mr. President, I wish to ask one further question of the principal sponsor and drafter of the amendment, the distinguished minority leader. I wonder if he intended to include in the second part of the amendment, "no motion to waive germaneness." I wonder if he wanted that to be just germaneness, whereas before, when we were speaking of striking what a committee sent us, the Senator used two descriptions: he used germaneness and he used extraneous. It appears to me he might want, in the second part, "no motion to waive germaneness or extraneousness," and then provide for the supermajority. Otherwise, you make extraneous material subject to a point of order, but the point of order could be waived by a simple majority.

Mr. BYRD. Mr. President, the distinguished Senator from New Mexico makes an excellent point. I agree with him and think it should be so strengthened and I modify my amendment so to accomplish that purpose.

Mr. DOMENICI. Mr. President, will the distinguished minority leader permit me to respond to what "extraneousness" means thus far in its evolution in the Senate? Let me suggest that, going back to 1981, we have evolved these four definitions, and I believe they are used by minority and majority members of the committee now. I would just read them quickly:

One, provisions that have no direct effect on spending and which are not essential to achieving the savings.

Two, provisions which increase spending and are not so closely related to saving provisions that they cannot be separated.

Three, provisions which extend authorizations without saving money, and which are not so closely related to saving provisions that they cannot be separated.

Four, provisions which invade another committee's jurisdiction, whether or not they save money.

And I am not saying that is all inclusive, but, up to this point, that is what we have been using. That is what we used in developing this list of 129 that the distinguished minority leader has called to the Senate's attention.

The PRESIDING OFFICER. The minority leader has a right to modify his amendment. If he will send it to the desk, the amendment will be so modified.

The amendment, No. 878, as modified, reads as follows:

At the appropriate place add the following:

When the Senate is considering a reconciliation bill, upon a point of order being made by any Senator and sustained, any part of the bill not in the jurisdiction of the reporting committee or extraneous to the instructions given that committee shall be deemed stricken from the bill and may not be offered as a floor amendment. No motion to waive germaneness on reconciliation bills shall be agreed to unless supported by three-fifths of the Senators duly chosen and sworn, which supermajority shall be required to successfully appeal the ruling of the Chair on these matters which include the points of order on extraneous matters and matter not properly reported from a committee.

Mr. JOHNSTON. Will the Senator from West Virginia yield for just one more question?

Mr. BYRD. Yes.

Mr. JOHNSTON. I am sorry I had not read initially that the motion to

waive germaneness could be agreed to unless approved by three-fifths of the Senators. I did not originally read that to mean only as to an amendment offered. But I understand that. I guess it is the Parliamentarian who would automatically strike from the bill that which is not germane or extraneous.

My question is, Can you appeal the ruling of the Chair, make a point of order, that a matter is not extraneous, or is germane, have the Chair rule against you and then reverse that on a simple majority vote, and overruling the ruling of the Chair? Or do you mean for that also to be three-fifths?

Mr. BYRD. Would the Senator ask that question again?

Mr. JOHNSTON. The Parliamentarian strikes from the bill a matter which is extraneous or which is nongermane. I am interested in the matter, and I make a point of order that the matter is not extraneous or is germane to the bill. The Parliamentarian, the Chair, rules against me. I appeal the ruling of the Chair. Can we thereby overturn the Chair by simple minority vote?

Mr. BYRD. No.

Mr. JOHNSTON. Can you challenge the ruling of the Chair at all? If so, how?

Mr. BYRD. The Senator can appeal the ruling of the Chair.

Mr. JOHNSTON. Appeal the ruling of the Chair, but what vote would that require?

Mr. BYRD. Three-fifths.

Mr. JOHNSTON. I think in view of the earlier answer that this motion to waive germaneness applies only to amendments offered on the floor—it would apply to both—and committee action?

Mr. BYRD. Yes.

Mr. JOHNSTON. The automatic ruling out as well as an amendment offered on the floor?

Mr. BYRD. That is correct.

Mr. DOMENICI. I think the distinguished sponsor had answered previously that the supermajority requirement for a waiver applied only to committee reported language, but when we exchanged views here, he clearly indicated that it applies to waivers of the germaneness requirement or the extraneous language point of order or appeals to rulings of the Chair.

Mr. JOHNSTON. I wonder if this language is specific enough to apply to an appeal from the ruling of the Chair. It speaks in terms of a motion to waive germaneness of reconciliation. I think it might be rewritten a bit to make that clear.

Mr. BYRD. Mr. President, that is the intent of the sponsor. If I need to modify it to make it clear, I will do so.

Mr. McCLURE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. McCLURE. I think the Senator from Louisiana has raised perhaps a good point because we have interchangeably talked here of the opportunity of a Member who does not like a ruling of the Chair being able to appeal the ruling of the Chair, and we have not clearly distinguished that from the opportunity to make a motion to suspend pursuant to the Budget Act. Maybe the answer to that question is to make certain that either an appeal from the ruling of the Chair or a motion with respect to germaneness should have to have a three-fifths vote.

I think that would make it clear because in our practice here earlier today it was not an appeal from the ruling of the Chair. As a matter of fact, it was not even a ruling of the Chair. But I think the Senator is very clear in his explanation that it is intended to cover both. Perhaps we ought to make a further statement in the amendment to make certain that it states that.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Will the Senator yield to me?

Mr. BYRD. Mr. President, may I say that also in respect to—I think I should say this for the record—regarding extraneous items that are now in the measure, I have an amendment which would strike the 122 extraneous items in the measure, and I may ask for a division. I am not committing myself at this point to demanding a division. If that should be done, however—and it could be done by someone other than me. The distinguished Senator from Arkansas, for instance, who is for the moment visiting with the distinguished Senator from Mississippi, could demand a division—that would mean there would be a separate vote, not necessarily a rollcall, a separate vote on each of the 122 or 123 extraneous items, and once we run out the 20 hours, we could have vote after vote after vote. I hope Senators will think about that.

I say this in the hope that we can work our way out of this morass without resorting to such a drastic move.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to compliment the distinguished minority leader for the amendment. I think we have a suggestion for a further modification. We will talk with the Senator from Louisiana. We are working on it. I think there are a couple of words we ought to add.

Mr. BYRD. Will the distinguished Senator yield?

Mr. DOMENICI. Indeed.

Mr. BYRD. Mr. President, I ask unanimous consent that I may retain my right to modify this amendment in the event someone else should ask for the yeas and nays. I ask that I may retain that right.

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

Mr. DOMENICI. Mr. President, as I was saying, I commend the distinguished minority leader. Frankly, as the chairman of the Budget Committee, I am aware of how beneficial reconciliation can be to deficit reduction. But I am also totally aware of what can happen when we choose to use this kind of process to basically get around the Rules of the Senate as to limiting debate. Clearly, unlimited debate is a prerogative of the Senate that is greatly modified under this process.

I have grown to understand that this institution, while it has a lot of shortcomings, has some qualities that are rather exceptional. One of those is the fact it is an extremely free institution, that we are free to offer amendments, that we are free to take as much time as this U.S. Senate will let us to debate, and have those issues thoroughly understood both here and across this country.

I do not like to see committees put amendments on reconciliation that they have not been able to pass for years, or in the process of doing reconciliation just add untold numbers of amendments in order to be immune from unlimited debate.

So I compliment the Senator, and I hope we will adopt his amendment here tonight.

I want to remind everyone that we only have 1½ hours left. We still have the pending amendment on textiles that has not been completed. We have at least 22 amendments that are germane, and people ought to have a chance to offer and debate them. They are serious and substantive.

We have 129 extraneous provisions that the distinguished minority leader has just indicated he might move to strike which will give us an opportunity to vote maybe 129 times if somebody decides to divide the amendment.

Frankly, I am charged with producing in the near future, with the help of the majority and minority leader, a bill. I believe we ought to do that. I do not think we ought to throw away the good provisions of this bill because Senators wish to put everything that has been lingering for all year long on this bill. I will do my very best, subject to the leaders' direction, to try to get something worked out that makes sense. I hope those who have amendments will understand that we are going to need to cut their time immensely.

I hope those who have produced the 129 extraneous amendments that are now in this bill will seriously consider

whether they want to resist motions to strike or not. Conversely—those who want to get rid of some of them—I hope they will seriously consider whether they really want to put us to a vote on a motion to strike or not.

I think we can put all of that together sometime in the not too distant future. But for now, I hope we will adopt the Byrd amendment, and at least we will not find ourselves in this condition again on a reconciliation bill.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I commend the majority and minority leaders, and the chairman and ranking member of the Budget Committee for what they are attempting to do. I think it represents a major step forward in correcting an evil we fell into today which is being well recognized. I listened to the questions asked of the minority leader during the course of the recent discussion. I believe that I had some of the same questions.

I believe they have been answered. As I understand the language, and the minority leader, if I could have his attention for a moment, can correct me if I am in error, do I understand correctly that the proposal made, if it had been in the law prior to today, would have meant that the textile bill as proposed would have been ruled out of order from this proposal?

Mr. BYRD. If a point of order were made against that bill with respect to germaneness and if the point of order were upheld, then it would take a three-fifths vote to overrule the Chair, under my amendment.

Mr. EVANS. That is my understanding. I understand that sustained means as sustained by the Parliamentarian.

Let us understand the terms. I should have said the Presiding Officer rather than the Parliamentarian, when I referred to being sustained.

Mr. BYRD. The point of order as ruled on by the Chair, if the point of order is sustained, then it would take a three-fifths vote to overrule the Chair. The phrase "and sustained," as I had written it earlier was a misplaced phrase and should go at the end of the line.

Mr. EVANS. I thank the minority leader.

Let me add briefly that this is a splendid move forward. If there had been any real progress made today, perhaps this is the best progress we have made for the long-term future of the Senate.

I would suggest just one thing. Because of what we have already done and because of the rather increasingly bleak outlook for the reconciliation bill itself, if and when it ever gets to the White House, I would suggest to the minority leader and the majority leader that perhaps it would be worthwhile to immediately introduce this and carry it through as rapidly as we can as a freestanding or separate proposal in order that we ensure that it be sustained——

The PRESIDING OFFICER. Let there be order in the Chamber.

Mr. EVANS. That it be sustained and continue to be a rule.

Mr. BYRD. The distinguished Senator had made a fine point which has been discussed with the distinguished majority leader and the manager of the bill. I am sure the distinguished majority leader will respond on his own to such a proposal.

The amendment (No. 878), as further modified, is as follows:

At the appropriate place add the following: "When the Senate is considering a reconciliation bill, upon a point of order being made by any Senator, and sustained, any part of the bill not in the jurisdiction of the reporting committee or extraneous to the instructions given that committee shall be deemed stricken from the bill and may not be offered as a floor amendment. This provision may be waived by three-fifths of the Senators duly chosen and sworn. No motion to waive germaneness on reconciliation bills shall be agreed to unless supported by three-fifths of the Senators duly chosen and sworn, which super majority shall be required to successfully appeal the ruling of the Chair on these matters which include the points of order on extraneous matters and matter not properly reported by a committee."

Mr. DOLE. Mr. President, I want to thank my colleague. I think the debate we have had on this amendment has been very helpful. As I look at the votes today, if it had been in effect now, this amendment would not be pending and that would be an improvement on the reconciliation bill. It was never intended as the answer for every amendment whether it is the Hobbs Act, abortion, prayer in school, or anything else. Ordinarily, you just wait for the reconciliation bill to come up every year and put anything on reconciliation. Obviously, that was not the purpose of the Budget Act.

I certainly commend the distinguished majority leader and others who have been working on this throughout the day.

I will say this: It would be my hope that we could pass the Byrd amendment with a substantial, if not unanimous vote. It would then be my intent to move on to the State, Commerce, Justice appropriations bill tonight and complete action on that. In other words, take this bill down and see if we can put it back together somehow. I have discussed this with the distinguished chairmen of the Budget Committee and the distinguished ranking member, and the minority leader in his office. I know a number of second-degree amendments will be offered to the pending amendment. That will take a long, long time. Plus, there are 30-some other amendments. We have about 1 hour 20 minutes left to deal with all those amendments. It might be better if we follow that course of action.

If this amendment is approved, it would be my intention to move back to the State, Justice, Commerce appropriations bill. We believe we can complete action on that bill, I am advised by the managers, in an hour or an hour and a half. At that time I would have an announcement for the remainder of the evening, tomorrow, and Monday. We are working on an arrangement that might be helpful to a number of our colleagues.

Mr. DOMENICI. Will the majority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. DOMENICI. I understand from talking with the majority leader, the minority leader, and Senator CHILES that after we have adopted the Byrd amendment, and I hope we do, then we will have just a little over 1 hour left. As I understand it, the majority leader intends to try to help us work this out. But, if not, he will bring the bill back at the earliest possible time and we will have 1 hour to vote on 32 amendments. If anybody wants to move to strike each and every extraneous provision we will have 129 of those votes.

Mr. DOLE. I think there could be 155 rollcall votes. That would be a good day to be in town.

[Laughter.]

Mr. DOMENICI. I thank the majority leader.

Mr. THURMOND. Mr. President, I have no objection to the plan which has been suggested. However, there is only one more vote needed on this amendment. That is to vote on the Thurmond-Hollings amendment to the Hollings-Thurmond amendment so it will be complete.

Mr. DANFORTH. Mr. President, a parliamentary inquiry. What is the situation with respect to the reconciliation bill and the amendment pending to it?

The PRESIDING OFFICER. The amendment by the Senator from West Virginia is pending.

Mr. DANFORTH. And what was laid aside that would automatically recur if the Byrd amendment is agreed to?

The PRESIDING OFFICER. The amendment of the Senator from Missouri who offered an amendment to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I have a question with respect to the amendment on textiles. The majority leader is now joining me. In fact, as chairman I opposed this particular question. I opposed it when the distinguished Senator from Oregon, chairman of the Commerce Committee, came in first with all the communications bill. So having opposed and opposed and opposed, I have finally been persuaded. But mind you me, I think

it is an excellent initiative. I join in supporting it. I hope we can, though, not get into what they said they did not want to do, namely filibuster, with amendment upon amendment upon amendment upon amendment. They said what they wanted was a fair vote and a discussion. I hope we can get back tomorrow morning the first thing, or whenever, so that we can vote on those particular amendments. We are ready to stand and vote on those amendments.

Mr. DOLE. The rules provide for anyone to offer an amendment. We are just trying to tighten up the rules a bit. There is no attempt to criticize those who have used this process. It is perfectly proper. Some of us wish we had thought of something before. Maybe we can put the wheat bill into this. We plant a lot of wheat in Kansas.

There are many opportunities which have passed us by because we did not think of it, as the Senator from South Carolina.

Mr. HOLLINGS. It was the Finance Committee that brought in the adjustment assistance. Rather than saving money, when we went to reconciliation that cost us money. Our amendment on textiles saves money, not to be expended.

And this particular amendment that everyone now is talking about, in a peripheral sense, the initiative now supposed to be corrected is not the case. If we could correct in the original instance the extraneous matters, you would not have us coming forward trying to save the Government money with this textile amendment.

Mr. DOLE. I think the Senator's amendment has substantial merit.

Mr. THURMOND. Mr. President, will the distinguished majority leader or minority leader yield?

Mr. DOLE. I yield.

Mr. THURMOND. I would like the record to show that as I understand it, the Byrd amendment would not apply to any amendments put in now.

Mr. DOLE. Right, Mr. President, the horse is already out of the barn. But next year it would.

Mr. THURMOND. I am in favor of it, then, if that is the case.

Mr. President, I now move to table the Danforth amendment.

Mr. HOLLINGS. Or the Byrd amendment.

The PRESIDING OFFICER. The Senator's motion is not in order.

Mr. DOLE. Mr. President, let me suggest the absence of a quorum, not charged to either side or against the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. DOMENICI. I yield back any time I had on the amendment.

Mr. BYRD. I do the same, Mr. President.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Missouri [Mr. EAGLETON], the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. [Mr. GRAMM]. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0—as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—96

Abdnor	Glenn	McConnell
Andrews	Goldwater	Melcher
Armstrong	Gore	Metzenbaum
Baucus	Gorton	Mitchell
Bentsen	Gramm	Moynihan
Biden	Grassley	Murkowski
Bingaman	Harkin	Nickles
Boren	Hart	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hawkins	Pell
Bumpers	Hecht	Pressler
Burdick	Heflin	Proxmire
Byrd	Heinz	Pryor
Chafee	Helms	Quayle
Chiles	Hollings	Riegle
Cochran	Humphrey	Rockefeller
Cohen	Inouye	Roth
Cranston	Johnston	Rudman
D'Amato	Kassebaum	Sarbanes
Danforth	Kasten	Sasser
DeConcini	Kennedy	Simpson
Denton	Kerry	Specter
Dixon	Lautenberg	Stafford
Dodd	Laxalt	Stevens
Dole	Leahy	Symms
Domenici	Levin	Thurmond
Durenberger	Long	Trible
East	Lugar	Wallop
Evans	Mathias	Warner
Exon	Matsunaga	Weicker
Ford	Mattingly	Wilson
Garn	McClure	Zorinsky

NOT VOTING—4

Eagleton	Simon
Hatfield	Stennis

So the amendment (No. 878) as further modified, was agreed to.

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

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

ERISA

Mr. GORTON. Mr. President, 50 years ago this body enacted the Federal old-age, survivors, and disability insurance system—a system that has come to be known as Social Security. The Social Security Program established a partnership among the Federal Government, workers and businesses of our Nation with the goal of providing a stable retirement system for American workers and their survivors. It became clear by 1974, however, that our efforts could not stop with Social Security insurance. Business failures threatened the private pension plans that workers relied upon to supplement their Social Security retirement income. Congress reacted by providing for the Pension Benefit Guarantee Corporation [PBGC] in the Employee Retirement Income Security Act. This new partnership effort now guarantees the retirement benefits of 29 million Americans, or approximately 40 percent of the employees in the private sector.

It is ironic that the agency created by Congress to ensure that company retirement plans are fully funded, is itself seriously underfunded. The Pension Benefit Guarantee Corporation estimates that it will have a deficit for its single employer program of $721 million by the end of 1986. Further, given the unfunded pension liabilities of corporate giants such as Wheeling-Pittsburgh Steel, it seems certain that this deficit will continue to grow.

The underfunded accounts of the Pension Benefit Guarantee Corporation now are affecting not only the private pension system, but the level of Federal indebtedness as well. Since early 1985, the Corporation has had a negative cash-flow that has required borrowing from the Treasury. Without reform, the agency will have to increase its borrowings, an action that will aggravate the Federal deficit problem.

Mr. President, I believe that we must renew the partnership we established with businesses and workers 50 years ago, and strengthen our commitment to providing stable sources of retirement income to working Americans. In these times when we are faced with making the difficult choices needed to reduce the Federal deficit, it is all the more important to take actions that guarantee a secure pension process. I strongly endorse the amendments to the Employee Retirement Income Security Act offered by the Committee on Finance and the Committee on Labor and Human Resources, and urge my colleagues to join me with their support.

Mr. CHAFEE. Mr. President, I would like to take this opportunity to clarify with the Senator from South Carolina a point which makes it clear that the textile amendment which we have just adopted in no way applies to imported toys. It is my understanding that goods otherwise classifiable under sub-

part E, part 5, schedule 7 entering under schedule 8 or the appendix to the Tariff Schedules of the United States would not be covered by the provisions of this bill.

Mr. THURMOND. Yes. The Senator is correct.

Mr. LAUTENBERG. Mr. President, S. 1730, the reconciliation bill, contains a Superfund tax title that is identical to the tax title in the Superfund Improvement Act. I support the Superfund tax title, while I would prefer a higher revenue level. This tax title extends Federal taxing authority to generate revenues for the existing program. Existing authority expired on September 30. The tax title continues the existing tax on crude oil and certain chemical feedstocks and adds a new excise tax. Together, these taxes would raise approximately $7.5 billion for financing the Superfund Program over the next 5 years.

Mr. President, this program is of vital importance to New Jersey and many other States. It should be reauthorized as soon as possible. The fund from which the program is financed has been exhausted of all but emergency funds. Obligations for new expenditures have been frozen at 57 sites across the country, including 11 in New Jersey.

Three committees reviewed the Superfund reauthorization legislation before full Senate consideration, including the Environment and Public Works Committee of which I am a member. I am pleased that the Senate approved a bill that raises a reliable source of funds for Superfund and makes programmatic improvements to the Superfund Program. The bill was approved by a vote of 86 to 13 on September 26. The Senate is now awaiting action by the House of Representatives, which has made important progress over the last few weeks.

It is my understanding that the intent of the leadership of the Finance Committee and the Environment and Public Works Committee is that Congress reauthorize both the tax title and the programmatic title of the statute, and that the inclusion of the tax title in reconciliation is not a substitute for approval of comprehensive Superfund legislation.

Mr. PACKWOOD. Mr. President, this is correct. While the Finance Committee does not have jurisdiction over the programmatic title of Superfund, the committee expects the tax title to be complemented by programmatic amendments to Superfund.

Mr. LONG. Mr. President, I concur with the chairman of the committee. This is not a substitute for the overall Superfund legislation.

Mr. STAFFORD. Mr. President, I support the Superfund tax provisions in the reconciliation bill, which are the same provisions as contained in title II of the Superfund reauthorization. It is certainly the intent of the Environment and Public Works Committee that the tax title of Superfund be complemented with amendments to title 1, the programmatic title of Superfund. The House of Representatives has moved Superfund reauthorization legislation through all committees with jurisdiction now, and floor consideration of the Superfund reauthorization is expected shortly. It is my hope that the Senate and the House will proceed to conference as quickly as possible after the House approves its bill, and that the conference will act expeditiously to send a bill to the President for his signature. It is the committee's intent to have a comprehensive reauthorization of Superfund. We do not regard the Superfund tax title by itself, as contained in the reconciliation bill, as adequately addressing the need for an improved Superfund program.

Mr. BENTSEN. Mr. President, that is my understanding as well. The Environment and Public Works Committee spent many long hours in hearings and in markups considering the Superfund reauthorization. The committee approved a number of important amendments to title 1 of the act, including a number of amendments that were offered by the Senator from New Jersey. I commend him for raising this point and initiating this colloquy. I agree with the chairman of the Environment and Public Works Committee and the Senator from New Jersey that the inclusion of the tax in reconciliation is not meant in any way to jeopardize amendments to title 1 made by the Environment and Public Works Committee and by the full Senate during floor consideration of S. 51. It is, therefore, imperative that the House approve a comprehensive Superfund reauthorization bill, and make it possible for the Senate and the House to meet in conference as soon as possible, and certainly before we adjourn this year.

Mr. LAUTENBERG. Mr. President, I appreciate the reassurances offered by the distinguished leadership of the Finance Committee and the Environment and Public Works Committee, and the opportunity to express my concern that there be a comprehensive reauthorization of the program, not simply an extension of the Superfund tax title. During consideration of the Superfund reauthorization bill, I offered several important amendments, in committee and in the full Senate, including chemical inventory and community right to know provisions, emergency preparedness provisions, and other amendments that address issues related to Superfund site cleanup. The first order of business should be the approval of the Superfund reauthorization in the House and the initiation of the Senate-House conference on these and other amendments. I thank the leadership of the two committees for their assurances of support for improvements to the Superfund program and for approval of a comprehensive reauthorization bill.

Mr. HOLLINGS. Several of our colleagues have expressed concern regarding the intent of section 1205 of the amendment pertaining to import licensing. Am I correct in my understanding that the intent of section 1205 of the Textile and Apparel Trade Enforcement amendment dealing with import licensing is to establish a licensing system in order to assist in administering the limits set in the legislation?

Mr. THURMOND. That is correct, the licensing provision in the bill is intended to assist in implementing the other provisions of the bill but is not in itself the limiting authority. Import licensing is intended to do several things. First, it will provide the administering authorities with accurate up-to-date information on what import flows will be in future periods. This will be very helpful since there have been delays in collecting data on exports once they arrived in the United States. Second, the import licensing system will be very effective in reducing quota fraud. There will have to be matching documentation whereby the import license must correspond exactly to the export license from the producing country. This should reduce attempts at transshipment, misidentification and other types of quota fraud. Third, an import licensing system should completely eliminate overshipments. The present system is plagued by overshipments of quotas due to lack of precise control by the producing countries. An import licensing system should eliminate overshipments completely because an import license would not be granted once a quota is filled.

Mr. HOLLINGS. Is the import licensing system intended to provide continued access for small importers as well as large importers?

Mr. THURMOND. Yes; it is intended that an import licensing system be administered in an equitable and effective fashion by the Secretary of Commerce. While the legislation does not spell out exactly how import licenses are to be administered, nonetheless, it is intended that the licenses should be administered in a way that is fair and equitable and does not disadvantage small importers by providing larger importers with most or all of the import licenses. One approach might be to allocate licenses based on historical shares with some set aside for new market importers. Another way may be to allocate a portion on a first-come, first-served basis with another portion dedicated to small importers. This would be up to the administrating authority but I believe the intent

of this provision is clear. Import licenses are to assist in administering the system without unfairly rewarding large importers at the expense of small importers. Also, the intent of this provision is to charge only a nominal fee to importers for this service which will cover the licensing system's administrative expenses.

Mr. DURENBERGER. Mr. President, the Committee on Armed Services has reported a provision to the Congress as part of its budget reconciliation package that has broad implications for Federal health policy and the Medicare Program. The committee proposes to implement a new prospective payment system for hospitals based on Medicare's diagnosis related groups [DRG's] for its Civilian Health and Medical Program of the Uniformed Services [CHAMPUS]. This provision would amend title XVIII of the Social Security Act to require hospitals that participate in Medicare to accept the CHAMPUS DRG rate as payment in full. Currently, CHAMPUS pays charges for the hospitalization of its subscribers.

The costs of the CHAMPUS Program have increased by nearly 70 percent between 1980 and 1984—from $710 million to more than $1.2 billion. The Committee on Armed Services developed the DRG payment system for CHAMPUS in good faith to help bring the costs of the program under control. The committee sees the tremendous contribution the DRG payment system has made to Medicare and wants to replicate Medicare's success story.

Last year, the committee proposed using DRG's for CHAMPUS and using Medicare as the leverage to get hospitals to accept the CHAMPUS rates in the Omnibus Defense Authorization Act of 1985. At that time, the majority leader in his capacity at the time as chairman of the Finance Committee and myself, as chairman of the Health Subcommittee, voiced concern over the proposal. Despite the committee's good intentions we felt that their proposal, the same one we are considering today, used the Medicare Program inappropriately to leverage hospitals to accept CHAMPUS DRG's and that the cause of Medicare DRG's for CHAMPUS was problematic. The Senate passed an amendment to the defense authorization bill which called for a feasibility study of CHAMPUS DRG's.

I advocated a study over action last year because of a number of concerns I had about going ahead with an untested program. I still have those same concerns. First, basing CHAMPUS payments for inpatient services on Medicare's new prospective payment system for hospitals was designed exclusively for Medicare beneficiaries. Medicare's payment amounts reflect the historical cost of services provided to a beneficiary population whose hospital costs are significantly different from those of CHAMPUS beneficiaries. Medicare currently covers 27 million elderly—age 65 years and older—and 3 million disabled persons.

CHAMPUS, on the other hand, covers some 6 million beneficiaries of all age groups, from the very young to the very old. The differences in the costs of providing hospital care to the elderly and disabled population is very different from the services provided to CHAMPUS patients. In fact, nationally, the average length of a hospital stay for most DRG categories for patients over age 65 is almost 4 days longer than for patients under age 65. It is these differences that should be closely examined before extending the Medicare's new prospective payment system to the CHAMPUS Program.

Second, requiring hospitals who participate in Medicare to not only provide services to CHAMPUS beneficiaries but to accept as payment in full, an amount of payment based on a system which was designed for a Medicare population is unfair, and may be overly regulatory and administratively burdensome. If CHAMPUS chooses to develop a prospective pricing system it should be based on its own experience—and not that of Medicare. And it should stand on its own two feet. Hospitals should be free to negotiate rates and CHAMPUS must continue to seek the best policy for its beneficiaries. Putting it bluntly, it is wrong to hold a $70 billion program like Medicare, hostage for a $1 billion program like CHAMPUS which has a different set of beneficiaries and objectives. CHAMPUS must make its way in the marketplace as comparable private sector plans.

The report required by my amendment to the Omnibus Defense Authorization Act of 1985 was due March 1, 1985. And it was at that time that the Medicare/CHAMPUS link would be discussed, analyzed and further legislation considered. The Congress received no report in March. And, all of a sudden we see the Medicare/CHAMPUS linkage in the Armed Services Committee's reconciliation package. I understand that the Committee's package includes a proposal to delay the submission date of the HHS/DOD study until December 1, 1985, and to mandate the adoption of their CHAMPUS provisions described above, effective October 1, 1987.

Mr. President, it was the intent of Congress to study this issue before proceeding along the approach described by the Armed Services Committee. I feel strongly that the Congress should not proceed with the committee's proposal before a thorough examination and analysis of the effects on the entire health care system of a CHAMPUS/Medicare link is completed.

I would like to pose a few questions to my colleague from California, chairman of the Manpower and Personnel Subcommittee of the Armed Services Committee, to clarify the Committee's intent on their CHAMPUS proposal.

Is it the committee's intent that the implementation of the CHAMPUS linkage to Medicare not proceed until the report mandated by the committee's provisions on the CHAMPUS payment system is received on December 1, 1985, by the Armed Services Committee and the Finance Committee and the committees have the opportunity next spring to conduct hearings on your committee's Medicare/CHAMPUS proposal?

Mr. WILSON. Yes, the committee's provision which would link Medicare and CHAMPUS would not go into effect until October 1, 1986. The report from the Department of Defense and the Department of Health and Human Services would be required by December 1, 1985. Inasmuch as the committee provision is a legislative proposal of the administration, I can imagine no reason why that report cannot be forwarded on time, especially since a similar report has previously been required. This will give our committee and the Finance Committee a full 9 months to hold whatever hearings they believe are needed on the issue of this linkage.

I must say to my colleague from Minnesota I understand some of his concerns, especially those concerning whether the DRG system developed for CHAMPUS should only be modeled after, as opposed to being identical to, the one used by Medicare. That, of course, is a matter solely within the jurisdiction of the Armed Services Committee. However, I do not share his view that CHAMPUS must make its way in the marketplace like a private-sector plan. Neither CHAMPUS nor Medicare is a private-sector plan—both are Federal programs providing reimbursement for health care. I believe the Federal Government as a whole should obtain the best prices possible for all that care.

Mr. DURENBERGER. In addition, is it the chairman's intent to include members of the Finance Committee on the Armed Services conference committee to work out the Medicare/CHAMPUS provisions in this bill?

Mr. WILSON. Yes, the chairman and the ranking members of both the Finance Committee and the Armed Services Committee have agreed to ask for Finance Committee members to participate with Armed Services Committee members in the conference on these provisions.

Mr. DURENBERGER. I thank the Senator for clarifying the committee's intent on the Medicare/CHAMPUS proposal.

THE CIVILIAN AGENCY MULTIYEAR CONTRACTING ACT OF 1985

Mr. COHEN. Mr. President, the Senate has included as part of S. 1730, the Consolidated Omnibus Budget Reconciliation Act of 1985, a section that authorizes civilian procuring agencies to enter into multiyear contracts, not to exceed 5 years, when it is determined to be in the Government's best interest. This section incorporates the language of S. 678, the Civilian Agency Multiyear Contracting Act of 1985, which I introduced along with Senators LEVIN and DANFORTH on March 18 of this year. S. 678, moreover, is identical to a bill I sponsored last year, S. 2300, which the Senate passed unanimously.

The genesis of this proposal dates back to the Commission on Government Procurement. In 1972, the Commission reported to Congress that the advantages of multiyear contracting exceed the disadvantages, and recommended that this procurement method should be used, when appropriate, on a governmentwide basis. The General Accounting Office agreed in a 1978 report, entitled "Federal Agencies Should Be Given Multiyear Contracting Authority for Supplies and Services," and recommended that legislation should be enacted to provide this authority. The Office of Federal Procurement Policy also endorsed the concept of governmentwide multiyear contracting in its February 1982 proposal for a uniform Federal procurement system, as did the Grace Commission in its June 1983 report on procurement. Finally, a similar proposal to extend multiyear contracting authority to the civilian agencies was included as part of the administration's management reform initiatives that were recently submitted to Congress.

The Governmental Affairs Subcommittee on Oversight of Government Management, which I chair, held a hearing last year on S. 2300 and again considered the proposal this past January in its review of the Grace Commission's procurement recommendations.

Under present law, multiyear contracting may be used only when no-year or multiyear funds are available or, in the case of 1-year funds, when multiyear contracting is specifically authorized by statute. The Department of Defense has such statutory contract authority and has used it effectively. Civilian procuring agencies, however, generally do not have multiyear contracting authority and are consequently precluded by fiscal law restrictions—such as the Anti-Deficiency Act—from entering into contractual agreements requiring obligations in excess or in advance of appropriations.

The Civilian Agency Multiyear Contracting Act, as passed by the Senate last year and included in the reconciliation package this year, would authorize civilian procuring agencies to contract on a multiyear basis, provided the following criteria are met.

First, appropriations must be available for the first year of the multiyear contract and there must be a reasonable expectation that, during the remaining years the contract is in effect, additional funding will be requested.

Second, the agency head awarding the multiyear contract must determine that the contract will serve the best interests of the Government by reducing costs; achieving economies in administration, performance, and operation; increasing quality of performance by or service from the contractor; or encouraging effective competition.

Third, during the proposed contract period, there will be a continuing need for the property or services, and this minimum need is expected to remain substantially unchanged.

Fourth, the specifications for the property or services being procured are expected to be reasonably stable.

Fifth, the use of such contracting method will not inhibit small business participation.

The objective of these selection criteria is to ensure that multiyear contracting will be used judiciously and to safeguard against any possible abuse. These criteria, which in some respects are more stringent than the criteria in title 10 governing the Defense Department's multiyear contracting authority, are designed to limit the use of multiyear contracting for civilian agencies to only those circumstances when there is great potential for benefits and less potential for cancellation.

In my judgment, multiyear contracting is especially appropriate for civilian agencies, considering the nature of their procurements. Civilian agencies anticipate using multiyear contracting for standard services, such as trash removal, and for certain commercial items, such as typewriters. These recurring, common-use goods and services, for which there will always be a need, are not technologically sophisticated, involve no research and development, and consequently do not entail the risks inherent in multiyear contracting for major weapons systems. It is highly unlikely, therefore, that the civilian agencies will ever incur significant cancellation costs. The bottom line is that civilian agencies will obtain benefits from multiyear contracting, similar to those experienced by the Defense Department, but without assuming as great a risk.

The primary benefits of extending multiyear contracting authority Governmentwide are reduced costs, improved quality, and increased competition.

Multiyear contracting, used appropriately, provides significant reductions in the cost of procurement resulting from lower contract prices as well as lower administrative expenses.

According to estimates by the Office of Federal Procurement Policy [OFPP], based on data used within the Defense Department, approximately 15 to 20 percent of civilian agency procurement costs could be saved when multiyear contracting is used. The Grace Commission estimated that savings of $1.8 billion could be realized annually through the expanded use of multiyear contracting, which includes savings by the Defense Department, as well. Officials from the General Services Administration [GSA] testified last year that the GSA alone could save up to $200 million annually through multiyear contracting. Finally, the Congressional Budget Office has estimated that this section would produce savings exceeding $500 million in the next 2 fiscal years.

These cost savings result from increased competition, economies of scale, improved contractor productivity, or a contractor's ability to amortize nonrecurring startup costs. Annual contracts frequently involve startup costs which must be recovered during the year. This has a direct impact on the price of property or services offered to the Government. Under a multiyear contract, such nonrecurring costs could be prorated over the life of the contract, thus reducing the unit cost of the work performed and consequently the price offered to the Government.

In some cases, multiyear contracting would allow agencies to take advantage of greater price discounts. For example, GSA analyzed the pricing practices of a major automated data processing [ADP] equipment vendor and found that the vendor's prices varied significantly based on its customer's ability to commit for multiple-year leases of equipment. Those customers—all commercial—who would commit to a 5-year lease were granted discounts ranging from 62 to 75 percent of the 1-year rates. The maximum volume discounts given to those customers who could only commit to a single year was 5 percent of the 1-year rate. In effect, customers such as the Government who leased equipment for several years, but who could only contractually commit themselves to a lease of 1 year, have paid as much in 2 years as other customers pay in 5 years.

Administrative costs to the Government could also be reduced. For annual contracts, agencies expend a significant amount of time and money to accomplish a variety of contract formation functions, including market research, preparation of solicitations, evaluation of offers, negotiation of prices, terms and conditions, and technical analyses. Agencies could reduce their cost of doing business if these ad-

ministrative activities were performed on other than an annual schedule.

In addition to savings in contract prices and administrative costs, the second benefit of multiyear contracting is that the quality of performance and service from contractors is likely to improve. The GAO found in its 1978 report that multiyear contracting can improve contractor performance and service by reducing the uncertainly of continued Government business, providing continuity in the delivery to recurring supply and service needs, and enabling the contractor to maintain a stable, well-trained work force.

Many contracts, particularly those for the provision of services, experience a "learning curve" phenomenon where a new contractor's performance improves steadily as its workers gain experience with the peculiarities of the Government's work requirements. When annual contracts are required and successive contracts are awarded to different firms, the impact of the initial stages of the performance "learning curve" is felt each year. With multiyear contracts, this impact is felt only in the initial year of the contract. Subsequent years should experience a sustained level of quality performance.

The third and perhaps most important benefit in multiyear contracting, which contributes to reduced costs and improved quality, is increased competition in contracting.

Many companies are often unwilling or unable to make significant capital investments for 1 year contracts, because it is difficult to recoup such investments and be price competitive. Multiyear contracts would make such undertakings more attractive by providing longer periods of assured business in which to recoup capital investments, thereby encouraging more companies to compete for the contract.

An example of an annual procurement which would have been competitive had it been awarded on a multiyear basis involves a GSA contract for converting waste into fuel. The GSA received proposals from firms indicating an interest in contracting with GSA to collect trash from Federal buildings, convert it into refuse-derived fuel, and sell it back to GSA for burning in Federal heating plants. GSA's contracting authority for such a service contract, however, is currently limited to a 1-year period. Considering the large front-end investment that would be required for a contractor to acquire the necessary equipment and facilities, potential contractors were unwilling to make such an investment for a 1-year contract. According to GSA, if multiyear contract authority were enacted, GSA would be able to contract competitively for conversion of waste to fuel, with anticipated savings in cost and energy resources.

Small businesses, in particular, stand to benefit substantially from multiyear contracting. According to the Commission on Government Procurement's report:

> Authorizing all executive agencies to enter into multiyear contracts with annual appropriations will permit small firms to become more competitive for contracts requiring substantial start-up costs and capital outlays. Usually such expenditures are more budensome to small than to big business. The ability to amortize such costs over longer periods should be helpful for small firms in competing for service and support contracts.

In other words, small businesses would not be able to submit offers on multiyear contracts by prorating nonrecurring "start up" costs which, for a 1-year contract, would preclude these businesses from competing.

The prospective uses of multiyear contracting for civilian agencies are varied and numerous. The GSA, for example, anticipates that multiyear contracting could be used for recurring support services, such as janitorial, maintenance and repair of real and personal property, protection, trash and snow removal services. GSA would also consider using such authority selectively in the procurement of certain common use supplies and ADP and telecommunications equipment. Multiyear contracting could also be used for small demand items which, when bought in larger quantities, might encouraging age increased competition.

To ensure effective and uniform implementation, the Governmental Affairs Committee recommended last year in its report to accompany S. 2300 (98-417) that the Office of Federal Procurement Policy—the central procurement policy office in the executive branch—should take the lead in monitoring the use of this new authority and fostering the exchange of ideas and experiences between the agencies. The OFPP should consider establishing an inter-agency task group on multiyear contracting for these purposes.

The committee also recommended that the OFPP, working together with the GSA, should incorporate management controls in the Federal acquisition regulation to ensure proper use of this broadened authority. Proposed management controls should: First, require a determination and finding for using multiyear contracting, and second, require that multiyear contracts above an established threshold be reviewed by the agency's procurement executive.

Taken together, statutory guidance, regulatory controls, and management oversight should go far to ensure effective and uniform implementation. Government contracting, however, comprises a series of judgment calls which cannot always be legislated, regulated, or managed. Appropriate use of multiyear contracting, therefore, will also depend on improved training of the procurement workforce. After all, we should not only focus upon the reforms in the process, but the personnel who will implement these reforms.

The committee recommended that the Federal Acquisition Institute, now a part of GSA, should coordinate this training program to instruct agency procurement personnel how to: First, select candidates for multiyear contracting; second, conduct the initial market research which precedes the formulation of solicitations; third, obtain comparative quotations based on single-year and multiyear quantities; fourth, provide incentives for greater competition both at the prime and subcontractor levels; and fifth, assess what would constitute a reasonable cancellation charge in the event the contract cannot be continued.

For many civilian agencies, multiyear contracting is new and untested. While the potential benefits are great, inexperience may also lead to potential problems. The committee therefore recommends that those agencies inexperienced in multiyear contracting should first conduct pilot programs to ensure appropriate use of this new authority.

In closing, Mr. President, considering the support throughout the procurement community for extending multiyear contracting authority Governmentwide, the potential benefits to be gained, and the prospective uses, I am pleased that this provision was included in the package, and I hope that my colleagues in the House will lend their support.

Mr. SPECTER. Mr. President, I share the concern of my colleagues over the Senate Finance Committee's amendment to the reconciliation bill. As you know, on September 19, 1985, the Finance Committee adopted an amendment which would preclude any further borrowing by the Black Lung Trust Fund from general revenues after September 30, 1986. This approach risks that the trust fund will be without adequate funds to meet its statutory obligations for the payment of benefits to victims of black lung disease, as well as administrative costs, and interest.

The Black Lung Program represents an important commitment made by our Government to provide for the health and welfare of miners affected by the debilitating black lung disease. Our Nation's coal miners, their families, and their dependents may suffer if the Senate Finance proposal is passed into law. Adequate funding is an absolute necessity to continue to provide black lung benefits. Without funding, the program cannot continue to exist.

I am extremely concerned that changes in the Black Lung Program could jeopardize the ability of people to obtain benefits fully, equitably, and

in a timely fashion. Although it may be necessary to seek changes in the financial composition of the Black Lung Trust Fund to ensure that it retains fiscal stability, I do not see how disallowing borrowing will help to solve the long-term questions surrounding the fund.

Mr. President, I hope that my colleagues will join me now and in the future to ensure the protection of the victims of black lung disease.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Commerce, Justice, State appropriations bill, H.R. 2965.

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

The Senate continued with consideration of the bill.

SCHEDULE

Mr. DOLE. Mr. President, let me indicate very briefly, if I may have the attention of my colleagues, what we hope to do.

Now that the State-Justice-Commerce appropriations bill is back before the Senate, there will be an amendment by the distinguished Senator from North Carolina. I do not know the contents of that amendment; but after some debate of that amendment, there will be a motion to table the amendment.

Depending on the disposition of the amendment, that will determine what happens for the remainder of the evening. So I cannot tell Members now whether there will be one vote. There could be as many as three votes this evening. That is this bill.

There will also be a unanimous consent request, before we start an amendment, that the distinguished Senator from Oklahoma [Mr. NICKLES] be permitted to bring up a matter that has been cleared on both sides with reference to the Garcia decision.

I will say this: We are shopping for Members, and we need the cooperation of Members or it will not work—we are shopping for Members to indicate that they will be here tomorrow and that they will offer amendments to the farm bill. Some probably can be accepted. We have gone over a list with the distinguished chairman of the committee. Others might require rollcall votes.

We need the cooperation of Members. If a rollcall vote is needed, obviously we will ask for the yeas and nays; but we would postpone the vote until Tuesday, if we can do the same on Monday—in other words, continue to work on the farm bill, have Members agree that they are going to be here Monday, get consent to order the yeas and nays, and have the vote on Tuesday.

This is an effort to accommodate about eight of our colleagues who would like to attend a meeting at Geneva with reference to arms control. It is a very important session. Both the distinguished minority leader and I would like to accommodate those Senators, but let us face it: Many Senators would like to complete action in the Senate sometime late next month, if not early in December. We do not want to lose 2 days by saying we have this all worked out and no one shows up to offer amendments; or they say, "I don't want to offer mine if I can't vote today." That loses 2 days.

So we are in the process of contacting Members personally on each side of the aisle to see if we can have a substantial number of amendments tomorrow and on Monday. If we can have the assurance of Members that they will offer those amendments, they may be accepted. If not, they can ask for the yeas and nays or they can be disposed of on a voice vote. Then we would do the rollcall votes Tuesday afternoon.

That is where we are. If we cannot do it, we will be in tomorrow with votes and on Monday with votes.

Mr. BYRD. Mr. President, I hope that Senators on both sides of the aisle, particularly on my side of the aisle, will attempt to cooperate in this matter, because we have the observer group going to Geneva.

I am told by Mr. NUNN and Mr. STEVENS that this is a very important weekend there, for reasons which they can best state. In other words, they feel that progress is possibly going to be made there and that for them to be there will benefit the Senate, rather than for them not to be there.

So, in view of the fact that the majority leader is bending over backward in an attempt to stack votes over to Tuesday on the farm bill in order to allow the observer group to go to Geneva, I hope Members will be able to come up with amendments and will be here tomorrow and Monday, and I will do everything I can to cooperate.

Mr. DOLE. I thank the distinguished minority leader.

I indicate that this is not for accommodation of the leadership but primarily an accommodation for Members on both sides of the aisle who are deeply interested in this matter and who do not want to miss a number of important votes tomorrow and Monday.

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

Mr. DOLE. I yield.

Mr. METZENBAUM. Do I correctly understand from the manner in which the majority leader presented the question that those of us who have amendments and concerns about budget reconciliation need not concern themselves about that subject until sometime Tuesday or Wednesday? Is that the plan of the majority leader?

Mr. DOLE. I would say Tuesday or Wednesday. That would be up to the distinguised Senator from New Mexico and the distinguished Senator from Florida.

Mr. METZENBAUM. But not on Friday?

Mr. DOLE. Not tomorrow or Monday.

Mr. METZENBAUM. And we could leave without any concern about the matter?

Mr. DOLE. You could leave, unless you have an amendment to the farm bill.

Mr. METZENBAUM. That is not my interest.

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

Mr. DOLE. I yield.

Mr. MOYNIHAN. Is it the intention to finish the Justice-Commerce bill tonight?

Mr. DOLE. It is my hope and my intention.

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

Mr. DOLE. I yield.

Mr. EXON. I think the majority leader knows that I am delighted to hear that we are finally getting to the farm bill.

Unfortunately, I can tell from what is happening that there probably will not be a lot of Members around on Friday or Monday. I will be here, whether I offer amendments or not. If I have one, I will offer it.

Let me ask this question: Is it the intention of the majority leader then to finish the farm bill on Friday or on Tuesday? Is that his plan?

Mr. DOLE. No.

Mr. EXON. Or Wednesday, or Thursday?

Mr. DOLE. I would hope to be able to conclude it next Wednesday, but I am realistic enough to know that if all of the amendments that I have heard about were offered it could take maybe all next week.

Mr. EXON. Since we are moving in an area of trying to accommodate each other, might this be a good time, since I think whatever kind of a farm bill we pass we should pass it and make the decision, since this is a time when the majority leader is asking some people to be here on extraordinary duty on Friday and Monday, that we could maybe set some time now for those who may want to wait until Thursday, or Friday, or Saturday, or the following Monday to offer amendments? Is it possible that we could have a unanimous-consent agreement now that we would limit the time in some way on the farm bill so we could move ahead?

Mr. DOLE. The Senator will not have any problem with the majority leader in limiting the time.

Again, I would say it is immaterial to the majority leader, but it is not. I think they are important sessions in Geneva. I am only trying to accommodate a number of my colleagues on either side. But if it is obvious that no one will offer amendments tomorrow or Monday, then we will just be here tomorrow and Monday without any special disposition for anyone.

Mr. HEFLIN. Mr. President, if the majority leader will yield, is it the majority leader's intention to stay with the farm bill until it is disposed of or to lay it aside, double track it with other measures? I do not mean to ask for a hard and fast answer. But is it the overall intention to dispose of the farm bill on a priority basis over other pending legislation which we have half done or partially done.

Mr. DOLE. The Senator is correct. It might be, if we can reach an agreement on reconciliation, we might have to interrupt discussion of the farm bill, say, Wednesday or Thursday of next week, and it could result if we cannot get an agreement, we could have 100 and some votes under the reconciliation process, but I do believe that with that one caveat, and again there is always a possibility that the textile amendment should come off reconciliation, there might be some agreement to offer it to some other bill, but the general intention is to finish the farm bill, and I know it is very important to farmers just as it was in July when we tried to bring it up.

Mr. HEFLIN. I thank the majority leader.

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

Mr. DOLE. I yield.

Mr. BYRD. Mr. President, I state a caveat here for the benefit of Members on my side in particular.

Mr. DOLE. Sure.

Mr. BYRD. As I understand the distinguished majority leader, he has not yet said that there will be no votes tomorrow.

Mr. DOLE. That is true.

Mr. BYRD. He has not yet said there will be no votes Monday unless we did not understand him, and start making our plans to be away Friday and Monday. The majority leader's statement, as with respect to Friday and Monday will depend upon the assurances that he gets tonight as to what amendments will be called up tomorrow and what sponsors will be here to call up those amendments, so that he indeed is assured there will be measures that are ready for a vote on Tuesday.

Am I correct?

Mr. DOLE. The Senator is absolutely correct.

Again, I know it is difficult for some to make commitments, but it is a farm bill. There are a number of us from farm States who have a greater interest than other Senators, and it would seem to me it gives us an opportunity, with not much else going on but the farm bill tomorrow and Monday, to offer our amendments. Some may be accepted. On some, rollcalls may be required. We could postpone rollcalls.

But the worst thing that could happen would be to lose the 2 days, if we are looking at getting out of here sometime later this year.

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

Mr. DOLE. I am happy to yield.

Mr. PRESSLER. Mr. President, I have seven amendments, of which I think three will be accepted on both sides. I am willing to offer those tomorrow if we are on the farm bill. If I could offer them tomorrow that would be perfectly agreeable.

Mr. DOLE. I would be very happy to suggest that I need to clear it with the chairman and the ranking minority member, but as far as I am concerned if there are amendments—these are amendments to the farm bill?

Mr. PRESSLER. Yes, amendments to the farm bill. But I have additional amendments that I wish to offer next week at a point that will require rollcall votes.

These will not require a rollcall vote. It would be possible the amendments will be adopted tomorrow. They do not require rollcall votes. Both sides have agreed. Or is there only going to be a debate tomorrow?

Mr. DOLE. No. If the amendments are agreeable and we want to dispose of them, we will accept them.

It is my understanding from the chairman as to amendments where amendments can be accepted he is prepared to be here tomorrow, prepared to be here on Monday, and if the Senator has three amendments, I am not certain if they have been cleared on both sides. Then they can do business.

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

Mr. DOLE. And if there is a rollcall ordered, of course, we would not do that tomorrow.

Mr. PRESSLER. If they are not agreeable then I can ask for the yeas and nays, if there are Senators here to get the yeas and nays ordered.

Mr. DOLE. Yes, If we do that, they will be stacked and voted on on Tuesday in the order in which they were brought up. In other words, the first one ordered would be the first one voted upon. If there are other Senators who could indicate they would be willing to help us out tomorrow and Monday with amendments that would be all right.

Mr. STAFFORD. Mr. President, if the majority leader will yield, I may have an amendment to the farm bill. I will be here both Friday and Monday. I would prefer to bring it up Monday rather than Friday, but I will be here both days.

Mr. MATHIAS. Mr. President, if the majority leader would yield, I advised the majority leader that I have an amendment with respect to killer bees and the great damage that killer bees are doing to American agriculture, and I will bring it up on Monday.

Mr. HELMS. All right.

Mr. DOLE. How about Friday?

Mr. MATHIAS. Monday.

Mr. DOLE. That will give us something to go on. That is not much. We do not want to get stung in the process.

Mr. PRESSLER. Mr. President, I have a plane to take later in the day. I would like to do it in the morning. At what time will we start tomorrow morning?

Mr. DOLE. It depends. We can start fairly early if we have something to do. It will probably be 9 a.m. when we are on the bill.

Mr. BYRD. Mr. President, if the majority leader will yield, so Senators on my side will understand clearly before they leave this evening or not there are going to be rollcall votes on tomorrow and Monday, and they may make their plans accordingly, could we take an hour, the majority leader and I, while the action is going forward on the appropriations bill and determine from our respective cloakrooms as to what Senators definitely will be here tomorrow and call up amendments and then the majority leader can make a decision and everyone will know what they will do?

Mr. DOLE. Yes. We have been working at the staff level all day, and we have had a great deal of cooperation on each side. I think we will take that time to see what we can produce.

Mr. President, I understand the distinguished Senator from Oklahoma [Mr. NICKLES] has cleared on each side a unanimous-consent request, and I ask unanimous consent that he be recognized for that purpose.

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

The Senator from Oklahoma is recognized.

Mr. NICKLES. I thank the majority leader.

FAIR LABOR STANDARDS PUBLIC EMPLOYEE OVERTIME COMPENSATION ACT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 348, Senate Bill 1570, the Fair Labor Standards Act.

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

The legislative clerk read as follows:

A bill (S. 1570) to amend the Fair Labor Standards Act of 1938 to exclude the employees of States and political subdivisions of States from the provisions of that Act relating to maximum hours, to clarify the application of that Act to volunteers, and for other purposes.

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 "Fair Labor Standards Public Employee Overtime Compensation Act".

SEC. 2. Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end thereof the following new subsection:

"(o)(1) Employees of a public agency that is a State, a political subdivision of a State, or an interstate governmental agency may receive overtime compensation in the form of compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by subsection (a) of this section pursuant to—

"(A) applicable provisions of a collective bargaining agreement, memorandum of understanding, or any other agreement between the public agency and representative of such employees; or

"(B) in the case of employees not covered by clause (A), an agreement or understanding arrived at between the employer and employee before the performance of the work.

"(2) In the case of employees described in clause (B) of paragraph (1) hired prior to April 15, 1986, the regular practice in effect on April 15, 1986, with respect to compensatory time off in lieu of the receipt of overtime compensation, shall constitute an agreement or understanding under such clause (B).

"(3) In determining eligibility for overtime compensation under this section, compensatory time off taken during any workweek or work period shall not be counted as hours worked during that workweek or work period.

"(4)(A) No overtime compensation in the form of compensatory time off may be accrued by any employee of a public agency that is a State, a political subdivision of a State, or an interstate governmental agency, in excess of 480 hours for hours worked after April 15, 1986.

"(B) Any employee of a public agency that is a State, a political subdivision of a State, or an interstate governmental agency who has accrued 480 hours of compensatory time off shall, for additional overtime hours of work, receive overtime compensation in accordance with subsection (a) of this section.

"(C) If any employee of a public agency that is a State, a political subdivision of a State, or an interstate governmental agency terminates employment with a particular public agency, the employee shall receive overtime compensation in accordance with the provisions of subsection (a) of this section.

"(D) Any employee of a public agency that is a State, a political subdivision of a State, or an interstate governmental agency who—

"(i) has accrued compensatory time off, and

"(ii) has requested the use of such compensatory time off,

shall be permitted to use such compensatory time off within a reasonable period after the request, if the use of such compensatory time off does not unduly disrupt the operations of the public agency.

"(E) In making a determination under subparagraph (B) or (C) of this paragraph, the rate of compensation of the employee shall be the rate of compensation earned by the employee at the time the employee receives compensation for overtime.".

SEC. 3. Section 7 of the Fair Labor Standards Act of 1938 (as amended by section 2) is amended by adding at the end thereof the following new subsection:

"(p) In determining the hours of employment to which the rate prescribed by subsection (a) of this section applies, the hours worked by an employee of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, may be excluded by the agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section if—

"(1) the hours worked are solely at the employee's option; and

"(2) the hours are worked—

"(A) on an occasional or sporadic part-time basis for such public agency in a different capacity from the capacity in which the employee is primarily employed;

"(B) by any employee engaged in fire protection or law enforcement activities (including security personnel in correctional institutions), on a special detail for a separate and independent employer, if the public agency by whom the employee is employed requires that its fire protection or law enforcement personnel be hired by the separate and independent employer for the work, otherwise facilitates the employment, or affects the condition of employment of employees of the separate and independent employer; or

"(C) by any employee engaged in fire protection or law enforcement activities (including security personnel in correctional institutions), for another employee who was scheduled to work such hours if the employees have agreed, with the approval of the employer, to substitute scheduled work hours.".

SEC. 4. Section 3(e) of the Fair Labor Standards Act of 1938 is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and by inserting in lieu thereof "paragraphs (2), (3), and (4)"; and

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

"(4)(A) The term 'employee' does not include any individual who is a volunteer for a public agency that is a State, a political subdivision of a State, or an interstate governmental agency, even if the individual is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered, except that an individual who is otherwise employed by the same public agency for which the individual volunteered to perform the same type of services is not a volunteer for the purposes of this paragraph.

"(B) The hours in which an employee of a public agency that is a State, a political subdivision of a State, or an interstate governmental agency performs services on a volunteer basis for a public agency, other than the public agency which is the employee's employer, shall not be considered hours worked for the principal public agency for purposes of sections 6, 7, and 11 of this Act, even if the principal public agency has an agreement for mutual aid with the agency for which the employee volunteers.".

SEC. 5. Section 3(e)(2)(C)(ii) of the Fair Labor Standards Act of 1938 is amended—

(1) by striking out "or" at the end of division (III);

(2) by striking out "who" in division (IV);

(3) by striking out the period at the end of division (IV) and inserting in lieu thereof a comma and the word "or"; and

(4) by adding at the end thereof the following:

"(V) is an employee of the legislative branch or legislative body of a State, political subdivision, or agency and is not employed by the legislative library of such State, political subdivision, or agency.".

SEC. 6. Notwithstanding the provisions of section 8, an employee of a public agency who asserts rights under the Fair Labor Standards Act of 1938 between February 19, 1985, and April 14, 1986, shall be accorded the same protection against discharge or discrimination as is available under section 15(a)(3) of the Fair Labor Standards Act of 1938.

SEC. 7. (a) The Secretary of Labor shall promulgate regulations to carry out paragraph (4) of section 3(e) of the Fair Labor Standards Act of 1938, as added by section 4 of this Act, by March 15, 1986.

(b) Prior to April 15, 1986, the practice of a public agency that is State, a political subdivision of a State, or an interstate governmental agency with respect to the definition of volunteers shall, for the purpose of the amendment made by section 4 of this Act, be controlling.

SEC. 8. (a) Except as provided in subsections (b) and (c) of this section, the amendments made by this Act shall take effect on April 15, 1986.

(b)(1)(A) There shall be no liability under section 16 of the Fair Labor Standards Act of 1938 for any violation arising under sections 7 or 11(c) (as it relates to section 7) of the Fair Labor Standards Act of 1938 occurring prior to April 15, 1986, with respect to any employee of a public agency that is a State, a political subdivision of a State, or an interstate governmental agency who would not have been covered by such Act under the special enforcement policy of the Secretary of Labor concerning States and political subdivisions of States on January 1, 1985.

(B) With respect to any employee described in subparagraph (A) of this paragraph a public agency may defer until August 1, 1986 the payment of overtime compensation under section 7 of the Fair Labor Standards Act of 1938 for overtime hours worked after April 14, 1986.

(2) This Act and the amendments made by this Act shall not affect whether a public agency that is a State, a political subdivision of a State, or an interstae governmental agency is liable under section 16 for a violation of section 6, 7, or 11 of the Fair Labor Standards Act of 1938 occurring prior to April 15, 1986 with respect to any employee of such public agency who would have been covered by the Fair Labor Standards Act of 1938 under the special enforcement policy of the Secretary of Labor concerning States and political subdivisions of States on January 1, 1985.

(3) The amendments made by section 2 of this Act shall apply to any collective bargaining agreement, memorandum of understanding, or other agreement between the public agency and recognized representative of such employees in effect on the date of enactment of this Act.

(c) The provisions of sections 6 and 7 shall take effect on the date of enactment of this Act.

AMENDMENT NO. 881

(Purpose: To make certain technical and minor conforming changes)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] for himself, Mr. METZENBAUM, and Mr. BENTSEN proposes an amendment numbered 881.

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

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

The amendment is as follows:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Fair Labor Standards Amendments of 1985".

(b) REFERENCE TO ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Fair Labor Standards Act of 1938.

COMPENSATORY TIME

SEC. 2. (a) COMPENSATORY TIME.—Section 7 (29 U.S.C. 207) is amended by adding at the end the following:

"(o)(1) Employees of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency may receive, in accordance with this subsection and in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this section.

"(2) A public agency may provide compensatory time under paragraph (1) only—

"(A) pursuant to—

"(i) applicable provisions of a collective bargaining agreement, memorandum of understanding, or any other agreement between the public agency and representative of such employees; or

"(ii) in the case of employees not covered by subclause (i), an agreement or understanding arrived at between the employer and employee before the performance of the work; and

"(B) if the employee has not accrued compensatory time in excess of the limit applicable to the employee prescribed by paragraph (3).

In the case of employees described in clause (A)(ii) hired prior to April 15, 1986, the regular practice in effect on April 15, 1986, with respect to compensatory time off for such employees in lieu of the receipt of overtime compensation, shall constitute an agreement or understanding under such clause (A)(ii). Except as provided in the previous sentence, the provision of compensatory time off to such employees for hours worked after April 14, 1986, shall be in accordance with this subsection.

"(3)(A) No overtime compensation in the form of compensatory time off may be accrued by any employee of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, in excess of 480 hours for hours worked after April 15, 1986. Any such employee who, after April 15, 1986, has accrued 480 hours of compensatory time off shall, for additional overtime hours of work, be paid overtime compensation.

"(B) If compensation is paid to an employee for accrued compensatory time off, such compensation shall be paid at the regular rate of compensation earned by the employee at the time the employee receives such payment.

"(4) An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon termination of employment, be paid for the unused compensatory time at the regular rate of compensation earned by the employee at the time the employee receives compensation for overtime.

"(5) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency—

"(A) who has accrued compensatory time off authorized to be provided under paragraph (1), and

"(B) who has requested the use of such compensatory time,

shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

"(6) For purposes of this subsection—

"(A) the term 'overtime compensation' means the compensation required by subsection (a), and

"(B) the term 'compensatory time' or 'compensatory time off' means hours during which an employee is not working and which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.".

(b) EXISTING COLLECTIVE BARGAINING AGREEMENTS.—A collective bargaining agreement which is in effect on April 15, 1986, and which permits compensatory time off in lieu of overtime compensation shall remain in effect until its expiration date unless otherwise modified, except that compensatory time shall be provided after April 14, 1986, in accordance with section 7(o) of the Fair Labor Standards Act of 1938 (as added by subsection (a)).

(c) LIABILITY AND DEFERRED PAYMENT.—(1) No State, political subdivision of a State, or interstate governmental agency shall be liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 7 or 11(c) (as it relates to section 7) of such Act occurring before April 15, 1986, with respect to any employee of the State, political subdivision, or agency who would not have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in sections 775.2 and 775.4 of title 29 of the Code of Federal Regulations.

(2) A State, political subdivision of a State, or interstate governmental agency may defer until August 1, 1986, the payment of overtime compensation under section 7 of the Fair Labor Standards Act of 1938 for hours worked after April 14, 1986.

SPECIAL DETAILS, OCCASIONAL OR SPORADIC EMPLOYMENT, AND SUBSTITUTION

SEC. 3. (a) SPECIAL DETAIL WORK FOR FIRE PROTECTION AND LAW ENFORCEMENT EMPLOYEES.—Section 7 (29 U.S.C. 207) is amended by adding after subsection (o) (added by section 2) the following:

"(p)(1) If an individual who is employed by a State, political subdivision of a State, or an interstate governmental agency in fire protection or law enforcement activities (including activities of security personnel in correctional institutions) and who, solely at such individual's option, agrees to be employed on a special detail by a separate or independent employer in fire protection, law enforcement, or related activities, the hours such individual was employed by such separate and independent employer may be excluded by the public agency employing such individual in the calculation of the hours for which the employee is entitled to overtime compensation under this section if the public agency—

"(A) requires that its employees engaged in fire protection, law enforcement, or security activities be hired by a separate and independent employer to perform the special detail,

"(B) facilitates the employment of such employees by a separate and independent employer, or

"(C) otherwise affects the condition of employment of such employees by a separate and independent employer.".

(b) OCCASIONAL OR SPORADIC EMPLOYMENT.—Section 7(p) (29 U.S.C. 207), as added by subsection (a), is amended by adding at the end the following:

"(2) If an employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency undertakes, on an occasional or sporadic basis and solely at the employee's option, part-time employment for the public agency which is in a different capacity from any capacity in which the employee is regularly employed, the hours such employee was employed in performing the different employment may be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(c) SUBSTITUTION.—(1) Section 7(p) (29 U.S.C. 207), as amended by subsection (b), is amended by adding at the end the following:

"(3) If an individual who is employed by a public agency which is a State, political subdivision of a State, or an interstate governmental agency agrees, with the approval of the public agency and solely at the option of such individual, to substitute during scheduled work hours for another individual who is employed by such agency in the same activities, the hours such employee worked as a substitute may be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(2) Section 11(c) (29 U.S.C. 211(c)) is amended by adding at the end the following: "The employer of an employee who performs substitute work described in section 7(p)(4) may not be required under this subsection to keep a record of the hours of the substitute work.".

VOLUNTEERS

SEC. 4. (a) DEFINITION.—Section 3(e) (29 U.S.C. 203(e)) is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting in lieu thereof "paragraphs (2), (3), and (4)", and

(2) by adding at the end the following:

"(4)(A) The term 'employee' does not include any individual who is a volunteer for a public agency which is a State, a political

subdivision of a State, or an interstate governmental agency, if (i) the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and (ii) such services are not the same type of services which the individual is employed to perform for such public agency.

"(B) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency may volunteer to perform services for any other State, political subdivision, or interstate governmental agency, including a State, political subdivision or agency with which the employing State, political subdivision, or agency has a mutual aid agreement.".

(b) REGULATIONS.—Not later than March 15, 1986, the Secretary of Labor shall issue regulations to carry out paragraph (4) of section 3(e) (as added by subsection (a) of this section).

(c) CURRENT PRACTICE.—If before April 15, 1986, the practice of a public agency was to treat certain individuals as volunteers, such individuals shall until April 15, 1986, be considered, for purposes of the Fair Labor Standards Act of 1938, as volunteers and not as employees. No public agency which is a State, a political subdivision of a State, or an interstate governmental agency shall be liable for a violation of section 6 occurring before April 15, 1986, with respect to services deemed by that agency to have been performed for it by an individual on a voluntary basis.

STATE AND LOCAL LEGISLATIVE EMPLOYEES

SEC. 5. Clause (ii) of section 3(e)(2)(C) (29 U.S.C. 203(e)(2)(C) is amended—

(1) by striking out "or" at the end of subclause (III),

(2) by striking out "who" in subclause (IV),

(3) by striking out the period at the end of subclause (IV) and inserting in lieu thereof ", or", and

(4) by adding after subclause (IV) the following:

"(V) is an employee in the legislative branch or legislative body of that State, political subdivision, or agency and is not employed by the legislative library of such State, political subdivision, or agency.".

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall take effect April 15, 1986. The Secretary of Labor shall before such date promulgate such regulations as may be required to implement such amendments.

EFFECT OF AMENDMENTS

SEC. 7. The amendments made by this Act shall not affect whether a public agency which is a State, political subdivision of a State, or an interstate governmental agency is liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 6, 7, or 11 of such Act occurring before April 15, 1986, with respect to any employee of such public agency who would have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in section 775.3 of title 29 of the Code of Federal Regulations.

DISCRIMINATION

SEC. 8. An employee of a public agency who asserts coverage under the Fair Labor Standards Act of 1938 between February 19, 1985, and April 14, 1986, shall be accorded the same protection against discharge or discrimination as is available under section 15(a)(3) of the Fair Labor Standards Act of 1938.

Mr. NICKLES. Mr. President, the amendment that I am offering on behalf of myself and Senator METZENBAUM is an amendment to a bill which was cosponsored by Senator THURMOND and over 50 other Senators that addresses the Supreme Court decision of February 19, 1985, the so-called Garcia decision.

I wish to thank my colleagues for their cooperation in working with us. We have had a multitude of meetings, trying to alleviate a lot of the concerns and also some of the problems that that Supreme Court decision has brought about for some of the cities and counties and States.

Mr. President, we have been working on this for months. It has been a difficult process, but one on which I think everyone has been cooperating, I believe we have had a successful conclusion. I believe we have brought about a product which alleviates most of the problems that have been addressed to this committee.

Mr. President, I am pleased that we are today considering S. 1570, a bill to amend the Fair Labor Standards Act of 1938 to allow the use of compensatory time off—"comp" time—in lieu of overtime for certain public agency employees and to provide other clarifications in the application of that act to employees and volunteers for State and local governments.

The Labor Subcommittee, which I chair, held a 3-day hearing on the impact of the Supreme Court's ruling in Garcia versus San Antonio Metropolitan Transit Authority on State and local governments. This ruling upheld the 1974 congressional extension of the FLSA to these public agencies. The financial impact on State and local governments was disputed by the parties but one theme seemed to dominate the hearings. That message was that both State and local government employees and employers liked the use of comp time and did not want to lose it as an option. This bill restores comp time while providing some reasonable restraints on its use.

In addition, there was concern over the treatment of volunteers under the FLSA. The joint employment concept under FLSA presented similar problems to State and local governments. The bill addresses these areas and provides clarity.

The bill we are considering today is different from the bill I originally introduced and represents a compromise among the affected parties. In my opinion, it is an extremely fair balance among all of the competing interests. I am pleased that this compromise retains the support of the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the National Conference of State Legislators, the AFL-CIO, and the Fraternal Order of Police. I ask unanimous consent that copies of letters from these organizations be printed in the RECORD.

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

OCTOBER 9, 1985.

Hon. DON. NICKLES,
Hon. HOWARD METZENBAUM,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS: The National Association of Counties, National Conference of State Legislators, National League of Cities and United States Conference of Mayors commend you both for the leadership you have shown in resolving the difficulties faced by state and local governments across the nation as a result of the Supreme Court's decision in the *Garcia* v. *the San Antonio Mass Transit Authority* case.

The legislation you have introduced, S. 1570 as amended, the Nickles-Metzenbaum bill, provides a solution to the problems created by *Garcia* which is balanced and equitable for all parties. It maintains the principles of the Fair Labor Standards Act and at the same time recognizes the special circumstances faced by public employers and public employees.

Be assured that you have the strong support of all of our organizations for your bill and that we will provide whatever assistance is needed to achieve its passage in its current form.

Sincerely,

JOHN J. GUNTHER,
Executive Director, U.S. Conference of Mayors.
MATT COFFEY,
Executive Director, National Association of Counties.
ALAN BEALS,
Executive Director, National League of Cities.
EARL MACKEY,
Executive Director, National Conference of State Legislators.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, October 10, 1985.

Hon. DON NICKLES,
Hon. HOWARD METZENBAUM,
Subcommittee on Labor, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS: On behalf of the AFL-CIO, I want to express our support for the revised version of S. 1570. Your joint efforts to obtain the approval of the full Committee are appreciated.

In the AFL-CIO's judgment, S. 1570, as revised, reflects a balanced approach that resolves the questions raised by the U.S. Supreme Court's decision in *Garcia* v. *San Antonio Metropolitan Transit Authority*. The bill preserves the integrity of the Fair Labor Standards Act which is so vital to the interests of employees while addressing the concerns of public employers.

The AFL-CIO will provide whatever assistance is needed to achieve passage of the bill in its current form.

Sincerely,

RAY DENISON,
Director, Department of Legislation.

STATEMENT OF RICHARD A. BOYD, NATIONAL PRESIDENT, FRATERNAL ORDER OF POLICE, 171,000 MEMBERS IN 42 STATES.

The Fraternal Order of Police, the nation's largest law enforcement organization, supports the amended version of the Nickles/Wilson S. 1570. Due to the tough, down in the trenches work of Senator Nickles, public employee organizations and public employer groups came together to work out an acceptable alternative to the current language of the Fair Labor Standards Act, as interpreted by the U.S. Supreme Court, to allow public agencies to reduce their financial liability in the payment of overtime compensation. This proposed compromise then met the scrutiny of Senate staff, representing the varied views of their respective U.S. Senators and their jurisdictions.

What everyone has come up with is a bill which incorporates most of the problems experienced by public employees and public employers alike. Specifically, law enforcement received most of what it asked of the Congress:

1. Public employees will not be removed from the guarantees of overtime compensation under the Fair Labor Standards Act (FLSA);

2. Public employees will be given pay or compensatory time off, based on a collective bargaining agreement, or the recognized past practice of the agency as of April 1986;

3. Overtime pay, and overtime compensatory time off, will be earned at the premium rate; 1.5X;

4. There is a 480 hour cap on accumulated compensatory time, so if an employee reaches that limit, the employer is either going to have to pay or give the time off; but this is not to say that an employee cannot ask for the time off prior to the maximum accumulation, and that employee will receive the time off as it can best be scheduled; and

5. Takes public agencies out of any requirement to pay overtime to the officer working an extra job, even if that job is required security by the agency.

Of course, in any compromise, there are things which public employees did not ask for, none of which, in the spirit of this working compromise, will hold up support of the Fraternal Order of Police.

The Fraternal Order of Police across this nation, and myself personally, thank U.S. SENATOR DON NICKLES for his work on this important proposal. Without Don Nickles the legislation would not be at this stage, because he alone, and his capable staff, established the tone for PUBLIC EMPLOYEES and PUBLIC EMPLOYERS alike. We think that this legislation will pass the test of Congress and the scrutiny of the President.

Mr. NICKLES. Mr. President, I wish to thank Senator METZENBAUM for his assistance in negotiating this final bill and Senator WILSON for his help in focusing attention on the problems resulting from the Garcia decision. The administration has also provided invaluable assistance both in negotiating this bill and in facilitating its passage.

It is my understanding that the House of Representatives will consider legislation very similar to S. 1570 on Monday, October 28, 1985. I hope that a final bill can be agreed to by both the House and the Senate and sent to the President before November 1, 1985, the day the Department of Labor will begin enforcing the FLSA as it applies to State and local governments. It is also my hope that a conference will not be necessary and that differences in the two versions can be resolved in the same spirit of cooperation that has prevailed so far.

Mr. President, again I really do wish to thank my colleagues who have had the willingness to work with us in trying to resolve these issues. Senator METZENBAUM and his staff have worked long and hard. Senator STAFFORD and his staff have had a good deal of input. Senator WILSON was instrumental in bringing this issue to the forefront in the Senate. I compliment them. I believe, together, we have been able to come up with a positive package. I hope that the Senate will adopt the conference report tonight.

Mr. METZENBAUM. Mr. President, I am pleased to be a principal cosponsor of the Fair Labor Standards Public Employee Overtime Compensation Act of 1985. State and local governments across the country have expressed serious budgetary concerns in having to comply with the overtime provisions of the FLSA ever since the Supreme Court—in its Garcia decision issued in February of this year—reinstated the FLSA amendments of 1974. The budgetary problems faced by public employers could affect millions of taxpayers, forcing them to endure a loss in vital public services, or a burdensome increase in taxes, or both. For months, we all have been aware that this potential fiscal crisis cried out for the attention of Congress.

At the same time, it is equally clear to me that 7 million State and local government employees deserve the protection of the FLSA. That protection has been afforded to workers in the private sector since the new deal, and to employees of the Federal Government since 1974. State and local employees should not be treated as second class citizens.

This bill, which reflects the considerable efforts of many individuals, represents a fair and equitable compromise. I am very pleased that Senator NICKLES and I, along with other committee members, were able to develop a piece of legislation which is both responsive to the concerns of affected groups and responsible from the vantage point of the public at large. I wish to thank Senator NICKLES and his staff for their fine work in helping to craft a bill that accommodates the interests of all sides. The bill is in many respects a textbook example of how the legislative process should work.

It is significant that this compromise has been enthusiastically endorsed by the National League of Cities, the U.S. Conference of Mayors, the National Associations of Counties, and the National Conference of State Legislators. These public employer groups have praised the bill as "provid[ing] a solution to the problems created by Garcia which is balanced and equitable for all parties. It maintains the principles of the Fair Labor Standards Act and at the same time recognizes the special circumstances faced by public employers and public employees." The AFL-CIO has praised the bill in similar terms, stating that it "Preserves the integrity of the Fair Labor Standards Act which is so vital to the interests of employees while addressing the concerns of public employers."

I also consider it significant that the bill vindicates the Supreme Court's faith in the role of Congress as a cornerstone of our Federal system of government. As expressed by the Garcia court, our Constitution contemplates that the proper protection for the sovereign interests of States and their political subdivisions lies not in directives issued by the Federal Judiciary but rather in the give-and-take of our federal system—especially the role of the States and cities in the political process. In responding to the concerns expressed so strongly by public employers, we have confirmed that the political process works, and works in the responsible fashion envisioned by our Founding Fathers.

The bill, S. 1570 as amended, will give State and local governments the flexibility they need to operate without going into the red. By negotiating with their employees for compensatory time in lieu of overtime pay. At the same time, by requiring that compensatory time be made available at the premium rate and that employees be able to use, preserve or cash out this time under appropriate conditions, the bill provides public employees with meaningful FLSA protections for any overtime worked. The bill also creates flexibility for public employers and employees in other areas, such as volunteer services and joint employment. Finally, by deferring enforcement of the FLSA overtime provisions until April 15, 1986—1 year after the Garcia decision—the bill provides ample time for State and local governments that have not already done so to achieve full compliance with the requirements of the law.

In addition to the work done by Senator NICKELS and his staff, I also would like to thank Senators KENNEDY, MATSUNAGA, PELL, and STAFFORD, who were influential in resolving this matter constructively at the committee stage.

Mr. President, the Secretary of Labor has made it clear that he will

enforce the FLSA with respect to State and local government employees beginning on November 1, unless Congress acts to modify the requirements of the act. It is imperative that this bill—which has the support of both parties and all major affected groups—reach the President's desk in time to become law prior to November 1. I am gratified that the bill is being approved promptly in this Chamber, and I hope that it receives the same expedited review and approval in the House of Representatives.

Mr. President, this legislation is going to pass, I would guess, unanimously or, if not unanimously, almost unanimously. And it will pass on the basis that it has been agreed upon after a Herculean effort by the staff of Senator NICKLES, my own staff, and the staffs of others who have been previously mentioned.

Were that not to be the case, you might be assured of the fact that this would be a knock-down, drag-out battle on the floor of the Senate, because we had here a situation where, in the Garcia decision, the Court provided that public employees of State, counties, and cities were entitled to be paid overtime under the Fair Labor Standards Act. So the local governmental agencies suddenly recognized that they were faced with a retroactive obligation to their employees which could run up into the millions of dollars.

The question then came before us: Well, how do we handle a matter of that kind? How do we get the employees to agree? How do we get the unions that represent them to agree and how do we get the States, counties, and municipalities to agree?

I am proud of the fact that, through the efforts of Senator NICKLES, myself, and others, we have come to that agreement which is more particularly spelled out in the legislative proposal. I will not burden the Senate with the specifics of that understanding, but I will say to my colleagues that it very well might have been otherwise. I believe it is a tribute to the fact that we can legislate when necessary, we can move forward in a positive way when necessary, and we need not always find ourselves in the position of bickering or differing over details.

In this instance, we have agreed upon the result. It is a good result. I hope that there will be a unanimous vote for the result that has been achieved.

Mr. THURMOND. Mr. President, I commend Senator WILSON, who first brought this matter up, and I joined him on a bill. I also wish to commend Senator NICKLES, and I joined him on a bill.

In my opinion, I think the Garcia decision was an unfortunate decision, because it required overtime pay when policemen and firemen worked overtime, whereas before they could give compensation time, time off. I think that was a good arrangement. It worked well.

But since this Garcia decision was handed down, it was a question of whether we were going to try to reverse it entirely or reach a compromise, as has been done here. I think it is unfortunate that we have to reach this compromise, because this is going to work a hardship on some of the counties and some of the cities.

On the other hand, it seemed it might have been a drawn-out affair here and we might not get anything done. In view of that, I am willing to go along with this compromise that has been reached here and worked out chiefly by Senator NICKLES and Senator METZENBAUM. I hope the Senate will see fit to pass it.

Again, I wish to pay my respects deeply to Senator WILSON, who did such a fine job on this, and congratulate Senator NICKLES and Senator METZENBAUM.

Mr. WILSON. Mr. President, first let me express my gratitude for the very gracious tribute from my friend from South Carolina, the senior Senator, Senator THURMOND. Let me also commend Senator NICKLES, the distinguished chairman of the subcommittee, for shepherding this legislation through his subcommittee and through the full committee chaired by our friend, the Senator from Utah, Mr. HATCH.

Mr. President, I am going to be something of a wet blanket, because I am not able to say that this is a statesmanlike compromise. I am not criticizing for one moment any of those that participated in it, certainly not Chairman NICKLES.

But I must tell you that while this is an improvement over what would occur were there no such legislation—and a significant improvement—it is still but half a loaf. It, by no means, corrects Congress' terrible transgression committed many years ago when we passed the overtime provisions of the Fair Labor Standards Act. A decade ago, Mr. President, the Supreme Court of the United States, in a correct decision, the Usery decision, told Congress that we had been guilty of terrible overreaching, in flagrant derogation of the 10th amendment. We had decided that we would act as a city council for the cities of America and that we would substitute our judgment for theirs as to how they should budget their resources.

Unhappily, Mr. President, recently a member of the majority on that Court woke up and, for no apparent reason, changed his mind and we have a five to four reversal of the Usery decision in the Garcia decision. The effect of that is we have been told to mandate State and local governments to pay overtime in cash. It knocks out what had been the almost universal and successful practice of State and local government in paying what is called comp time, compensatory time, off in lieu of cash.

We have come to this compromise, Mr. President, for two reasons: First, the municipal employee unions recognized that a great many of their people, particularly the safety members, policemen and firemen, very much preferred having the option of comp time, compensatory time, off because in many cases they needed it and desired it far more than cash. Second, they awakened to the terrible financial burden that would have been visited upon State and local governments across this land. Literally hundreds of millions of dollars annually would have been expended for no additional service. And the fact is it would have imposed upon State and local governments the terrible choice as to whether they would increase taxes substantially to maintain exactly the same level of service or, failing to do that, would suffer a marked reduction in the level of service that they provided to their citizenry. That was the reason that the municipal employee unions sought to enter into this compromise.

But, of course, what we have not dwelt upon, Mr. President, is the fact that their pound of flesh in this was that they are now guaranteed, by a statutory guarantee, that the right of overtime will not be what it is as the result of collective bargaining. No, the irony is that they have eschewed collective bargaining in favor of a statutory guarantee that it will be at time and one-half. Now, the result of that, Mr. President, is, of course, that those same State and local governments will receive some degree of relief under this compromise, but that they will still experience significant added costs as a result, not of the Garcia decision, but as a result of this statutory guarantee.

What has happened in the past, Mr. President, is that State and local governments, particularly those operating under revenue limitations who are unable to raise taxes, have bargained collectively with their employees.

They have in most instances agreed to pay some overtime in cash, most of them at time and one-half. Some have agreed that they would pay compensatory time off, some at time and one-half, and others lacking those resources have agreed that after a certain point they would give compensatory time off at the rate of so-called straight time—a day off for a day worked, an hour for an hour.

Mr. President, the reason that the State and local governments have agreed to this compromise is very simply because they had no choice. The municipal employee unions had

them over a barrel because we are facing a deadline, a deadline of November 1. That is the drop-dead date upon which the Department of Labor is required to implement new regulations under the Court decision in the Garcia case.

Mr. President, I suggest that this compromise is going to come back to haunt those who have struck this hard bargain because they are going to find out that as State and local governments face the unpleasant fiscal reality of having to accommodate this legislation, it is going to result in precisely what I described earlier, the unpleasant choice between reducing service and increasing taxes.

In those jurisdictions where they may not increase taxes, as in my home State of California, they have no choice. They will simply reduce services, or to avoid it, they will allocate from other desirable programs moneys for their support so that they can maintain even more essential services of police and fire protection. But what they will undoubtedly do is avoid overtime like the plague because they simply will be unable to afford it. That means they will reduce the level of service. What it means, in addition to the employees, is that they will seek ways to reduce their force levels. There will be people who lose jobs as a result of this legislation. That is unfortunate not only for the employees but obviously for the citizens who depend upon them for essential services.

Mr. President, one day a new court, a court sworn to uphold the Constitution including the amendments to it, will recognize that the 10th amendment should not be treated by the Congress as a dead letter. They will in fact say that it is their prerogative, in fact their duty, to honor not just the spirit but the letter of the law as expressed in the 10th amendment, and give it the kind of protection from the Congress that it has not had certainly in this decision.

I only hope that there will be a very few employees who lose their employment because of this legislation. I hope that no tragedy will occur as a result of reductions in service levels by State and local government. And I hope that one day, Mr. President, not only the Supreme Court but the Congress of the United States once again recognizes that the 10th amendment was a mandate to reserve to the States those powers not specifically delegated under the Constitution to this Federal Union. It is a rather central proposition. It is not just ironic. It is a bitter irony that we are ignoring that mandate.

Mr. President, I do not celebrate this as a triumph. I commend the good, hard work by Chairman NICKLES and by others who have sought to make the best of a very bad situation. They have taken this situation and forged a compromise that will in fact, to be fair, provide significant relief but it is a significant way from what should have occurred. There should be total exemption for State and local governments from the operation of the Federal Fair Labor Standards Act in this area of overtime.

So congratulating Chairman NICKLES on his hard work, I look forward to the day when we can really set right this miscarriage of justice, and this flagrant disregard of the 10th amendment to the U.S. Constitution. I am not going to ask for a rollcall, Mr. President, because like those who have spoken before, for the reasons that I have indicated, I hope that this measure passes. I do not wish to engage in the kind of irresponsibility that would result if we pass November 1 without this action. I would love to have that knock-down, drag-out fight that my friend from Ohio talked about. But frankly, it is a luxury that we cannot afford. We simply cannot require the State and local governments and those citizens whom they serve to experience the tremendous financial burden, and the loss of services that would otherwise ensue if we were to go forward, allow the Garcia decision to become law, and to govern the operation of State and local governments.

Mr. President, I thank my colleagues for their patience. This is a night on which we are seeking to do the business as expeditiously as possible, but I have taken these minutes of my colleagues' time because I guess it is clear I speak from deep conviction about this. I spent 5 years in State government, 11 as the mayor of a large city bargaining collectively in good faith with municipal employees. That process worked, Mr. President. It would work again if Congress would keep its hands off. We have no business intruding in this area. We should not have passed the first instance that provision of the Fair Labor Standards Act that seeks to set wages by statute rather than by collective bargaining.

Mr. President, I thank the Chair.

Mr. MATSUNAGA addressed the Chair.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I again want to commend my good friend and colleague from California. The Senator speaks with conviction. The Senator has spoken with me and other Senators off and on on this issue. As former mayor of the city of San Diego, the Senator has had personal, firsthand experience on administering city affairs and has dealt with some of these issues firsthand. I think the contribution of the Senator has been very, very significant to this legislation.

I might just quickly say that the bill does provide many benefits. We do offer the flexibility for State and local governments to offer compensatory time off in lieu of overtime having to be paid for only by cash. The comp time is calculated at time and a half. And one of the major, most important things is we have an effective date of April 15 of next year. So we basically eliminate all the potential liability which is in the billions. We also exempt volunteers, which is extremely important for all the cities, all the counties, and all the States. So it is a very significant piece of legislation, one that I think will help.

Mr. President, we have over 50 cosponsors.

Also, I ask unanimous consent that Senator CHAFEE and Senator LAUTENBERG be added as cosponsors.

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

PUBLIC EMPLOYMENT COVERAGE UNDER THE FAIR LABOR STANDARDS ACT

Mr. KASTEN. Mr. President, I rise in support of the legislation before us today which will address a serious situation for public employers and employees throughout the Nation. This carefully crafted compromise will relieve State and local governments and their employees from the inflexible overtime pay requirements of the Fair Labor Standards Act [FLSA] and ensure the continuation of vital community services across America.

There are few in this body who have not heard about the devastating potential of the Supreme Court's decision on Garcia versus San Antonio Metropolitan Transit Authority. In that ruling, the court determined that State and local governments, which were traditionally exempt from the maximum hours provisions of FLSA, must comply with those provisions by April 15, 1985. Department of Labor enforcement of the new pay requirements was to begin on October 15 of this year.

The "Garcia" ruling would prohibit public employers from allowing its employees to use compensatory time in lieu of overtime pay. It would require overtime pay for regular employees as well as volunteers.

In effect, this decision would require that public employees receive overtime pay instead of comp time whether they want it or not. Likewise, volunteers who perform community services would have to be paid overtime whether they want it or not. This situation is particularly troubling for employees who prefer or even require the flexibility of comp time to meet their particular needs. It is no more desirable to volunteers who might be prevented from participating in the community due to the added costs of their services. It is ironic that the new pay requirements designed to benefit public

workers may actually work to their disadvantage.

The impact of the pay provisions on financially strapped State and local governments is equally troubling. One conservative estimate sets the cost of the "Garcia" requirements at $12 million a year for the State of Wisconsin. Consider, for example, an estimated cost of at least $4 million in additional costs a year for Wisconsin State government. Or about $1.5 million more per year for the city of Milwaukee, and roughly $200,000 a year for the city of Oshkosh. The list goes on and on for jurisdictions from one end of the State to the other.

Ultimately, what the new pay requirements mean are increased costs to taxpayers or outright elimination of jobs and crucial commmunity services. The greatest irony of the "Garcia" requirements is that they fly in the face of collective bargaining and limit the employees' ability to negotiate agreeable work benefits.

Fortunately, Secretary Brock delayed implementation of the overtime pay requirements until November 1. This means Congress has time to address the ruling before it goes into effect. But we must act quickly to avert a potentially disastrous situation for State and local governments and their employees.

Mr. President, I believe that the measure we are considering today effectively addresses the needs of public employers and employees and works to the advantage of both. This legislation allows compensatory time in lieu of overtime at time and a half rates, up to 480 hours per year. This will allow workers with erratic work periods more flexibility in meeting their needs. Along with the elimination of retroactive payments, it provides State and local governments more financial breathing room.

This legislation also exempts volunteers from the overtime pay requirements. In addition, it allows public employees to work part time or as volunteers for the same employer in a different capacity with only the primary job counting toward overtime due. These two provisions will resolve major legal tangles for State and local governments and ensure the continuation of numerous community services.

It is important to note that this measure will not exempt State and local government from any other provisions of the FLSA such as minimum wage requirements, the Equal Pay Act or child labor prohibitions.

As a cosponsor of S. 1570, the original bill to address the problems resulting from the Garcia decision, I am pleased that we now have the opportunity to act on this compromise package. I know that many would have preferred some changes in the compromise package, such as comp time in lieu of overtime at an equal time exchange rate. But we must recognize that these provisions were carefully crafted over a series of long, difficult negotiations. To undo a thread of this compromise could unravel the entire package.

Mr. President, I believe that this package resolves some critical State and local issues and it does so in a fair and equitable manner. I urge my colleagues to join in support of this bill for the benefit of State and local employers and employees and taxpayers throughout the Nation.

Mr. SYMMS. Mr. President, I want the RECORD to show that I oppose S. 1570 as amended and reported by the Committee on Labor and Human Resources.

What is before us today as a compromise is, in reality, a major defeat for America's cities and municipalities and most importantly for our Constitution.

On July 15, I joined Senator WILSON in introducing S. 1434, a bill to amend the Fair Labor Standards Act [FLSA] of 1938 to exclude the employees of States and their political subdivisions from the provisions of that act relating to maximum hours. On August 1, I joined Senator NICKLES, the chairman of the Labor Subcommittee, Senator WILSON, and others as an original cosponsor of a similar measure designed to overturn a Supreme Court decision, *Garcia* v. *San Antonio Metropolitan Transit Authority* 105 S.Ct. 105, February 19, 1985, which my fellow cosponsors and I termed "disastrous." Senator NICKLES said on that day:

I am convinced that Federal intrusion into the employer-employee relationship at the State and local level is totally unwarranted.

As introduced, this measure heeded the cries and outrage of our cities' officials who were faced with one of the most preposterous reversals in case law ever handed down by our Supreme Court. In 1984, following *Maryland* v. *Wirtz* 392 U.S. 183, 1968, Congress moved to extend Fair Labor Standards Act [FLSA] coverage to virtually all State and local government employees. In 1976, however, the Supreme Court ruled that this congressional action could not withstand constitutional muster. In *National League of Cities* v. *Usery* 426 U.S. 833, 1976, the Court held that the Commerce Clause did not empower Congress to enforce the FLSA requirements against the States "in areas of traditional government functions." 426 U.S. at 852.

National League of Cities was a victory for the States, for our cities, and for the 10th amendment to the Constitution. Mr. President, as my colleagues are well aware, the 10th amendment reserves to the States all powers "not delegated to the United States by the Constitution, nor prohibited by it to the States." I cosponsored the original version of this bill because I had faith that when the Supreme Court, in which "The Judicial Power of the United States—is—vested * * *," neglected to read the 10th amendment, my colleagues in this Congress would heed the call of States rights.

I have always believed; and believe even more so in the present instance, that Congress must act to protect States rights and restore meaning to the words of the 10th amendment. As reported by the Committee on Labor and Human Resources, S. 1570 does nothing to protect these rights and for that reason, I cannot support this legislation.

I appreciate the statement of Assistant Attorney General for Civil Rights, William Bradford Reynolds, who testified before Senator NICKLES subcommittee regarding the impact of Garcia. I will not attempt to summarize his remarks, but I want to quote from two sections of Mr. Reynold's testimony for the benefit of those Senators who have not focussed in the constitutional questions associated with the Garcia decisions.

The decision essentially reads the Tenth Amendment out of the Constitution as an effective limitation on the power of Congress to regulate the states under the Commerce Clause. . . . The Court's decision goes beyond the misinterpretation of an isolated constitutional provision; it misapprehends the fundamental role of the states in our system of government. . . . [States] are now held as nothing more sovereign than ordinary private entities when Congress seeks to flex the awesome muscle of its power to regulate commerce.

By recognizing the states' sovereignty and preserving their ability to govern, we better secure our ultimate goal of political liberty for all Americans through decentralized government. Let there be no mistake on one point, however. The Administration does not advocate "states' rights" in any narrow negative sense; we advocate states' responsibilities. And in the vast majority of the cases; state and local governments have managed their affairs in a fully responsible fashion by reaching agreements with their workers, by providing services to their citizens at costs acceptable to their taxpayers, and by securing justice for their inhabitants.

While the damage to judicial application of the Constitutional doctrine of federalism caused by Garcia will likely remain until the Supreme Court can be persuaded to remedy it, the Court's reliance upon Congress as the sole bulwark against federal encroachments means that the direct, practical harm of the Garcia holding can be undone by legislation. Even if not constitutionally required to do so, Congress should for sound policy reasons preserve to state and local governments the authority they need to manage their own affairs.

Mr. President, under the original version of S. 1570, this Congress could have shown that it can be the "sole bulwark against Federal encroachments." This compromise bill is perhaps the best example of Congress' inability to restrain its ever-increasing power to interfere. This essentially new bill extends FLSA coverage to tra-

ditional employees of State and local governments, an extension which the language of the 10th amendment, given any meaning at all, clearly prohibits.

With the decision by both Houses of Congress to follow this path, and with the political fallout much too weighty for even the strongest objector to work against this so-called "compromise," I can only ask: Are there any powers which remain the exclusive domain of State governments and have not been unsurped by the Federal Government? The answer, Mr. President, in light of the Court's ruling and the passage of this bill, is a resounding no.

I do not want to close without complimenting the diligent efforts of my good friends Senator NICKLES and Senator WILSON. These men had the courage to act immediately to introduce the original versions of this legislation. Like me, they believe the language of the 10th amendment has meaning today just as it had meaning nearly 200 years ago. I am pleased to have worked with them in this battle to protect our cities and municipalities from the disastrous effects of the Garcia decision.

Mr. HATCH. Mr. President, I rise in support of S. 1570, as amended. I want to commend Senator NICKLES for his diligence in bringing us this compromise measure. Without his perseverance, and leadership, as chairman of the Senate Labor Subcommittee, we may not have been able to provide adequate relief to State and local governments which are currently struggling to provide essential public services to citizens with limited resources.

I do, however, wish to express my continuing concern that coverage of State and local government employees in the Fair Labor Standards Act is beyond the limit of necessary Federal intervention in the affairs of States and localities under the 10th amendment. The bill we are considering today does not fully address this concern. I do not want my support for this bill to be construed as approval of the FLSA provision it modifies, or of the Court's acceptance of it in Garcia. This is not a question of protecting worker rights. This is a question of defining the proper responsiblities of the Federal Government.

Nearly every State has a labor standards statute of its own. If States had wanted State and local government employees to have time and a half for overtime instead of compensatory time, they could have authorized it. Both Congress and the Supreme Court should take another look at the constitutional aspects of the Garcia decision lest we allow it to make federalism a thing of the past.

It is my hope that the States, counties, cities, and townships which participated in the making of this legislation will not be satisfied with only the economic relief provided in this bill. If they do not challenge the underlying basis for the Garcia decision they will be abdicating their own political prerogatives as members of a union of States in exchange for what could be only the temporary easing of financial hardship.

I am supporting the compromise proposal because it is necessary to prevent the taxpayers in every single city in America from suffering reduced services and higher taxes to pay for burdensome, federally imposed requirements. These is no question that immediate action by the Congress is essential before the Department of Labor begins enforcement of mandated overtime pay regulations on November 1, 1985, less than 2 weeks away. Even though I believe this is an incomplete solution to the issue, and the principle of federalism deserves to be held up in this debate, prudence suggests that we should go forward with the legislation.

I appreciate the cooperation that has been exhibited on this matter by the members of the Labor and Human Resources Committee, particularly Senators NICKLES, STAFFORD, PELL, METZENBAUM, and our very fine legislative staffs. The bill, S. 1570, represents a true bipartisan compromise. I also wish to commend the efforts of Senator WILSON in effectively dealing with this issue and his help in bringing this bill to the floor.

Once again, I urge the expeditious enactment of this measure.

Mr. FORD. Mr. President, I had intended to offer an amendment to this bill, similar to the language of a bill I have introduced in the last two Congresses, which would exempt State law enforcement officials from provisions of the Age Discrimination in Employment Act [ADEA] dealing with mandatory retirement.

Since 1947, Congress has recognized the need for early retirement benefits for Federal law enforcement personnel and has provided special early retirement benefits to those Federal employees whose duties are primarily investigating, apprehending, or detaining persons suspected or convicted of committing Federal crimes. These Federal employees include personnel in the Bureau of Prisons, the FBI, the Internal Revenue Service, the Immigration and Naturalization Service, the Secret Service, the Customs Service, and the Postal Service. Congress has consistently maintained that the need for early retirement policies for these employees has been to improve and maintain the quality, efficiency, and productivity of Federal law enforcement activities.

Similarly, State law enforcement agencies have long recognized early retirement as necessary to attracting and maintaining a quality force capable of physically and emotionally meeting the hazards of the job. However, in recent years, the EEOC, under provisions of the ADEA, have brought suit against several States, including Kentucky, challenging early retirement policies. Most recently, the Supreme Court reviewed this issue in the case of Johnson against Mayor and City Council of Baltimore in which it held that the age 55 retirement age for Federal firefighters does not represent a determination by Congress that age 55 is a bona fide occupational qualification [BFOQ] to the requirements of ADEA. This decision, and a subsequent decision in Western Airlines against Criswell jeopardizes the ability of our States and communities to structure retirement policies which meet their specific needs.

The amendment that I sought to offer to this legislation, S. 1570, would have attempted to deal with this growing problem. However, I recognize that this bill represents the result of long and tedious negotiations between the primary sponsors, my distinguished colleague from Oklahoma, Senator NICKLES, and my distinguished colleague from Ohio, Senator METZENBAUM, and any move to amend it might jeopardize the good work they have done in reaching a consensus on a response to another Supreme Court decision in Garcia against San Antonio Metropolitan Transit Authority.

In order to accommodate my colleagues, I have agreed not to offer my amendment at this time, with the understanding that the chairman of the Labor Subcommittee, Senator NICKLES, will hold hearings on this important issue early next year. The good Senator has been most accommodating to me, and I appreciate his consideration of my request, and I thank him for his courtesy.

Mr. NICKLES. Mr. President, I appreciate the words of the Senator from Kentucky and I am grateful to him for not pressing his amendment at this time. We have worked long and hard to arrive at the bill before us, and any attempt to amend it at this time could derail the agreement we have reached.

I share the Senator's concern that it is time to address this issue and as chairman of the Labor Subcommittee, I have agreed to schedule a hearing on this matter next year. I thank my colleague from Kentucky, Senator FORD, for withholding his amendment, and I look forward to working with him on this issue.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I think we all want to proceed forward promptly to a vote, but because there were some comments made by the dis-

tinguished Senator from California that might cause some to have a misunderstanding of the facts, I think it is important that we point out that there is nothing in the Fair Labor Standards Act, nor anything in the court decision that would provide for the setting of wages. All Congress did was provide that they have to pay time and a half over 40 hours. What happened was about 10 years ago the courts said that was not applicable to public employees. More recently, in February 1985, the court reversed itself and said it was applicable to all employees. If it is applicable to all employees, therefore, they are entitled to time and a half compensation.

What Congress is doing in this effort is we are not legislating what people are going to get paid. We are trying to make it possible to amend the law so that law passed maybe almost 50 years ago, which has been interpreted by the courts to mean to be applicable to State and county and other public employees, will not create an unreasonable burden on the State, counties, and municipalities.

We are not saying that something is new. This is not anything new. This is a matter of ameliorating a problem that exists. You say that Congress should not involve itself in a matter of this kind, that we ought not to be involved and let collective bargaining take place.

I do not have to spell it out for my colleague from California that there are many employees who do not have a collective bargaining agent, and, therefore, there is a concern about them.

The fact is at this instant, to the surprise of many of us, through the able efforts of many of our staffs as well as ourselves we were able to affect a compromise, a compromise that the public bodies and the public employees are all satisfied with.

I would have hoped that the Senator from California would be on the floor recognizing that without this bill, without this legislation, there would be a very, very large burden placed upon the public bodies of this country. Because this legislation hopefully will be signed into law before November 1, that will not occur. Therefore, rather than be critical, I think he might very well have been in the position, having been a former mayor, to say that we have provided this, and the representatives of all the State, county, local and municipal employees are saying this is a great solution. I am sorry that the former mayor of San Diego in this instance does not see fit to join the chorus. If he feels strongly that he wants to vote no, of course, this is his privilege, but I think an eloquent result has been obtained and I am sorry he does not see it that way.

Mr. WILSON. Mr. President, it is true, and I think I have indicated that already, that without this legislation a far greater burden would befall the cities and States of this Nation. But if the Senator from Ohio wonders why I do not join in declaring victory, it is because of the numerous mayors I have talked to, not just in my own State but all across the country who say, "It is the best we can get. We do not like it. It is going to cost us money but if we do not pass it, of course, it will cost us far more."

That is why I do not celebrate with the Senator. It is half a loaf, I hope, but it is a serious mistake. I must say that when Congress dictates that there will be premium overtime, time-and-a-half, that, in my judgment, is setting wages. We may not have set the scale, but we have said that whatever is overtime shall be guaranteed to be time-and-a-half whether it be in cash or compensatory time off.

I will tell you what people have told me, and that is that people in the State of Ohio as well as mine will suffer as a result because those charged with delivering service to them will be unable to deliver the same level of service without raising taxes or without reallocating resources. Many of them will not do it. They will take the way out of cutting service. There is simply no avoidance.

I must say that with respect to the universal joy described among those who participated in the bargaining process, that is an exaggeration as well. Frankly, I am not pleased at all with the performance of those who purported to represent the city and State governments. I do not think they did a very good job in bargaining. But to be fair, I will say that because of the November 1 deadline and the calamity that awaits them without some action, that, in fact, they were over a barrel.

I will have to tell him that if he is sorry I cannot join him in celebrating, I am sorrier than he is, but I would be a fool in celebrating this. It is a far better thing than would occur without it.

May I address a question to the distinguished chairman of the subcommittee?

Mr. President, the question I address is this: It is my understanding that the compromise which has been described in such glowing terms has been embodied in this legislation on the Senate side. However, I understand that in the markup on the House side some liberty has been taken with this compromise and that in addition to the 480-hour cap after which cash must be paid instead of compensatory overtime, on the House side they have amended the provision to include an 180-hour cap for other than safety employees. Is that correct?

Mr. NICKLES. If I understand the question, the Senator is exactly correct. In our bill that we have before us we do have a compensatory time bank of 480 hours. That is what I hope they will adopt in the House provision. We will be working with Chairman HAWKINS and other Members of the House, hoping they will adopt an identical bill to what we are passing at this time.

Mr. WILSON. I would only say if we are going to compromise, I expect it to be honored in the other body as well, both in terms of a possible conference or in terms of a bill coming to us from the House. I think we should make clear to the House that we are going to honor the compromise and not allow amendments to it that derogate that number.

Mr. NICKLES. I appreciate the Senator's comments and we will do the best we can to keep the 480 figure.

Mr. WILSON. I am not talking about that figure. I am talking about an entirely different provision, that anything contained in the compromise that relates to nonsafety employees being assigned the 180-hour cap.

Mr. NICKLES. The Senator is correct. We will do everything we can to keep all employees at the 480-hour cap and not have a separate category for others.

Mr. MATSUNAGA. Mr. President, as a cosponsor of the proposed amendment and as a member of the Subcommittee on Labor, I rise in strong support of the proposal.

As a member of the subcommittee I sat in on the hearings and had occasion to confer with mayors and Governors. I must give due credit and I must commend both the chairman of the subcommmittee and the ranking member of the subcommittee for having worked up this compromise.

Having been in the intitial negotiations, I think what we have here is something which I myself never expected to come before the Senate. I had expected a bloody battle on the floor if the bill had come in the form in which it was first introduced.

Concerning the statements of the Senator from California, rather than having the ruling go into effect on November 1, we have a date here that this act will take effect April 15, which means that States, cities, counties, and municipalities will have a period of 5½ months to make the adjustments rather than immediately having to comply with the decision arrived at here this evening.

So I join in commending the two managers of the measure and I am in strong support of it.

Mr. METZENBAUM. Mr. President, I do want to acknowledge publicly the assistance that Senator MATSUNAGA and his staff have given us in connection with this matter. He was very much involved in this entire issue and we are grateful for his support along the way as well as his support this evening.

I also wish to have printed in the RECORD two letters, both of which are directed to Senator NICKLES and myself, one of which says:

The National Association of Counties, National Conference of State Legislators, National League of Cities, and United States Conference of Mayors commend you both for the leadership you have shown in resolving the difficulties faced by state and local governments across the nation as a result of the Supreme Court's decision in the *Garcia v. the San Antonio Mass Transit Authority* case.

That is signed by the executive director of each of those agencies.

Then we have another letter, also addressed to both of us, which says:

On behalf of the AFL-CIO, I want to express our support for the revised version of S. 1570. Your joint efforts to obtain the approval of the full committee are appreciated.

I ask unanimous consent that both of these letters be printed in the RECORD in their entirety.

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

October 9, 1985.

Hon. DON NICKLES,
Hon. HOWARD METZENBAUM,
Committee on Labor and Human Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS: The National Association of Counties, National Conference of State Legislators, National League of Cities, and United States Conference of Mayors commend you both for the leadership you have shown in resolving the difficulties faced by state and local governments across the nation as a result of the Supreme Court's decision in the *Garcia v. the San Antonio Mass Transit Authority* case.

The legislation you have introduced, S. 1570 as amended, the Nickles-Metzenbaum bill, provides a solution to the problems created by *Garcia* which is balanced and equitable for all parties. It maintains the principles of the Fair Labor Standards Act and at the same time recognizes the special circumstances faced by public employers and public employees.

Be assured that you have the strong support of all of our organizations for your bill and that we will provide whatever assistance is needed to achieve its passage in its current form.

Sincerely,

JOHN J. GUNTHER,
Executive Director, U.S. Conference of Mayors.
MATT COFFEY,
Executive Director, National Association of Counties.
ALAN BEALS,
Executive Director, National League of Cities.
EARL MACKEY,
Executive Director, National Conference of State Legislators.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
October 10, 1985.

Hon. DON NICKLES,
Hon. HOWARD METZENBAUM,
Subcommittee on Labor, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS: On behalf of the AFL-CIO, I want to express our support for the revised version of S. 1570. Your joint efforts to obtain the approval of the full committee are appreciated.

In the AFL-CIO's judgment, S. 1570, as revised, reflects a balanced approach that resolves the questions raised by the U.S. Supreme Court's decision in Garcia v. San Antonio Metropolitan Transit Authority. The bill preserves the integrity of the Fair Labor Standards Act which is so vital to the interests of employees while addressing the concerns of public employers.

The AFL-CIO will provide whatever assistance is needed to achieve passage of the bill in its current form.

Sincerely,

RAY DENISON,
Director, Department of Legislation.

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

Mr. BUMPERS. Mr. President, are we under a time agreement?

Mr. METZENBAUM. We are through. We are ready to vote.

Mr. BUMPERS. I commend the Senator from Ohio and the Senator from Oklahoma for their work on this matter in the subcommittee. I am certainly impressed with the letters of the Senator from Ohio to all the Members who will be affected by this. I have answered perhaps as much mail on this issue ever since the Garcia decision was rendered as on any item I can think of.

I was wondering if the subcommittee did any computations on what the total cost of this is in excess, for example, of what the cost would have been had the Garcia decision never been rendered.

Mr. NICKLES. To respond to the question, there is a variety of estimates that have been floating around. the figure we heard that is more prevalent than anything is, if we did not address the Garcia decision, we were probably talking of in excess of $3 billion per year that would go to the cities, counties, and States. Again, those estimates are hard to compute, but that is in the ball park.

Mr. BUMPERS. Can the Senator tell me how much that figure would be reduced by passing this bill, assuming the House accepts it as it is?

Mr. NICKLES. Again, it is hard to calculate and I would be trying to pull a figure from the air, but since we have allowed the option of comp time, there is no question in my mind that we have saved well over, I am going to say over two-thirds, because when we allowed the comp time option and we have eliminated the past liability. Also, we have allowed and have exempted volunteers and the volunteer category is impossible to calculate. But its effect economically would be dramatic.

Mr. METZENBAUM. Will the Senator yield to me?

Mr. NICKLES. I am happy to yield.

Mr. METZENBAUM. I might say the CBO advised us that most of the expenses which otherwise would have been incurred by reason of the Garcia decision have been alleviated by reason of this amendment. I am sorry I cannot define more accurately for the Senator what CBO means by "most," but I think my own guesstimate would be that it is somewhere between 66⅔ percent and 90 percent because it makes possible the use of comp time which otherwise would not be possible. I think the comp time will pretty much cover almost all of the expenses.

Mr. McCLURE. Will the Senator yield on that point?

Mr. BUMPERS. Yes, I am happy to yield.

Mr. McCLURE. I do not mean to prolong this debate, but I think we ought to get the facts on the table. The only way comp time reduces the cost is by elimination of services because it means people who would otherwise be on the job providing services are permitted time off. Either you eliminate services that way or you hire somebody else to perform the service while the person is taking the comp time off.

Mr. METZENBAUM. Mr. President, I point out to my colleague that there is lots of time taken off where people do not fill in for the time taken off. If he wants to check the facts, he can just look in his own office, my office, or Senator NICKLES' office. People do take time off and the same people at other times also work overtime. This is a way to see that it does not provide a financial burden.

Mr. NICKLES. Will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. NICKLES. I thank the Senator from Arkansas.

Just to give a little different answer to the question of the Senator from Idaho, to give an example, the city police force in Tulsa, OK, right now offers comp time at time-and-a-half or pay at time-and-a-half. The Garcia decision said, no, you cannot do that, you have to pay cash. The Garcia decision was going to cost the city more money. Now we are allowing them to have the option that we had before at no additional cost to the city. We are just giving them that flexibility.

Mr. President, I had mentioned when I took the floor that I thought this would take just a few minutes. That is one of the ways I was able to interject this amendment at that time. I hope we can conclude this in short

order and I can somewhat keep my commitment to our majority leader.

Mr. BUMPERS. We can finish it up from my standpoint by just answering one more question.

Prior to Garcia, in a case, for example, where a State trooper worked 60 hours a week in the past—for example, in my State, we had a comp time rule where he got an additional 20 hours off at some time and he was not paid time-and-a-half for that extra 20 hours he put in. As I understand it, what the Senator from Oklahoma just said is that that will be the sense of the rule here. He will be entitled to time-and-a-half pay, but it can also be paid with comp time as it was in the past if comp time were recomputed at time-and-a-half rates. Is that correct?

Mr. NICKLES. The Senator is correct, comp time would be computed at time-and-a-half so if he worked 20 extra hours, he would receive 30 hours of comp time.

Mr. BUMPERS. That certainly ought to reduce the cost of this dramatically. That has been the primary concern of my State, county, and city officials. I am going to vote for this and I thank the Senators again for it. It answers what is obviously a knotty problem. It may not be the best of all possible worlds but it will help the counties in my State, who are already so hard hit by the loss of revenue sharing and what may be perhaps a loss from the deductibility of state and local taxes.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senators WALLOP and HOLLINGS be added as cosponsors.

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

The question is on agreeing to the amendment.

The amendment (No. 881) 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. DOLE. Mr. President, I am pleased to support this legislation and I commend the efforts of the Senator from Oklahoma, Senator NICKLES, and others who have worked so hard to bring this much-needed relief to our States and communities.

I have heard from many Kansas officials over the past few months who are truly desperate for an alternative to the Garcia decision. Those officials have shown me their budgets, their current levels of service and, finally, the impossible financial burdens they would suffer under the recent Supreme Court ruling.

It is doubtful that many of us would question the need for Fair Labor Standards Act [FLSA] wage and hour standards in most work situations, but it is clear that the unique services provided by local, county, and State governments do not reasonably conform to the requirements of the FLSA. In many small communities, emergency services are provided by a handful of people—too few to maintain a 24-hour state of readiness. It is unrealistic to expect that personnel in that sort of circumstance can work 8 hours and call it a day. That would mean drastically reduced protection in the event of a real emergency. Few localities could afford to comply with FLSA requirements without the necessary revisions provided by the proposed legislation.

In my view, this is a sensible, uncomplicated solution to what might otherwise be a disastrous situation for our States and communities. I can sympathize with the view that we should not exempt government employees from a wage-and-hour standard that is almost universally applied in the private sector, but I believe that providing the option of comptime will adequately address the somewhat unique requirements of public service. This legislation will ensure that public sector employees—and those who rely on their service—will be treated fairly.

Mr. President, on behalf of the many Kansans who are looking to the Congress for a solution to their dilemma, I sincerely hope that my colleagues in the Senate will see fit to pass the legislation that is now before us.

Mr. BINGAMAN. Mr. President, I rise in support of S. 1570, the Fair Labor Standards Public Employee Overtime Compensation Act. The enactment of this legislation is a necessary response to the U.S. Supreme Court's decision in Garcia versus San Antonio Metropolitan Transit Authority. The Court in Garcia held that the 10th amendment provides no protection for State and local governments from Federal regulation under the Fair Labor Standards Act [FLSA], thereby making State and local government employees eligible for overtime compensation.

The Garcia decision will have significant consequences for State and local governments. The immediate impact of the decision is to impose unanticipated costs and extreme administrative burdens on these governments. The amendment offered today will provide State and local governments the flexibility they need to operate, while providing public employees with premium compensation for any overtime worked. It also excludes volunteers from the definition of the term "employee."

I am deeply concerned about the immediate burden on State and local taxpayers of hundreds of million of dollars in FLSA compliance costs if we do not pass this amendment. The greatest cost and most significant burden on government will be paying time and a half for overtime instead of providing compensatory time off for overtime hours worked.

I commend the distinguished Senators from Oklahoma and Ohio, Senators NICKLES and METZENBAUM, for their efforts to resolve the difficulties faced by State and local governments across the Nation as a result of the Supreme Court's decision in Garcia. After much negotiation a workable compromise was reached in the form of this legislation. It has been praised by the U.S. Conference of Mayors, the National Association of Counties, the National League of Cities, and the National Conference of State Legislators, as well as the AFL-CIO.

The bill modifies the overtime provisions of FLSA to make compensation time available in lieu of overtime pay for employees of State and local governments. Under this legislation, public works could be compensated for overtime in time off, rather than cash, if provided in collective bargaining agreements or individual agreements between employers and employees. Such compensation, however, must be at a rate of time and one-half for each overtime hour worked. Employees could bank up to 480 hours of compensating time, and they must be allowed to use their compensatory time within a reasonable period of requesting it, as long as the employer's operation is not unduly disrupted. The legislation would be effective April 15, 1986, thus allowing States and local governments ample time to comply with the stated regulations.

The compensatory time system, in contrast to the FLSA system of time and a half pay for overtime, recognizes the need for public employees to work flexible schedules. For example, forest firefighters or State legislative staff may be required to work round the clock for days and weeks during peak periods of paid leave. The compensatory time system, thus, balances the seasonal and unpredictable nature of the work with the need to maintain a trained, organized, and stable work force. This system will also save States millions of dollars in comptime pay, and therefore will not restrict the capacity of State and local governments to effectively provide public services and respond to emergencies.

Mr. President, I believe this bill embodies an extremely workable compromise which must be approved. It recognizes the financial hardships to cities and counties in avoiding these costs, but it also protects the rights of employees to be compensated for overtime. I applaud the work of the Labor Committee in reaching this agreement and I urge my colleagues to support the measure as amended.

Thank you, Mr. President.

Mr. QUAYLE. Mr. President, I am proud to be a cosponsor of S. 1570, a

bill to amend the effect of the recent Supreme Court decision in Garcia versus San Antonio Metropolitan Transit Authority. This bill, introduced and expertly sheparded to the floor by my distinguished colleague from Oklahoma, Senator DON NICKLES, has prevented municipal disasters that almost certainly would have resulted from the impact of the decision in Garcia.

Senator NICKLES instantly understood the threat that Garcia presented to State and local governments, especially in this time of severe economic constraints. He put his finger in the dike, and by doing so he prevented not only a flood of lawsuits, but he saved States and local governments from being inundated by excess overtime payments, or from having to convince their residents to pay extra taxes to support the same level of services as they had enjoyed in past years.

Mr. President, the fact of the matter is, the Garcia decision would have had a very unfortunate impact on the State of Indiana. Town mayors and county officials have been burning my ear about what the Garcia decision will do to their budgets this year. Indiana municipalities are worried about budgeting for thousands of dollars more than they had planned for. This bill will allow them to stay within their budget because it permits State and local governments to give employees 1½ hours of compensatory time off for each hour of overtime worked. Those employees will be covered by the Fair Labor Standards Act, but their employers will have the option to reward their employees who work overtime with compensatory time off rather than be required to pay penalty wages.

In addition to permitting State and local governments to use compensatory time off in lieu of paying overtime, S. 1570 will exempt volunteers, such as firefighters, from coverage, even if the volunteers are paid expense money. State and local legislative employees, except library employees would be exempted from coverage. This bill will also, nullify pending lawsuits against the States or municipalities. Finally, the bill provides that firefighters and law enforcement employees who voluntarily do part-time work different from their regular jobs will be considered as working two separate jobs. Thus, hours worked at the second job would not be counted toward the overtime limit at the main job. This provision is intended to cover, for example, a firefighter who also works at a community youth center.

This bill is the result of an agreement worked out between labor unions representing public employees and public employer organizations such as the National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties. The International City Management Association estimated that the costs of compliance with the Garcia decision would be more that $1 billion per year. Other groups have estimated in the $2 to $4 billion range. The city of Indianapolis has estimated that an additional $400,000 will be needed to maintain services if the Garcia decision is permitted to stand unchanged. Shelbyville, IN, will have to pad its budget by $50,000 to comply. In Zionsville, an extra $15,000 would be needed to cover the cost of police and street department overtime. In Carmel, an additional $15,000 for police and another $15,000 for firefighters would be needed to comply with Garcia. In Lebanon, IN, an extra $7,000 is planned for police and fire overtime payments and in Martinsville, the city's budget will have to be increased by $33,700 to comply with the Garcia decision. I can go on and on about the letters and the phone calls I have received about this Supreme Court decision, and I feel certain that my colleagues can do the same.

Again, I am delighted to support S. 1570, I know that my colleagues will join me in supporting this bill that was reported out of the Labor and Human Resources Committee unanimously.

I would like to note that, by passing this bill in a timely fashion, the Senate will have beaten the November 1, 1985, deadline, the date on which Secretary Brock has promised the Congress that he will begin enforcing the Department of Labor's regulations with respect to State and local employees. I understand that the Education and Labor Committee has reported its bill, H.R. 3530. I am told that they plan to go to the House floor next week. Because the two bills are very similar, I hope that the conference report will be considered quickly and the bill will be on the President's desk by November 1, 1985. Again, I commend Senator NICKLES for his leadership during this emergency.

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

The bill was ordered to be engrossed for a third reading and to be read a third time.

The bill was read the third time.

Mr. McCLURE. Mr. President, I do not think there is any opportunity for a rollcall vote. The only thing left is to register our opinion. I take this time to say I think it is a bad compromise and I am opposed to it.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass.

So the bill (S. 1570) as amended was passed as follows:

S. 1570

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

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Fair Labor Standards Amendments of 1985".

(b) REFERENCE TO ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Fair Labor Standards Act of 1938.

COMPENSATORY TIME

SEC. 2. (a) COMPENSATORY TIME.—Section 7 (29 U.S.C. 207) is amended by adding at the end the following:

"(o)(1) Employees of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency may receive, in accordance with this subsection and in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this section.

"(2) A public agency may provide compensatory time under paragraph (1) only—

"(A) pursuant to—

"(i) applicable provisions of a collective bargaining agreement, memorandum of understanding, or any other agreement between the public agency and representative of such employees; or

"(ii) in the case of employees not covered by subclause (i), an agreement or understanding arrived at between the employer and employee before the performance of the work; and

"(B) if the employee has not accrued compensatory time in excess of the limit applicable to the employee prescribed by paragraph (3).

In the case of employees described in clause (A)(ii) hired prior to April 15, 1986, the regular practice in effect on April 15, 1986, with respect to compensatory time off for such employees in lieu of the receipt of overtime compensation, shall constitute an agreement or understanding under such clause (A)(ii). Except as provided in the previous sentence, the provision of compensatory time off to such employees for hours worked after April 14, 1986, shall be in accordance with this subsection.

"(3)(A) No overtime compensation in the form of compensatory time off may be accrued by any employee of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, in excess of 480 hours for hours worked after April 15, 1986. Any such employee who, after April 15, 1986, has accrued 480 hours of compensatory time off shall, for additional overtime hours of work, be paid overtime compensation.

"(B) If compensation is paid to an employee for accrued compensatory time off, such compensation shall be paid at the regular rate of compensation earned by the employee at the time the employee receives such payment.

"(4) An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon termination of employment, be paid for the unused compensatory time at the regular rate of compensation earned by the employee at the time the employee receives compensation for overtime.

"(5) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency—

"(A) who has accrued compensatory time off authorized to be provided under paragraph (1), and

"(B) who has requested the use of such compensatory time,

shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

"(6) For purposes of this subsection—

"(A) the term 'overtime compensation' means the compensation required by subsection (a), and

"(B) the term 'compensatory time' or 'compensatory time off' means hours during which an employee is not working and which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employees regular rate.".

(b) EXISTING COLLECTIVE BARGAINING AGREEMENTS.—A collective bargaining agreement which is in effect on April 15, 1986, and which permits compensatory time off in lieu of overtime compensation shall remain in effect until its expiration date unless otherwise modified, except that compensatory time shall be provided after April 14, 1986, in accordance with section 7(o) of the Fair Labor Standards Act of 1938 (as added by subsection (a)).

(c) LIABILITY AND DEFERRED PAYMENT.—(1) No State, political subdivision of a State, or interstate governmental agency shall be liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 7 or 11(c) (as it relates to section 7) of such Act occurring before April 15, 1986, with respect to any employee of the State, political subdivision, or agency who would not have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in sections 775.2 and 775.4 of title 29 of the Code of Federal Regulations.

(2) A State, political subdivision of a State, or interstate governmental agency may defer until August 1, 1986, the payment of overtime compensation under section 7 of the Fair Labor Standards Act of 1938 for hours worked after April 14, 1986.

SPECIAL DETAILS, OCCASIONAL OR SPORADIC EMPLOYMENT, AND SUBSTITUTION

SEC. 3. (a) SPECIAL DETAIL WORK FOR FIRE PROTECTION AND LAW ENFORCEMENT EMPLOYEES.—Section 7 (29 U.S.C. 207) is amended by adding after subsection (o) (added by section 2) the following:

"(p)(1) If an individual who is employed by a State, political subdivision of a State, or an interstate governmental agency in fire protection or law enforcement activities (including activities of security personnel in correctional institutions) and who, solely at such individual's option, agrees to be employed on a special detail by a separate or independent employer in fire protection, law enforcement, or related activities, the hours such individuals was employed by such separate and independent employer may be excluded by the public agency employing such individual in the calculation of the hours for which the employee is entitled to overtime compensation under this section if the public agency—

"(A) requires that its employees engaged in fire protection, law enforcement, or security activities be hired by a separate and independent employer to perform the special detail,

"(B) facilitates the employment of such employees by a separate and independent employer, or

"(C) otherwise affects the conditions of employment of such employees by a separate and independent employer.".

(b) OCCASIONAL OR SPORADIC EMPLOYMENT.—Section 7(q) (29 U.S.C. 207), as added by subsection (a), is amended by adding at the end the following:

"(2) If an employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency undertakes, on an occasional or sporadic basis and solely at the employee's option, part-time employment for the public agency which is in a different capacity from any capacity in which the employee is regularly employed, the hours such employee was employed in performing the different employment may be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(c) SUBSTITUTION.—(1) Section 7(p) (29 U.S.C. 207), as amended by subsection (b), is amended by adding at the end the following:

"(3) If an individual who—

Is employed by a public agency which is a State, political subdivision of a State, or interstate government agency,

agrees, with the approval of the public agency and solely at the option of such individual, to substitute during scheduled work hours for another individual who is employed by such agency in the same activities, the hours such employee worked as a substitute may be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(2) Section 11(c) (29 U.S.C. 211(c)) is amended by adding at the end the following: "The employer of an employee who performs substitute work described in section 7(p)(4) may not be required under this subsection to keep a record of the hours of the substitute work.".

VOLUNTEERS

SEC. 4. (a) DEFINITION.—Section 3(e) (29 U.S.C. 203(e)) is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting in lieu thereof "paragraphs (2), (3), and (4)", and

(2) by adding at the end the following:

"(4)(A) The term 'employee' does not include any individual who is a volunteer for a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, if (i) the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and (ii) such services are not the same type of services which the individual is employed to perform for such public agency.

"(B) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency may volunteer to perform services for any other State, political subdivision, or interstate governmental agency, including a State, political subdivision or agency with which the employing State, political subdivision, or agency has a mutual aid agreement.".

(b) REGULATIONS.—Not later than March 15, 1986, the Secretary of Labor shall issue regulations to carry out paragraph (4) of section 3(e) (as added by subsection (a) of this section).

(c) CURRENT PRACTICE.—If before April 15, 1986, the practice of a public agency was to treat certain individuals as volunteers, such individuals shall until April 15, 1986, be considered, for purposes of the Fair Labor Standards Act of 1938, as volunteers and not as employees. No public agency which is a State, a political subdivision of a State, or an interstate governmental agency shall be liable for a violation of section 6 occurring before April 15, 1986, with respect to services deemed by that agency to have been performed for it by an individual on a voluntary basis.

STATE AND LOCAL LEGISLATIVE EMPLOYEES

SEC. 5. Clause (ii) of section 3(e)(2)(C) (29 U.S.C. 203(e)(2)(C)) is amended—

(1) by striking out "or" at the end of subclause (III),

(2) by striking out "who" in subclause (IV),

(3) by striking out the period at the end of subclause (IV) and inserting in lieu thereof ", or", and

(4) by adding after subclause (IV) the following:

"(V) is an employee in the legislative branch or legislative body of that State, political subdivision, or agency and is not employed by the legislative library of such State, political subdivision, or agency.".

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall take effect April 15, 1986. The Secretary of Labor shall before such date promulgate such regulations as may be required to implement such amendments.

EFFECT OF AMENDMENTS

SEC. 7. The amendments made by this Act shall not affect whether a public agency which is a State, political subdivision of a State, or an interstate governmental agency is liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 6, 7, or 11 of such Act occurring before April 15, 1986, with respect to any employee of such public agency who would have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in section 775.3 of title 29 of the Code of Federal Regulations.

DISCRIMINATION

SEC. 8. An employee of a public agency who asserts coverage under the Fair Labor Standards Act of 1938 between February 19, 1985, and April 14, 1986, shall be accorded the same protection against discharge or discrimination as is available under section 15(a)(3) of the Fair Labor Standards Act of 1938.

The title was amended so as to read:

"A bill to amend the Fair Labor Standards Act of 1938 to provide rules for overtime compensatory time off for certain public agency employees, to clarify the application of that Act to volunteers, and for other purposes.".

Mr. METZENBAUM. I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

STATE, JUSTICE AND COMMERCE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1986

The Senate continued consideration of the bill.

The PRESIDING OFFICER. The question now occurs on the committee amendment to H.R. 2965.

The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I am first going to tell my colleagues what we are facing this evening. We are going to have, possibly, five rollcall votes unless there is a possibility that some of the amendments will be accepted thus ending rollcall votes.

Second, I want to say that we have an agreement of an informal nature to keep debate relatively short on all of these amendments. It is the intention of the managers to move first to an amendment—because we think it would be most efficient—to be offered by the Senator from North Carolina [Mr. HELMS] and the Senator from Colorado [Mr. ARMSTRONG] which relates to abortions in Federal prisons. I want to make it clear that the Senator from North Carolina has been most cooperative in saying that he would offer that amendment any time we wish and would be willing to agree to an informal time agreement or a formal one.

I suggest to my distinguished friend from South Carolina that it would be better if we had an informal agreement, because to get a unanimous-consent agreement cleared at this time might take more time than we have. And I inquire of both my friend from South Carolina and my colleague and friend from Ohio whether or not they believe we might be able to agree to an informal arrangement of about 20 minutes equally divided.

Mr. HOLLINGS. We do have on this side an amendment by the Senator from New York [Mr. MOYNIHAN], an amendment by the Senator from New Jersey [Mr. LAUTENBERG], an amendment by the distinguished Senator from Illinois [Mr. DIXON], and one other one, but let me yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. I would like to suggest to the distinguished manager of the bill that rather than an informal agreement, which I could not agree to, either as an informal or formal agreement, it might be more appropriate for the Senator from New Hampshire to offer a tabling motion which achieves the same objective in that it brings the matter to a close, but I could not agree to a time agreement.

Mr. RUDMAN. I want to say to my friend from Ohio, obviously you cannot get anything formally agreed so I was not suggesting anybody agree to it. I was simply suggesting informally that is precisely what I intended to do, I hope, that both sides would find 10 minutes would be agreeable prior to that motion. I do not see the Senator from North Carolina on the floor.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Illinois has an amendment relative to the personnel within embassies. His amendment admonishing the Department of State to use American nationals in these secure positions. I am looking at this amendment in the light of the Leahy-Cohen initiative about proportionately bringing down the number between the Soviet Embassy, and particularly the international facilities, and ours in the Soviet Union itself.

I yield to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 882

Mr. DIXON. Mr. President, I offer an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendent.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 882.

Mr. DIXON. 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:

SECTION . (a) The Congress finds that:

(1) there are more than 200 Soviet nationals employed at U.S. diplomatic posts in the Soviet Union;

(2) State Department officials have confirmed that most, if not all, of the Soviets report to the KGB in one way or another;

(3) retaining Soviets to work in our mission is an invitiation to easy espionage;

(4) the reports of radically increased Soviet use of the chemical compound NPPD, a known cancer causing agent, which is used to track Americans are alarming;

(5) NPPD may jeopardize the health and well-being of our diplomatic personnel and their families in the Soviet Union;

(6) the United States must strive continually to safeguard our foreign service officers and their dependents;

(7) Soviet citizens employed at our diplomatic posts in the Soviet Union pose greater risks to our national security than American citizens would; and

(8) reliable reports assert that Secretary of State Shultz endorses a plan to replace Soviets with Americans.

(b) it is the sense of the Congress that:

(1) the State Department should take steps to improve security and protect American lives at our Soviet missions by replacing the maximum number of Soviet citizens possible with Americans, at the earliest available opportunity; and

(2) the employment of a reduced number of Soviet nationals should be continued only if:

(A) such Soviet nationals do not pose a significant threat to the security of the United States;

(B) the employment of such Soviet nationals is necessary to provide usual and customary services to United States nationals, and the employment of a United States national as a replacement for such Soviet national would reduce to a significant extent the efficiency of operations at a United States diplomatic mission or consular post; or

(C) such Soviet nationals are employed in an occupation which precludes entry into the facilities of a United States diplomatic mission or consular post in the Soviet Union.

Mr. DIXON. My amendment is very simple, Mr. President. It states the sense of the Congress that the State Department should take steps to improve security and protect American lives at our Soviet missions by, among other things, replacing Soviet citizens with Americans at the earliest available opportunity.

There are more than 200 Soviet citizens working in our Moscow Embassy, and the State Department has confirmed that most, if not all, report to the KGB in one way or another. Most of the Soviets are in a position to spy on our diplomatic corps on a daily basis.

I am worried about that, Mr. President, and I think something needs to be done.

Hiring Soviets to work in our Embassy is an invitation to easy espionage. What really irritates me is the fact that the Soviets, as a general rule, do not hire Americans to work at their Washington and San Francisco missions. I believe it's about time we start playing the game by the same rules.

I am also alarmed by revelations of stepped-up Soviet use of the chemical compound NPPD, a tracking agent used on individuals under KGB surveillance. This chemical is a known cancer-causing agent, and it may jeopardize the health and well-being of our diplomatic personnel in the Soviet Union.

The United States asks a great deal from its Foreign Service officers. But, Mr. President, it is certainly a matter of extreme concern when KGB methods place American Foreign Service officers and their dependents at a significant health risk. And this is exactly what has happened in Moscow.

For these reasons, I offer this amendment today. In case anyone believes I intend to tie the Secretary's hands in knots with this amendment, let me state as plainly as I can—it just isn't so. First of all, a recent article in the New York Times states that the Secretary personally approved a plan to replace Soviets with Americans some months ago. Second of all, my amendment merely states the sense of the Congress—it doesn't force action on legal grounds. Third, the amendment specifically creates three different exemptions from the "hire American" policy:

If the Soviet citizen does not pose a significant threat to American security;

If the Soviet employee is necessary to provide usual and customary services to Americans, and an American replacement would greatly reduce efficiency at the Embassy; or,

If the Soviet worker is engaged in an occupation which precludes his or her entry into American diplomatic and consular missions in the Soviet Union.

There are probably more than 200 Soviet agents employed in our diplomatic mission in Moscow. This represents a threat to our national security, and it's a situation we should avoid. I believe we must focus more attention on Embassy security in the Soviet Union and Eastern-bloc nations. Several weeks ago, I introduced legislation, S. 1630, which is almost identical to this amendment, to do just that. We must pay greater attention to our Embassy security in Eastern-bloc nations. Reducing Soviet accessibility to American diplomatic and consular missions represents a step in the right direction.

Mr. President, this amendment has been cleared on both sides, with the majority and minority managers.

The PRESIDING OFFICER. The question occurs on the amendment.

Mr. RUDMAN. Mr. President, the amendment offered by the Senator from Illinois is acceptable on this side, I understand it has been cleared on the other side as well.

Mr. HOLLINGS. It has been cleared.

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

The amendment (No. 882) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 883

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 883.

Mr. McCLURE. 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:

Add at the end of the bill the following new Section:

"SEC. . (a) Since: the Communist government of the Union of Soviet Socialist Republics since it seized power in Russia on November 7, 1917, has never submitted its rule to the consent of the governed through free elections; has designated the anniversary of this seizure "Revolution Day" as a national holiday; has held power since November 7, 1917 only through unrestrained secret police terror, and an extensive network of forced labor Gulag camps; denies its subject Peoples the most basic human rights of free speech, free religion, free press, free assembly, free personal movement, and personal property; this Soviet repression has cost the Peoples of the Soviet Union tens of millions of deaths and has resulted in great damage to the culture, religion, and material well being of these Peoples; this repression violates the Universal Declaration of Human Rights and the 1975 Helsinki Final Act; the Soviet Union is actively seeking to subject other countries to the Communist system and is currently waging a genocidal war to subjugate the people of Afghanistan, making use of the most inhumane weapons of scientific barbarism against defenseless civilians, including the use of toxin weapons the possession of which is outlawed by international conventions to which the USSR is a signatory.

(b) Since: inexplicably, the annual "Revolution Day" message from the United States State Department on behalf of the American People congratulates the Communist Government of the USSR on its violent and undemocratic seizure of power on the anniversary of November 7, 1917; the annual message also congratulates the people of the Soviet Union on their ruler's seizure of power; such U.S. congratulations are displayed before the Soviet Peoples as a demonstration of the legitimacy of the Bolshevik Government in the eyes of the Democratic government of the United States of America and are perceived as the cruelest mockery of these Peoples:

(c) None of the funds appropriated by this Act shall be used in any fashion or manner whatsoever to continue the practice of the Department of State of congratulating or in any way referring to such an anniversary as a holiday or cause for celebration, the Soviet Union, the Communist Party of the Soviet Union, or the People of the Soviet Union on the anniversary of the Communist Revolution of 1917; provided further that the amounts appropriated by this Act for the Department of State shall be reduced by 10 percent on November 4, 1985 unless the Secretary of State shall have submitted before the date of enactment of this Act a report describing his plan for proclaiming the sympathy of the American People for the bondage of the enslaved Peoples of the Soviet Empire and the hope that they will soon recover their freedom and national integrity."

Mr. McCLURE. Mr. President, the U.S. State Department annually congratulates the Soviet Government and its captive peoples on the anniversary of the Communist seizure of power in Russia on November 7, 1917. This "Revolution Day" congratulation is made over the President's signature, and on behalf of the American people. But because the captive Soviet peoples have little to celebrate, it is totally inappropriate for the State Department to congratulate them or to help celebrate the Bolshevik Revolution.

The Soviet Government has never submitted its rule to the consent of the governed in free election. Since 1917, it has relied on secret police terror and forced labor Gulag camps to stay in power. It has killed millions of its subjects. A 1971 Senate Judiciary Committee Report entitled "The Human Cost of Soviet Communism," by the respected British historian Robert Conquest estimated a death toll of "nearly 35 million human lives as a minimum estimate and 45 million as a more probable estimate." Solzhenitsyn has estimated a total of 66 million murdered by the Soviet Communists since 1917. Today, nothing has changed. The Kremlin conducts a genocidal war in Afghanistan; it behaves as an international outlaw by attempting to assassinate the Pope and by shooting down KAL-007.

Why should the State Department consider the anniversary of the 1917 Bolshevik Revolution a matter for congratulation or celebration? How do the captive peoples of the U.S.S.R. react to the State Department's annual message of congratulation? Vladimir Bukovsky believes these cheers from the State Department are comparable to sending Jews congratulations on the anniversary of the founding of Hitler's Third Reich. Such congratulations are perceived as a cruel mockery by those peoples who resist, suffer, and perish at the hands of the barbarous Soviet totalitarian regime.

Mr. President, this amendment requires the State Department to stop congratulating the enslaved peoples of the Soviet Union on the anniversary of their bondage. The amendment instead requires a message to the Soviet peoples expressing the hopes of the American people for their eventual freedom. I urge my colleagues to support my amendment.

The amendment has been discussed with the managers on both sides of the aisle. I know of no objection to the amendment.

Mr. RUDMAN. Mr. President, we have looked at the language and find it agreeable.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DANFORTH. 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. RUDMAN Mr. President, I ask for consideration of the pending amendment.

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

The amendment (No. 883) was agreed to.

Mr. RUDMAN. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, I would now ask unanimous consent that the pending committee amendment be temporarily laid aside for the purposes of an amendment to be offered, I understand, by the Senator from North Carolina.

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

AMENDMENT NO. 884

Mr. HELMS. Mr. President, I thank the distinguished manager of the bill, I thank the Chair, and I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 884.

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

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

The amendment is as follows:

On page 24, between lines 21 and 22, insert the following:

"SEC. . None of the funds appropriated under this Act shall be used to pay for abortions for which Federal funds are not available under the Medicaid program (title XIX of the Social Security Act).".

Mr. HELMS. Mr. President, this amendment is cosponsored by the distinguished Senator from Colorado [Mr. ARMSTRONG].

This amendment adds a restriction against using funds appropriated under this bill for abortions. It is necessary because the Bureau of Prisons, under the jurisdiction of the Attorney General and the Justice Department, is now funding abortions among the inmates without any congressional restrictions.

In other words, the taxpayers are paying for abortion on demand in the Federal prison system.

Mr. President, this problem was brought to my attention when I received a letter from a constituent complaining about the abortion practices of the Bureau of Prisons. In light of past congressional action to stop Federal funding of abortion, I was surprised to learn that such funding was still going on.

According to information provided my office by the Medical Director of the Federal prison system, Dr. Robert L. Brutsché, abortions have been provided in Federal prisons as follows:

	Abortion elective	Spontaneous or therapeutic
Fiscal year:		
1984	33	8
1983	41	7
1982	21	5
1981	21	5
1980	14	9

It is further my understanding that for fiscal year 1985 the figures are not complete, but that incomplete figures indicate 37 elective abortions and 8 spontaneous or therapeutic abortions.

Mr. President, this classification is a little bit odd in that spontaneous abortions are lumped in with procured abortions. Obviously, spontaneous abortions, or miscarriages, are not the concern of those of us in Congress alarmed over the tax-funding of direct, procured abortion.

Mr. President, the Bureau of Prisons needs to be brought into conformity with the rest of the Federal Government on this matter of tax-funding of abortions. In the Medicaid Program, in health insurance for Federal employees, and in other areas, Congress has firmly established the principle that U.S. taxpayers are not going to be forced to pay for the deliberate termination of innocent human life with their tax dollars.

It is no less important that this principle apply in prisons than that it apply elsewhere. In every case, what is at stake is the same: an innocent unborn child with a God-given right to life.

Mr. President, the precise form of my amendment is as follows:

None of the funds appropriated under this Act shall be used to pay for abortions for which Federal funds are not available under the Medicaid program (title XIX of the Social Security Act).

This language has the effect of incorporating by reference the Hyde amendment which governs abortion funding restrictions under Medicaid.

Mr. President, the Hyde amendment has been the law since 1981 and was unanimously agreed to by the Senate on October 21 in connection with consideration of the Labor-HHS-Education appropriations bill for fiscal year 1986, H.R. 3424. I am hopeful that my pending amendment, incorporating this same Hyde amendment, will meet with similar approval today.

Mr. President, as someone who has taken an active interest in this Hyde amendment over the years, I now offer a few comments on it. These comments apply with equal force to the pending amendment inasmuch as it incorporates the Hyde amendment.

The motivation for the Hyde amendment—on the part of Congressman HYDE, myself, and others—has been a recognition that abortion takes the life of a living unborn child with a God-given right to life. Accordingly, our purpose has been and is to make sure that Federal taxpayers are never forced to participate with their tax dollars in the crime of taking innocent human life.

In the early years of the Hyde amendment debates, we were not successful—or we were only partially successful—in persuading Congress to go along with our view. Since June 1981 and the enactment of Public Law 97-12, however, we have been successful, and Congress has adopted the Hyde amendment undiluted.

This undiluted Hyde amendment language is the same as the language the Senate adopted on October 21 in connection with consideration of H.R. 3424. It is as follows:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Our specific intent in offering this language was and is to stop all taxpayer funding for abortion. At the same time, however, we have never sought to bar funding of medical procedures necessary to save the life of the mother where bona fide, physical life-threatening conditions occur in connection with pregnancy. That is why the exception clause has been included since 1981.

Given our general purpose and specific intent, the application of the Hyde amendment should always proceed on the basis that with every pregnancy there are two human lives involved, the mother and her unborn child—or fetus. "Child" and "fetus" are taken as being synonymous. Therefore, if exceptional cases occur where funding would be permitted, it is important that every reasonable effort be made to preserve not only the mother's life but also that of her unborn child. In other words, authorizing the funding of medical procedures to save the mother's life is not intended to sanction abandonment of the unborn child. In keeping with the principles embodied in the Hyde amendment, equal care should be extended to both the mother and child.

Mr. President, it is by no means clear that the Hyde amendment has been applied by the Department of Health and Human Services since 1981 with these understandings. I am hopeful that this situation will change, and that the Justice Department, should this amendment become law, will strictly enforce the Hyde amendment ab initio.

With respect to the life of the mother exception, we should not overlook the fact that with advances in modern obstetrics the cases of bona fide, physical life-threatening conditions for a mother in connection with her pregnancy are exceedingly rare.

Mr. President, I urge adoption of this amendment.

Mr. President, I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, there are many complex legal and cultural issues which swirl around the whole abortion controversy, but it seems to me that there is one central question. The central issue is whether or not the fetus is a living human being, a living though yet unborn human baby. That is the central question.

Over the years, a lot of Senators and others have wandered in and out of various intellectual cul de sacs, trying to explore legal issues. Whether you are for or against the Supreme Court, there are a handful of Senators, especially the Senator from North Carolina, who have consistently focused on the main question: it is a human life or is it not?

I congratulate the Senator from North Carolina for once again taking the lead in attempting to close one more loophole which has permitted Federal funding to be used for this surgical procedure which Congress has rightly and wisely decided should not be our normal practice.

The issue is simply one of human life. I think there are few who believe the fetus is a baby who object to legal protection for the unborn child. While recognizing the very strong presumption against interfering with the privacy and right of personal choice of individual women, few persons, perhaps none in this Chamber, who acknowledge the fetus is a baby would nonetheless object to legal protection for the unborn child. If, as advocates of antiabortion legislation contend, a fetus is a human being, it is very hard, it seems to me—impossible, logically—to dispute the claim that an unborn child is entitled to the same human compassion and legal protection afforded other human beings, particularly helpless and dependent humans.

Mr. President, that is the issue. It is an issue which the Senate has often considered before and wisely decided that we do not want to be in the business of funding the termination of human life.

So, Mr. President, as the evidence continues to mount—the moral evidence, the scientific evidence, the conviction in the human hearts of increasing numbers of people around the country—that it is wrong to perform abortions in almost all circumstances, perhaps in some rare circumstances, that it is morally wrong, it follows naturally that Congress would find increasingly that it is unwise and improper to fund abortions with taxpayer dollars.

I compliment the Senator from North Carolina for his amendment.

Prochoice advocates oppose antiabortion legislation because of their concern for the freedom of choice of the woman and, in most instances, precisely because they deny the humanity of the fetus which they view as prehuman or as having human potential. They do not agree that a fetus is a true human being in the normal sense and, therefore, they deny that the fetus, or unborn child, as prolife persons prefer to say, is entitled to either the compassion or legal protection accorded to true human beings.

To a large extent, the Supreme Court sidestepped this issue when it struck down State antiabortion statutes in the case of Roe against Wade. In that decision, the Court ruled that the 14th amendment right of personal privacy precludes the State from interfering with a woman's right to terminate pregnancy through abortion. The Court indicated that a fetus is not a "person" within the meaning of the 14th amendment and is, therefore, not entitled to constitutional protections. Significantly, however, the Court did not attempt to determine the humanity of the fetus nor to define when human life begins. The Court characterized this issue as "sensitive and difficult" and noted "wide divergence of thinking" on this question and that the judiciary "is not in a position to speculate as to the answer."

But for individual persons who must decide the moral permissibility of abortion and for the Congress, faced with a momentous policy issue, this fundamental question may not be avoided.

The exact instant at which life begins remains the subject of some disagreement. Not everyone would agree with Prof. Hymie Gordon, chairman of the Department of Medical Genetics at the Mayo Clinic who stated: "The question of when human life begins is an established fact. All life, including human life, begins at the moment of conception." However, it does appear that the great preponderance of evidence, as well as expert testimony and opinion, support Professor Gordon's view.

Dr. Francis A. Schaeffer, a leading philosopher and theologian, and Dr. C. Everett Koop, U.S. Surgeon General and well-known author in the field of medical ethics, have persuasively summarized the life-begins-at-conception argument:

THE GROWTH OF HUMAN LIFE

Our reasons against abortion are logical as well as moral. It is impossible for anyone to say when a developing fetus becomes viable, that is, has the ability to exist on its own. Smaller and smaller premature infants are being saved each year! There was a day when a 1000-gram preemie had no chance, now 50 percent of preemies under 1000 grams are being saved. Theoretically, there once was a point beyond which technology could not be expected to go in salvaging premature infants—but with further technological advances, who knows what the limits may be! The eventual possibilities are staggering.

The logical approach is to go back to the sperm and the egg. A sperm has twenty-three chromosomes; even though it is alive and can fertilize an egg, it can never make another sperm. An egg also has twenty-three chromosomes, and it can never make another egg. Thus, we have sperm that cannot reproduce and eggs that cannot reproduce unless they get together. Once the union of a sperm and an egg occurs and the twenty-three chromosomes of each are brought together into one cell that has forty-six chromosomes, that one cell has all the DNA (the whole genetic code) that will, if not interrupted, make a human being.

Our question to a pro-abortion doctor who would not kill a newborn baby is this: "Would you then kill this infant a minute before he was born, or a minute before that, or a minute before that, or a minute before that?" At what point in time can one consider life to be worthless and the next minute precious and worth saving?

Having already mentioned the union of sperm and egg to give forty-six chromosomes, let us briefly review the development of a baby. At twenty-one days, the first irregular beats occur in the developing heart, long before the mother is sure she is pregnant. Forty-five days after conception, electroencephalographic waves can be picked up from the baby's developing brain.

By the ninth and tenth weeks, the thyroid and the adrenal glands are functioning. The baby can squint, swallow, and move his tongue. The sex hormones are already present. By twelve or thirteen weeks, he has fingernails; he sucks his thumb and will recoil from pain. His fingerprints, on the hand which have already formed, will never change throughout his lifetime except for size. Legally, it is understood that an individual's fingerprints distinguish him as a separate identity and are the most difficult characteristic to falsify.

In the fourth month the growing baby is eight to ten inches long. The fifth month is a time of lengthening and strengthening. Skin, hair, and nails grow. Sweat glands come into being; oil glands excrete. This is the month in which the mother feels the infant's movements.

In the sixth month the developing baby responds to light and sound. He can sleep and awaken. He gets hiccups and can hear the beat of his mother's heart. Survival outside the womb is now possible. In the seventh month the nervous system becomes much more complex. The infant is about sixteen inches long and weighs about three pounds. The eighth and ninth months see a fattening of the baby.

We do not know how anyone who has seen the remarkable films of the intrauterine development of the human embryo can still maintain that the product of an abortion consists of just some membranes or a part of the woman's body over which she has complete control—or indeed anything other than a human life within the confines of a tiny body. At the very least we must admit that an embryo is not simply an extension of another person's body; it is something separate and uniquely irreplaceable. Another good reason we should not view the unborn baby as an extension of the woman's body is that it did not originate only from the woman. The baby would not exist without the man's seed.

We are convinced that the reason the Supreme Court decision for abortion-on-demand never came to grips with the issue of the viability of the human fetus is that its viability (that is, ability to live outside the womb on its own) is really not the important point.

Viable or not, the single-celled fertilized egg will develop into a human being unless some force destroys its life. We should add that biologists take the uniform position that life begins at conception; there is no logical reason why the pro-abortionist should try to arrive at a different definition when he is talking about people, the highest form of all biological creatures. After conception, no additional factor is necessary at a later time. All that makes up the whole adult is present as the ovum and the sperm are united—the whole genetic code!

The reasoning of Dr. Schaeffer and Dr. Koop seems to me not only solid and convincing but also directly pertinent to the Roe against Wade decision. In that case, the Court held that only a "compelling State interest" could justify limiting a woman's 14th amendment right to abortion. The "compelling" point with respect to the State's interest in the potential life of the fetus "is at viability." Following viability, the State's interest permits it to regulate and even proscribe an abortion except when necessary, in appropriate medical judgment, for preservation of the life or health of the mother.

The Schaeffer-Koop observations about medical viability are especially impressive in view of Dr. Koop's vast experience and expertise. He is the former surgeon-in-chief of the Children's Hospital in Philadelphia where the entire surgical center is named in his honor. A pacesetter in the field of pediatric surgery, Dr. Koop has developed many new and highly successful procedures in surgery on the newborn. He is a well-known author in the field of medical ethics and the founder and editor-in-chief of the Journal of Pediatric Surgery.

If doubt yet remains, the strong pro-life presupposition of heritage strenuously argues for resolving doubt in favor of caution and restraint when human life is at stake. And so on this point I must agree with the Schaeffer-Koop observation that:

We do not know how anyone who has seen the remarkable films of the intrauterine development of the human embryo can still maintain that the product of an abortion consists of just some membranes or a part of the woman's body over which she has conplete control—or indeed anything other than a human life within the confines of a tiny body.

In brief, Mr. President, it is plain to me that a fetus is a human life and that willful termination of that life, except under compelling circumstances to the contrary is per se, morally wrong. Whether or not it is a proper subject for legislation, however, is an entirely separate question which I would like to briefly address at this time.

Recognizing the great diversity of our Nation and the divergence of opinion about this controversial issue, as well as our longstanding tradition of State jurisdiction in such matters, a strong case can be made against Federal intrusion in his area. Our Federal system leaves to the States vast areas of complete independence. The States define, adjudicate and punish most crimes; protect the safety, welfare, and property of their citizens; establish licensing standards for physicians, lawyers, and other professional persons; regulate health and provide education. Indeed, the States provide the legal framework within which most of life's day-to-day activity takes place, More to the point, State law, not national law, governed abortion until the Roe against Wade decision of 1973.

Unfortunately, however, Roe against Wade has precisely the effect of overruling the States and recasting the abortion controversy as a truly national issue for the first time. On purely legal grounds, the Supreme Court's decision is highly questionable. In his dissent, Justice White termed the Court's action "an exercise in raw judicial power" and "an improvident and extravagant exercise of the power of judicial review." Pointing out the impropriety of overturning long standing State statutes, as a matter of constitutional interpretation, Justice White observed:

At the heart of the controversy in these cases are those recurring pregnancies that pose no danger whatsoever to the life or health of the mother but are nevertheless unwanted for any one or more of a variety of reasons—convenience, family planning, economics, dislike of children, the embarrassment of illegitimacy, etc. The common claim before us is that for any one of such reasons, or for no reason at all, and without asserting or claiming any threat to life or health, any woman is entitled to an abortion at her request if she is able to find a medical advisor willing to undertake the procedure.

The Court for the most part sustains this position: During the period prior to the time the fetus becomes viable, the Constitution of the United States values the convenience, whim or caprice of the putative mother more than the life or potential life of the fetus; the Constitution, therefore, guarantees the right to an abortion as against any state law or policy seeking to protect the fetus from an abortion not prompted by more compelling reasons of the mother.

With all due respect, I dissent. I find nothing in the language or history of the Constitution to support the Court's judgment. The Court simply fashions and announces a new constitutional right for pregnant mothers and, with scarcely any reason or authority for its action, invests that right with sufficient substance to override most existing State abortion statutes. The upshot is that the people and the legislatures of the 50 States are constitutionally disentitled to weigh the relative importance of the continued existence and development of the fetus on the one hand against a spectrum of possible impacts on the mother on the other hand. As an exercise of raw judicial power, the Court perhaps has authority to do what it does today; but in my view its judgment is an improvident and extravagant exercise of the power of judicial review which the Constitution extends to this Court.

The Court apparently values the convenience of the pregnant mother more than the continued existence and development of the life or potential life which she carries. Whether or not I might agree with that marshalling of values, I can in no event join the Court's judgment because I find no constitutional warrant for imposing such an order of priorities on the people and legislatures of the States. In a sensitive area such as this, involving as it does issues over which reasonable men may easily and heatedly differ, I cannot accept the Court's exercise of its clear power of choice by interposing a constitutional barrier to state efforts to protect human life and by investing mothers and doctors with the constitutionally protected right to exterminate it. This issue, for the most part, should be left with the people and to the political processes the people have devised to govern their affairs.

Many legal scholars share Justice White's skepticism about Roe against Wade. But whatever one may think of the legal scholarship on which this decision rests, it remains the law of the land. With the States preempted, what was formerly an issue of State jurisdiction must now be considered at the national level even for the minimal purpose of restoring State jurisdiction by overturning Roe against Wade. This is exactly the purpose of Senate Joint Resolution 3.

A second objection to antiabortion legislation is the oft-repeated contention "you can't legislate morality." At one level, this notion is demonstrably true. Human nature does not seem to change from one millennia to the next; despite legislative intervention, character flaws which humans exhibit today are not noticeably different from those observed at the dawn of history.

Nonetheless, the purpose of much legislation is precisely to make moral judgments—in effect, to legislate morality. Laws are the means by which civilized societies protect and foster that which is right and forbid what is wrong. Underlying legal prohibitions against murder, theft, fraud, and perjury are moral judgments. It is the collective decision of society that such actions are wrong. Murder, fraud, perjury, and the like are deemed not merely inconvenient, untimely, or useless, but actually wrong in the sense that they violate fundamental principles upon which our civilization rests.

As Russell Kirk points out:

At the heart of every culture is a body of ethics, of distinctions between good and evil.

Within the Judeo-Christian heritage, the sanctity of life is among the foremost of values cherished by civilized persons and nations. Protection of human life has traditionally been recognized as one of the paramount functions of government within a civilized society. Indeed, history largely judges prior civilizations by the extent to which human life is valued and protected.

Nonetheless, critics who contend that "you can't legislate morality" have a point. The human impulse to

brutalize and exploit other human beings remains just below the surface in even the most civilized persons and societies.

What is significant, however, is the extent to which wise legislation can curb the expression of such impulses. Legislation implementing moral judgments ended slavery, protect freedom of speech, publication, and worship, assure voting rights, and so forth.

This is not to say that every moral judgment ought to be the subject of legislation. On the contrary, Congress and the States are wise to exercise restraint in making fundamental changes based on moral judgments.

Moral issues are, by their very nature, highly emotional. Debates that disturb the spiritual and ethical foundations of a person's concept of the purpose and meaning of life arouse powerful passions, and it is our experience that decisions reached in highly emotional circumstances are decisions that we frequently regret.

Moreover, moral issues do not readily lend themselves to compromise, which is a distinctive strength of the American system. Our Nation derives much of its resiliency and unity from the very fact that we are able to compromise differences on many issues. Ordinarily, decisions within our political process are not so one-sided that those who are defeated at the polls or in a legislative battle are left utterly without consolation. More commonly, the views of the minority are accommodated, in greater or lesser degree, and there is a general recognition that those who form a political majority today will be in the minority at some future time, thereby fostering an attitude of tolerance and compromise. Obviously, however, it is much easier to work out a compromise on matters of purely practical application, such as budgets and taxes, than on fundamental moral questions about which notions of right and wrong leave less room for conscientious maneuvering.

The need for restraint in implementing moral judgments through legislation is also emphasized by the fact that moral issues often bring fundamental values into conflict. The delicate balance between moral order and personal liberty must be preserved.

Nonetheless, abortion is a proper subject for legislation because of the 15 million or more abortions which have occurred since—and in many instances because of—Roe against Wade are not mere surgical procedures. They are human lives lost. In this perspective, abortion is the greatest human rights issue of our time. I agree with Prof. John T. Noonan's observation:

> Of all the subjects relating to the erosion of the sanctity of human life, abortion is the keystone. It is the first and crucial issue that has been overwhelming in changing attitudes toward the value of life in general.

This amendment represents another in a series of steps toward restricting Federal funding for abortions. It is in my opinion a commendable restriction. I urge adoption of the amendment.

In conclusion, I wish to acknowledge my gratitude to the literally thousands of persons throughout Colorado, and others as well, who have shared their views with me. This is an issue about which thoughtful persons do not agree. And because of its sensitivity, the prospect of abortion legislation tests the intellectual humility and patience of all who care deeply about the outcome. I am gratified that the vast majority of those with whom I have had contact about this matter have expressed their opinions in a serious and dispassionate manner and in a way that is respectful of differing opinions. I have tried to explain my own thinking in the same spirit.

Mr. METZENBAUM. Mr. President, earlier today I indicated that I thought we had enough abortion amendments over the past several years. Just as a matter of curiosity, I had a study made today, and I found that since the 95th Congress, we have had 431 separate abortion proposals. That is quite a few. Four-hundred and thirty-one in the last 9 years.

It seem to me that there are a few other things that the Senate ought to be addressing itself to besides that issue, notwithstanding the fact that I recognize that many feel that it is a very important issue.

I hope we might dispose of this amendment and any other abortion amendments and get on with the underlying bill.

Mr. RUDMAN. Mr. President, first, I thank my friend from North Carolina for being willing to discuss this in a relatively brief period of time. I know that this is a very important issue to the Senator from North Carolina and the Senator from Colorado. I appreciate their courtesy in being forthcoming and doing nothing to delay this bill.

I do not want to address the issue of abortion here tonight, because this is really a different issue we are facing. I say to the Senator from Colorado and the Senator from North Carolina that in this amendment they are talking about people who are in the custody of the U.S. Government. They are in custody as Federal prisoners.

I submit, without getting into any of the moral issues involved, that there is a long line of Federal cases that absolutely mandate a level of medical care for anyone in Federal custody.

There is no doubt in my mind that since abortion is legal in America, whether you like it or not, a women in Federal custody has a right to receive that abortion from her Government, if she needs it.

We are not dealing with people who have an option. We are not talking about people who are freely living in society who may be denied Federal funds from one program, but can find private funds for such purposes. We are talking about prisoners who have become pregnant, either on furloughs, before they arrived in the prison, or in some cases while in the prison.

Mr. President, this is not a debate over whether or not we are for or against abortion. This is a debate over whether or not we are going to observe the minimum standards that the Federal courts have set forth for the medical care of prisoners.

I do not make general declarations about the constitutionality of an issue; that is up to the Supreme Court. From my experience, however, I say that this is on the thin edge, and in my view may be unconstitutional, but I would not want to make a definitive statement.

Before I make a motion, I yield the floor.

Mr. ARMSTRONG. Mr. President, it would be foolhardy in the extreme for me to position myself to discuss the constitutionality of this legislation or any other legislation with the Senator from New Hampshire. We all know that he is a distinguished lawyer and that he served his State with great distinction in a variety of capacities and is a recognized authority on the law, and I certainly am not. But I know enough about the Supreme Court's attitude toward abortion to recognize that the decision which got us into this jam, the Roe versus Wade decision, was extraordinarily controversial at the time.

One of the most distinguished members of that Court wrote a dissenting opinion in which he described it not only as improvident, but really spoke of it in scathing terms as an unnecessary invasion of the rights of States, which all through history, until a few years ago, had the essential jurisdiction to regulate this surgical procedure.

It is also clear to me that people on and off the Federal bench are having a lot of second thoughts and that what seemed clear-cut a decade ago, even among judges, does not seem so clear-cut anymore.

I do not think it is a certainty at all that this language would be declared unconstitutional. In fact, people who know a lot more about constitutional law and the practices of the appellate courts and the Supreme Court, tell me that the judges are shopping around, looking for an excuse to reverse Roe versus Wade, as well they should, for medical, scientific, moral, and legal reasons.

So I do not think we should wander into another intellectual cul de sac, as I characterized it earlier. This is not primarily a question of constitutional law. It is a question primarily of

whether the Federal Government should be in the business of funding abortions. If you think it is all right, you would vote "no" on this amendment. If you think it is not a good idea, you would vote "yes."

Mr. President, I think the Senator is entertaining the ideas of a tabling motion, but I know of no other Senator seeking recognition, so I say let us proceed to the vote.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RUDMAN. Mr. President, I move to table the amendment.

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. RUDMAN. 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. RUDMAN. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RUDMAN. 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.

The question is on agreeing to the motion of the Senator from New Hampshire [Mr. RUDMAN] to table the amendment of the Senator from North Carolina [Mr. HELMS]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Arizona [Mr. GOLDWATER], the Senator from Oregon [Mr. HATFIELD], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from South Dakota [Mr. PRESSLER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Missouri [Mr. EAGLETON], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 46, nays 46, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—46

Baucus	Hart	Pell
Bentsen	Heinz	Pryor
Bingaman	Hollings	Riegle
Bradley	Inouye	Rockefeller
Bumpers	Kassebaum	Roth
Burdick	Kennedy	Rudman
Byrd	Kerry	Sarbanes
Chafee	Lautenberg	Sasser
Cochran	Leahy	Simpson
Cohen	Levin	Specter
Cranston	Mathias	Stafford
Dodd	Matsunaga	Stevens
Evans	Metzenbaum	Warner
Glenn	Moynihan	Weicker
Gorton	Nunn	
Harkin	Packwood	

NAYS—46

Abdnor	Ford	Mattingly
Andrews	Garn	McClure
Armstrong	Gore	Melcher
Biden	Gramm	Mitchell
Boren	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Chiles	Hawkins	Proxmire
D'Amato	Hecht	Quayle
Danforth	Heflin	Symms
DeConcini	Helms	Thurmond
Denton	Humphrey	Trible
Dixon	Johnston	Wallop
Dole	Kasten	Wilson
Domenici	Laxalt	Zorinsky
Durenberger	Long	
Exon	Lugar	

NOT VOTING—8

Eagleton	Hatfield	Simon
East	McConnell	Stennis
Goldwater	Pressler	

So the motion to lay on the table amendment No. 884 was rejected.

Mr. METZENBAUM. Mr. President, I think we ought to understand what is before us on this measure. We are now discussing the 431st opportunity that the Members of Congress have had to act on an abortion amendment or motion during the last 9 years. It seems to me that anytime you get involved in any one of the host of issues there is a determination that somehow, some way, regardless of what the legislation is, we are going to have another abortion amendment.

Before the evening is over, I expect to share with my colleagues a copy showing some of the amendments which have been offered over the years, and there are many of them. I think you are entitled to know. I want to refresh your recollection. There are plenty of amendments to talk about, 431 in the last 9 years.

It just seems to me that enough is enough.

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

Mr. METZENBAUM. I yield for a question without losing my right to the floor.

Mr. DOLE. Mr. President, I would like to make an announcement about tomorrow and the weekend.

Mr. METZENBAUM. Mr. President, I certainly yield to the majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that I might proceed for 5 minutes without the Senator from Ohio losing his right to the floor.

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

Mr. DOLE. Mr. President, there will be no more votes this evening, but there will be votes tomorrow and Monday. We tried hard to bring together a group of Senators who were willing to offer amendments on the farm bill tomorrow, but we came up with about 13 on this side and 3 on that side. Most of those on both sides, I might say, were ones that could be disposed of in about 30 seconds each.

It seems to me that if we really want to go to work on the farm bill, we ought to start that tomorrow. I can promise that there will be votes tomorrow.

I would hope you would judge your activities accordingly. We did make a real effort.

I want to thank the distinguished minority leader and the staff on each side. I apologize to those observers who want to go to Geneva. They can still go, of course, but we cannot protect them on votes on tomorrow, Monday, and most of Tuesday. That will be nearly 3 days. Without some agreement to take up meaningful amendments on the agriculture bill, I just do not think the majority leader, with Members on both sides wanting to complete the year as quickly as possible, believes that would be a very good idea.

It also seems to me that we are not going to complete action on this bill tonight so I think the best thing to do is to go home and watch the World Series and come back tomorrow morning.

Mr. BYRD. Mr. President, will the Senator yield to me without the Senator from Ohio losing his right to the floor?

Mr. METZENBAUM. Yes, without losing my right to the floor.

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

Mr. BYRD. Mr. President, as the distinguished majority leader stated, we on this side made a good-faith effort to see if amendments could be brought up tomorrow. The best we could do was as the majority leader stated. I thank my staff for diligently trying to assist. I appreciate very much the majority leader's decision based on the record.

Mr. METZENBAUM. Mr. President, if the majority leader has intentions of recessing at this point until tomorrow, I have no particular desire to speak. I will have plenty of opportunity for that next week.

Mr. DOLE. Mr. President, let me indicate we will come in about 8:30 in the morning and be on the farm bill, hopefully, by 9:30.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond the hour of 9:15.

Mr. MOYNIHAN. Mr. President, is it the intention of the majority leader to have further action this evening?

Mr. DOLE. We will not have further action this evening. It seems to me that returning to the bill at this point would be an exercise in futility. I am advised by the distinguished Senator from Ohio that he will talk at length on this bill.

Mr. RUDMAN. Mr. President, will the majority leader yield for a moment?

Mr. DOLE. Yes.

Mr. RUDMAN. Mr. President, I would like to inquire of the Senator from North Carolina and the Senator from Ohio. We do have a number of amendments that we can actually complete action on. The bill cannot be finished tonight. We will eventually go to a conference with the House of Representatives, but at the moment it looks to me like there will be a continuing resolution.

There are some enormously important things in this bill. There are a lot of people who have worked hard on this bill for about 7 months. Everybody has the right to offer amendments. I do not have a problem about that. But I do have a problem about getting more action on this bill.

I wonder if there is some way to get the cooperation of the Senator from North Carolina and the Senator from Ohio where we might be able to lay aside the amendment and accept some other amendments where we will not have rollcall votes.

Mr. HELMS. Mr. President, the Senator will recall that I was willing to have a 10- or 20-minute time limitation on mine.

Let me ask my distinguished friend from Ohio a question. How many times did he say there had been abortion votes in the Senate?

You mentioned some number over a period of years. Would you repeat that?

Mr. METZENBAUM. I said there were 431 amendments or motions having to do with abortions in the last 9 years, according to a computer printout that I have in my possession.

Mr. HELMS. Did the printout have the number of unborn children that have been slaughtered through abortion during the same period?

Mr. METZENBAUM. I thought the Senator from North Carolina had a serious question. Now he has raised it to a point that I do not believe it advisable to answer.

Mr. HELMS. The question I asked was perfectly serious. I thank the Senator.

Mr. DOLE. Mr. President, we have already gone into morning business. We will try to work out something on this bill and bring it up next week. We should be on the farm bill by 9:30 tomorrow morning.

NATIONAL LUPUS AWARENESS WEEK

Mr. DOLE. Mr. President, the week of October 20-26 has been designated as Lupus Awareness Week, and I would like to take this time to call attention to this tragic disease.

WHAT IS LUPUS?

Lupus is an inflammatory autoimmune disease of unknown origin, with unpredictable symptoms that vary in intensity. Little is known about this capricious disease which may disguise itself as a milk skin rash, but often results in death. Although lupus affects more than 500,000 people in the United States, and claims 5,000 lives every year, victims are often misdiagnosed and consequently treated with inappropriate drugs.

THE LUPUS FOUNDATION OF AMERICA

The Lupus Foundation of America, the largest of the national organizations, is dedicated to raising funds for lupus research and educating the public about this disease. Their goal is to address the problems of the lupus patient with understanding, compassion and concern.

THE SUN IS MY ENEMY

Henrietta Aladjem is a founder of the Lupus Foundation, as well as a victim of lupus. In her book, "The Sun Is My Enemy," she recounts her own personal struggle with lupus:

With lupus, you can get worse and then get better without obvious cause . . . there are times when you are the only person who is sure that you are really sick, but don't know what the illness is. You can't name the type of discomforts you are experiencing, and somehow you can't make sense of them to describe them to the doctor. The more you try to explain, the more you feel disturbed . . . you keep struggling against pain, dizziness, nausea and fatigue to maintain your relationship with the world on even a minimal level. If you have a job, you live under the constant fear that you might lose your employment because of poor performance. You worry about your children, your husband or wife, you worry about death and dying. You feel the need to understand your illness, you want to know why you feel the way you do, and you want to find ways to deal with your plight.

THE FUTURE

Fortunately, Ms. Aladjem's disease has been in remission for over 20 years. Yet, there are many others who are still suffering and dying from lupus. Mr. President, I commend the Lupus Foundation of America for its work over the years, and I am hopeful that their efforts will help us to solve the mystery of this dreaded disease.

TRIBUTE TO JACK PARADEE

Mr. ROTH. Mr. President, last Thursday a very special friend of mine, Jack Paradee, died in Wilmington. Jack was not only a representative of the United Transportation Union, he was also someone who helped others overcome their all too human frailties. The night of his death, Jack was responding to the needs of a person recovering from alcoholism, something he had been doing for over 25 years.

During the time he worked on legislation for the UTU, Jack was very effective because he had an intimate knowledge of rail transportation and he knew what was in the best interests of the people who worked in that industry. Whenever I had any questions about how a particular provision would affect the rail workers, Jack had an answer. After his retirement from the UTU in 1982, Jack stayed active in community affairs as well as helping Norfolk Southern Corp. in its effort to purchase Conrail.

Perhaps what will best keep Jack in our thoughts will be his great sense of himself and his marvelous sense of humor. He never looked back and cheerful thoughts were the hallmark of a Jack Paradee conversation.

Many individuals leave their lives little noted and vaguely remembered; but Jack's efforts will endure in such programs as progressive alcohol abuse programs, rail safety, railroad retirement and others. We shall miss him and we offer our condolences to his family and many friends.

MESSAGES FROM THE HOUSE

At 4 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks announced that the following are appointed as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2419) entitled "An Act to authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes": Mr. RODINO and Mr. LUNGREN, for consideration of matters within the jurisdiction of the Committee on the Judiciary under clause 1(m) of House rule X; and Mr. ASPIN, Mr. STRATTON, and Mr. DICKINSON, for consideration of matters within the jurisdiction of the Committee on Armed Services under clause 1(c) of House rule X.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

51-059 O-87-17 (Pt. 21)

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission.

At 4:51 p.m. a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3605. An act to provide that the authority to establish and administer flexible and compressed work schedules for Federal Government employees be extended through December 31, 1985.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3605. An act to provide that the authority to establish and administer flexible and compressed work schedules for Federal Government employees be extended through December 31, 1985.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1907. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military assistance sale to Jordan; to the Committee on Armed Services.

EC-1908. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military assistance sale to Jordan; to the Committee on Armed Services.

EC-1909. A communication from the Chairman of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, a report entitled "Shipping, Shipyards, and Sealift: Issues of National Security and Federal Support"; to the Committee on Commerce, Science and Transportation.

EC-1910. A communication from the Secretary of Energy transmitting, pursuant to law, the 1985 Automotive Technology Development Program report; to the Committee on Energy and Natural Resources.

EC-1911. A communication from the Special Counsel of the Merit Systems Protection Board transmitting, pursuant to law, a report on allegations of mismanagement, waste of funds, and danger to public safety at the Lower Fort Mason Complex, Golden Gate National Recreation Area, National Park Service, San Francisco, CA; to the Committee on Governmental Affairs.

EC-1912. A communication from the Special Counsel, Merit Systems Protection Board, transmitting, pursuant to law, a report on allegations of a violation of law and regulation, and abuse of authority, by officials at Rock Island Arsenal, IL, to the Committee on Governmental Affairs.

EC-1913. A communication from the Secretary of Labor transmitting, pursuant to law, a report on a change in a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1914. A communication from the Assistant Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use and distribution of judgment funds awarded the Fort Mojave Indian Tribe; to the Select Committee on Indian Affairs.

EC-1915. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for State grants for strengthening the skills of teachers and instruction in mathematics, science, foreign languages, and computer learning and for increasing the access of all students to that instruction; to the Committee on Labor and Human Resources.

EC-1916. A communication from the Deputy Assistant Secretary of Health and Human Services transmitting, pursuant to law, a report on the financial condition of a Government pension plan; to the Committee on Labor and Human Resources.

EC-1917. A communication from the Administrator of the Veterans Administration transmitting a draft of proposed legislation to modify the structure of the office of the Chief Medical Director, to clarify procedures for removal for cause of certain employees, to authorize use of Director pay grade within VA central office; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. Res. 244. An original resolution authorizing the printing of background information on the Committee on Foreign Relations as a Senate document (Rept. No. 99-164); referred to the Committee on Rules and Administration.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 308. A joint resolution designating the week beginning on October 20, 1985, as "Benign Essential Blepharospasm Awareness Week".

H.J. Res. 322. A joint resolution to provide for the designation of the week beginning October 6, 1985, as "National Sudden Infant Death Syndrome Awareness Week".

S. Res. 96. A resolution relating to the centennial observance of the University of Arizona.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 237. A resolution supporting the intent of the President to discuss with leaders of the Soviet Union American concerns with the Soviet Union presence in Afghanistan, and for other purposes.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 207. A joint resolution to designate November 1, 1985 as "National Philanthropy Day".

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S.J. Res. 227. An original joint resolution to commend the people and the sovereign confederation of the neutral nation of Switzerland for their contributions to freedom, international peace, and understanding on the occasion of the meeting between the leaders of the United States and the Soviet Union on November 19-20, 1985, in Geneva, Switzerland.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 76. A concurrent resolution asking that the President bring the rights of the Polish people to the attention of the Soviet Government.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary: Laurence H. Silberman, of the District of Columbia, to be U.S. circuit judge for the District of Columbia;

John S. Rhoades, Sr., of California, to be U.S. district judge for the Southern District of California;

Lyle E. Strom, of Nebraska, to be U.S. district judge for the District of Nebraska;

Jose Antonio Fuste, of Puerto Rico, to be U.S. district judge for the District of Puerto Rico;

Richard H. Battey, of South Dakota, to be U.S. district judge for the District of South Dakota;

Roy C. Hayes, Jr., of Michigan, to be U.S. attorney for the Eastern District of Michigan for the term of 4 years; and

Donald R. Brookshier, of Illinois, to be U.S. marshal for the Southern District of Illinois for the term of 4 years.

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Roger A. Yurchuck, of Ohio, to be a Director for the Securities Investor Protection Corporation for a term expiring December 31, 1987.

(The above nomination was reported from the Committee on Banking, Housing, and Urban Affairs with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MATHIAS (for himself, Mr. SIMON, Mr. KENNEDY, Mr. BURDICK, and Mr. HART):

S. 1787. A bill to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns; to the Committee on Rules and Administration.

By Mr. MURKOWSKI (for himself and Mr. THURMOND):

S. 1788. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to improve veterans' education benefits, and to improve the Veterans' Administration home loan guaranty program; to amend titles 10 and 38, United States Code to improve national cemetery programs; to redesignate, improve, and extend the Emergency Veterans' Job Training Act of 1983; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KERRY:

S. 1789. A bill to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns by eliminating the tax credit for political contributions; to the Committee on Finance.

By Mr. LUGAR, from the Committee on Foreign Relations:

S.J. Res. 227. An original joint resolution to commend the people and the sovereign confederation of the neutral nation of Switzerland for their contributions to freedom, international peace, and understanding on the occasion of the meeting between the leaders of the United States and the Soviet Union on November 19-20, 1985, in Geneva, Switzerland; placed on the calendar.

By Mr. LUGAR (for Mr. DOLE) (for himself, Mr. BYRD, Mr. LUGAR, Mr. PELL, Mr. DENTON, Mr. TRIBLE, Mr. BOSCHWITZ, Mr. PRESSLER, Mr. SARBANES, Mr. KENNEDY, Mr. KASTEN, Mrs. KASSEBAUM, Mr. EVANS, Mr. HEINZ, Mr. METZENBAUM, Mr. LAUTENBERG, Mr. JOHNSTON, Mr. WILSON, Mr. HEFLIN, Mr. MURKOWSKI, Mr. INOUYE, Mr. SIMON, Mr. PROXMIRE, Mr. BAUCUS, Mr. HARKIN, Mr. BRADLEY, Mr. MITCHELL, Mr. LEVIN, Mr. ZORINSKY, Mr. FORD, Mr. SPECTER, Mr. ROCKEFELLER, Mr. ABDNOR, Mr. WARNER, Mr. BOREN, Mr. DOMENICI, Mr. EAGLETON, Mrs. HAWKINS, and Mr. STEVENS):

S.J. Res. 228. A joint resolution relating to the proposed sales of arms to Jordan; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR, from the Committee on Foreign Relations:

S. Res. 244. An original resolution authorizing the printing of background information on the Committee on Foreign Relations as a Senate document; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MATHIAS (for himself, Mr. SIMON, Mr. KENNEDY, Mr. BURDICK, and Mr. HART):

S. 1787. A bill to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns; to the Committee on Rules and Administration.

SENATORIAL ELECTION CAMPAIGN ACT

● Mr. MATHIAS. Mr. President, I am introducing today, with my distinguished colleague from Illinois, Senator SIMON, the Senator from Massachusetts [Mr. KENNEDY], and the Senator from North Dakota [Mr. BURDICK], a bill to provide for public financing of Senate general election campaigns. It is similar to legislation I have supported in the past and reflects my belief that public funding of congressional campaigns is essential to complete the task of campaign finance reform begun by Congress over a decade ago. The first day of hearings on this proposed legislation will be held on Election Day, November 5, 1985, before the Committee on Rules and Administration.

I introduce this legislation because I continue to believe that public finance offers the best means to remedy the ills of the current system. Campaign finance legislation has sought to protect equality of access to the political arena and to insure that the system itself, in both fact and appearance, is free from the corrupting influence of money. The flood of campaign dollars in recent years has made it increasingly difficult to achieve these goals.

Candidates and office holders alike increasingly have had to devote themselves to the pursuit of campaign contributions in a way detrimental to the interests of their constituencies and to the functioning of government. I suspect, too, that many qualified men and women are kept out of the process altogether because of the personal and financial sacrifice that running for public office entails. The Federal Election Commission reports that spending in 1984 Senate races increased 23 percent over 1982. These figures suggest that no relief is in sight.

In our effort to regulate campaign finance, we are faced with what I believe is the misguided holding of the Supreme Court in Buckley versus Valeo, that the expenditure of money in campaigns is a constitutionally protected form of speech. Unless and until the Court can be persuaded to change its mind, the Buckley decision leaves us little alternative if we wish to place some reasonable limits on campaign spending. Such limits are constitutionally permissable only in the context of a system of publicly funded elections.

To those who would say that in an era of record deficits, we cannot afford to place additional demands on the Treasury, I would say we will pay a far greater price if we do not reform the way in which campaigns for elective office are financed. My colleague, the distinguished Senator from Arizona, Senator GOLDWATER, has called the current state of campaign finance a crisis of liberty. Our response to this crisis will determine the kind of government we have in the years to come: whether it rightfully enjoys the confidence of the people, and whether it is able to respond boldly and rationally to the challenges of the coming decades.

My bill would provide that any major or minor party candidate would be eligible to receive public funds for his or her general election campaign, if at least two major party candidates, or a major and a minor party candidate, have qualified for the general election ballot in that State. Candidates other than a major or minor party candidate could receive postelection funding if they received 5 percent or more of the vote.

A major party is defined as one whose candidate in any one of the three preceding Senatorial elections in a State has received 25 percent or more of the vote; a minor party is one whose candidate has received at least 5 percent but less that 25 percent of the vote.

Eligible candidates who elect to receive public funds would be subject to an expenditure limit in the general election period equal to $500,000 in each State with a voting age population of 1 million or less, 50 cents times the voting age population in each State with a voting age population greater than 1 million but less than 3 million, and 30 cents times the voting age population in each State with a voting age population of 3 million or more—but not less than $1½ million.

Major party candidates could receive public funds in an amount equal to the expenditure limit in that State; minor party candidates would be eligible for partial public funding. Major party candidates who receive full public funding could accept no private contributions for their general election campaign. Candidates accepting public funding could not make expeditures from personal funds in excess of $20,000.

An eligible candidate whose opponent elected not to accept public funding would be entitled to additional public funds in an amount equal to the amount by which his or her opponent exceeded the expenditure limits.

Funding would be derived from the voluntary taxpayer check-off on individual tax returns.

I ask unanimous consent that a section-by-section summary of the bill, a chart showing the State-by-State expenditures limits, and a copy of the bill be printed in the RECORD at this point.

S. 1787

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 "Senatorial Election Campaign Act".

SEC. 2. The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new subchapter:

"Subchapter III—Public Financing of Senate General Election Campaigns

"DEFINITIONS

"SEC. 501. For purposes of this subchapter—

"(1) unless otherwise provided in this subchapter the definitions set forth in section 301 of this Act apply to this subchapter;

"(2) 'authorized committee' means, with respect to any candidate for election to the United States Senate, any political committee which is authorized in writing by such candidate to accept contributions, incur expenses, or make expenditures on behalf of such candidate to further the election of such candidate. Such authorization shall be addressed to the chairman of the political committee, and a copy of such authorization shall be filed by each candidate with the Commission. A withdrawal of any authorization shall be in writing and shall be addressed and filed in the same manner as the authorization;

"(3) 'candidate' means an individual who has been nominated for election to the office of United States Senator by a major or minor party or who has qualified to have his or her name on the general election ballot;

"(4) 'eligible candidate' means a candidate who is eligible, under section 502, for payments under this subchapter;

"(5) 'expenditure report period' with respect to an election means—

"(A) in the case of a major party candidate, the period beginning on the date such candidate becomes an eligible candidate and ending 30 days after the date of the election or the date such candidate is no longer an eligible candidate, whichever date is earlier; or

"(B) in the case of a candidate other than a candidate of a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such election;

"(6) 'election' means any regularly scheduled general, special, or runoff election, other than a primary election, held to elect a candidate to the United States Senate;

"(7) 'fund' means the Senate General Election Campaign Fund maintained by the Secretary of the Treasury in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954;

"(8) 'major party' means with respect to any election, a political party whose candidate for the office of United States Senator in any of the three preceding elections received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

"(9) 'minor party' means with respect to any election, a political party whose candidate for the office of Senator in any of the three preceding elections received, as the candidate of such party 5 percent or more, but less than 25 percent of the total number of popular votes received by all candidates for such office;

"(10) the term 'qualified campaign expense' means an expense—

"(A) incurred by the candidate or the authorized committee of the candidate for the office of United States Senator to further his or her election to such office,

"(B) incurred within the expenditure report period, or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

"(C) neither the incurring nor paying of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, for expenses on behalf of such candidate or such committee.

"CONDITION FOR ELIGIBILITY FOR PAYMENTS

"SEC. 502. (a) In order to be eligible to receive any payments under this subchapter, the candidate shall agree, in writing—

"(1) to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses and contributions of such candidate,

"(2) to keep and furnish to the Commission such records, books, and other information as it may request, and

"(3) to an audit and examination by the Commission under section 507 and to pay or repay any amounts required under such section.

"(b) To be eligible to receive payments under section 503, the candidate of a major party shall certify to the Commission, under penalty of perjury, that—

"(1) such candidate is seeking election to the United States Senate and such candidate and at least one other major party or minor party candidate have qualified for the election ballot under the law of the State involved,

"(2) such candidate and the authorized committees of such candidate will not incur qualified campaign expenses in excess of the aggregate payments to which they are entitled under section 503, unless otherwise provided in this subchapter,

"(3) no contributions to defray qualified campaign expenses have been or will be accepted by such candidate or any of the authorized committees of such candidate except to the extent necessary to make up any deficiency in payments received out of the fund because of the application of section 506(c), and

"(4) no contributions have been or will be accepted by such candidate or any authorized committees of such candidate to defray expenses which are not qualified campaign expenses.

"(c) In order to be eligible to receive any payments under this subchapter, a candidate other than a candidate of a major party shall certify to the Commission under penalty of perjury, that—

"(1) such candidate is seeking election to the United States Senate and such candidate and at least one other candidate of a major party have qualified for the election ballot under the law of the State involved,

"(2) such candidate and the authorized committees of such candidate will not incur qualified campaign expenses in excess of the aggregate payments to which an eligible candidate of a major party is entitled under section 503, unless otherwise provided in this subchapter, and

"(3) such candidate and the authorized committees of such candidate will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidate and the authorized committees of such candidate certified to under paragraph (2) exceed the aggregate payments received by such candidate out of the fund pursuant to section 506.

"(d) Certification for payment to a candidate shall be made by the Commission within 5 days after the date the Commission receives a certification from such candidate, pursuant to this section. Such certification shall be in such form and filed as the Commission shall prescribe by rule or regulation.

"(e)(1) To be eligible to receive any payment under this subchapter, a candidate shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his or her personal funds, or the personal funds of his or her immediate family in connection with such candidate's campaign for election in excess of, in the aggregate, $20,000.

"(2) For purposes of this subchapter, the term 'immediate family' means the spouse, any child, parent, grandparent, brother, halfbrother, sister, or halfsister of the candidate, and the spouses of such persons.

"(f) If an individual ceases to be a candidate such individual—

"(1) shall no longer be eligible to receive any payments under this subchapter, except that such individual shall be eligible to receive payments to defray qualified campaign expenses incurred while such person was an eligible candidate actively seeking election to the Senate; and

"(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under this subchapter if such payments are not used to defray qualified campaign expenses.

"ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

"SEC. 503. (a) Subject to the provisions of this chapter—

"(1) each eligible candidate of a major party in an election shall be entitled to equal payments under this subchapter in an amount which, in the aggregate, shall not exceed—

"(A) in each State with a voting-age population of 1,000,000 or less: $500,000";

"(B) in each State with a voting-age population greater than 1,000,000 but less than 3,000,000: an amount equal to 50 cents times such voting-age population; and

"(C) in each State with a voting-age population of 3,000,000 or over: an amount equal to 30 cents times such voting-age population, but not less than $1,500,000.

"(2) An eligible candidate of a minor party in an election shall be entitled to a payment under this subchapter equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for Senator of the minor party, as such candidate, in the preceding election bears to the average number of popular votes received by the candidates for Senator of the major parties in the preceding election.

"(3) An eligible candidate, other than a candidate of a major or minor party, who receives 5 percent or more of the total number of popular votes cast for the office of United States Senate in such election shall be entitled to payments pursuant to this subchapter equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for Senator of the major parties. All such payments shall be made at such time after the election as the Commission determines the amount of payments such candi-

date is eligible for pursuant to this subparagraph. The Commission shall certify such amount to the United States Treasury for payment.

"(b) The aggregate payments to which an eligible candidate shall be entitled under paragraph (2) or (3) of subsection (a), shall not exceed an amount equal to the lesser of—

"(1) the amount of qualified campaign expenses incurred by an eligible candidate and the authorized committees of such candidate, reduced by the amount of contributions allowed to defray qualified campaign expenses received and expended or retained by an eligible candidate and such committees, or

"(2) the aggregate payments to which an eligible candidate of a major party is entitled under subsection (a)(1), reduced by the amount of contributions described in paragraph (1) of this subsection.

"(c) An eligible candidate shall be entitled to payments only—

"(1) to defray qualified campaign expenses incurred by an eligible candidate or the authorized committees of such candidate, or

"(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidate or such committees) used to defray such qualified campaign expenses.

"ADDITIONAL ENTITLEMENT OF OPPONENTS OF NONPUBLICLY FINANCED CANDIDATES

"SEC. 504. (a) Within 5 days after nomination by a major or minor party, and under such regulations as the Commission may prescribe, each candidate nominated by a major or minor party shall notify the Commission in writing of his or her intention to accept or not accept the funds to which he or she is entitled under section 503.

"(b)(1) A candidate of a major party who has elected to accept the funds for which he or she has qualified under section 503 and who is opposed by a major party candidate who has elected not to accept public funding shall be entitled to receive additional funds from the general fund of the United States Treasury, pursuant to paragraph (2).

"(2)(A) Subject to the provisions of subparagraph (B), a major party candidate eligible to receive funds pursuant to paragraph (1), shall receive additional funds in the amount of one dollar for every dollar of contributions or expenditures raised, incurred, or expended by the candidate not accepting funding.

"(B) Such additional funds shall only match those contributions or expenditures raised, incurred, or expended by the candidate not accepting funding which are in excess of the entitlement of such eligible candidate.

"(c) For purposes of implementing subsection (b), a candidate who elects not to accept public funding shall report his or her receipts and expenditures to the Commission—

"(1) monthly for contributions or expenditures received, incurred, or expended prior to 60 days prior to the date of the election;

"(2) weekly for contributions or expenditures received, incurred, or expended from 59 to 11 days prior to the date of the election; and

"(3) daily for contributions or expenditures received, incurred, or expended during the 10 days prior to the date of the election.

"(d) Notwithstanding the provisions of section 505—

"(1) if a major party candidate is eligible, pursuant to subsection (b), to receive additional funding because of contributions or expenditures received, incurred, or expended by such opponent between the date 59 days prior to the date of the election and the date of the election which are required to be reported by paragraph (2) or (3) of subsection (c), and

"(2) such eligible candidate files a request with the Commission stating that such candidate is eligible to receive such additional funds,

the Commission, within 24 hours after such request is filed, shall certify to the Secretary of the Treasury for payments to such eligible candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) Except as otherwise provided in section 504(d), not later than 5 days after a candidate files a request with the Commission stating that he or she has met all applicable conditions for eligibility to receive payments under this subchapter, the Commission shall certify to the Secretary of the Treasury (hereafter in this subchapter referred to as the 'Secretary') for payment to such eligible candidate, payment in full of amounts to which such candidate is entitled under section 503, unless the provisions of section 506(c) apply.

"(b) Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 511.

"PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a) The Secretary shall maintain in the Presidential Election Campaign Fund established by paragraph 9006(a) of the Internal Revenue Code of 1954, in addition to any accounts maintained under such section, a separate account to be known as the 'Senate General Election Campaign Fund'. The Secretary shall deposit into such fund, for use by a candidate eligible for payments under this subchapter, the amount available after the Secretary determines that amounts in the fund necessary for payments under subtitle H of the Internal Revenue Code of 1954 are adequate. The moneys designated for such account shall remain available without fiscal year limitation.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary shall promptly pay to the candidate, out of the fund, the amount certified by the Commission. Amounts paid to any such candidate shall be under the control of such candidate.

"(c) If at the time of a certification by the Commission under section 505 for payment to an eligible candidate, the Secretary determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlement of such eligible candidate, he shall withhold from such payment such amount as he determines to be necessary to assure that an eligible candidate will receive his or her pro rata share of his or her full entitlement. Amounts so withheld shall be paid when the Secretary determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of an eligible candidate, the amounts so withheld shall be paid in such manner that each eligible candidate receives his or her pro rata share of his or her full entitlement.

"EXAMINATIONS AND AUDITS; REPAYMENTS

"SEC. 507. (a) Notwithstanding the provisions of section 311(b), after each election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of each candidate for the United States Senate who received payments under this subchapter.

"(b)(1) If the Commission determines that any portion of the payments made to a candidate under this subchapter was in excess of the aggregate payments to which such candidate was entitled, it shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(2) If the Commission determines that a candidate or any authorized committee of such candidate incurred qualified campaign expenses in excess of the aggregate payments to which the candidate was entitled under section 503, it shall notify such candidate of the amount of such excess and such candidate shall pay to the Secretary an amount equal to such amount.

"(3) If the Commission determines that a candidate or any authorized committee of such candidate accepted contributions, other than contributions to make up deficiencies in payments out of the fund because of the application of section 506(c) to defray qualified campaign expenses, other than qualified campaign expenses with respect to which payment is required under paragraph (2), it shall notify such candidate of the amount of the contributions so accepted, and such candidate shall pay to the Secretary an amount equal to such amount.

"(4) If the Commission determines that any amount of any payment made to a candidate under section 506 was used for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to wnich such payment was made, or

"(B) to repay loans the proceeds of which were used to defray qualified campaign expenses,

it shall notify such candidate of the amount so used, and such candidate shall pay to the Secretary an amount equal to such amount.

"(5) No payment shall be required from a candidate under this subsection to the extent that such payment, when added to other payments required from such candidate under this subsection, exceeds the amount of payments received by such candidate under this subchapter.

"(c) No notification shall be made by the Commission under subsection (b) with respect to an election more than 3 years after the date of such election.

"(d) All payments received by the Secretary under subsection (b) shall be deposited in the Senate General Election Campaign Fund established in section 506.

"CRIMINAL PENALTIES

"SEC. 508. (a)(1) It shall be unlawful for an eligible candidate of a political party in an election or for any authorized committee of such candidate to knowingly and willfully incur qualified campaign expenses in excess of the aggregate payments to which an eligible candidate of a major party is entitled with respect to such election.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

In the case of a violation by any authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(b)(1) It shall be unlawful for an eligible candidate of a major party in an election or for any authorized committee of such candidate to knowingly and willfully accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund because of the application of section 506 or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 501(10).

"(2) It shall be unlawful for an eligible candidate of a political party (other than an eligible candidate of a major party) in an election or for any authorized committee of such candidate to knowingly and willfully accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and an authorized committee of such candidate.

"(3) Any person who violates paragraph (1) or (2) shall be fined not more than $5,000, or imprisoned not more than one year, or both. In the case of a violation by any authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(c)(1) It shall be unlawful for any person who receives any payment under section 506, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(d)(1) It shall be unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this subchapter, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this subchapter; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this subchapter.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(e)(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of an eligible candidate or any authorized committee of such candidate.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of an eligible candidate or any authorized committee of such candidate shall pay to the Secretary of the Treasury, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

"(f)(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this subchapter except as may be required by law.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 509. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by a candidate and the authorized committees of such candidate;

"(2) the amounts certified by it under section 505 for payment to each eligible candidate; and

"(3) the amount of payments, if any, required from such candidate under section 507, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission is authorized to prescribe such rules and regulations in accordance with the provisions of subsection (c), to conduct such examinations and audits (in addition to the examinations and audits required by section 507), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this subchapter.

"(c) Thirty days before prescribing any rule or regulation under subsection (b), the Commission shall transmit a statement with respect to such rule or regulation to the Senate, setting forth the proposed rule or regulation. The statement shall contain a detailed explanation and justification of such rule or regulation.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) The Commission is authorized to appear in and defend against any action filed under section 511, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission is authorized to appear, through attorneys and counsel described in subsection (a), in the district courts and other appropriate courts of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of any examination and audit made pursuant to section 507.

"(c) The Commission is authorized to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter arising under this subchapter, through attorneys and counsel described in subsection (a). Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal from the determination of such court shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court of the United States for certiorari to review judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"JUDICIAL REVIEW

"SEC. 511. (a) Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this subchapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after such certification, determination, or other action by the Commission.

"(b)(1) The Commission, the national committee of any political party, or any individual eligible to vote for a candidate is authorized to institute an action under this section, including an action for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this subchapter.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise such jurisdiction without regard to whether a person asserting rights under the provisions of this subsection has exhausted administrative or other remedies provided by law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.".

SEC. 3. (a) Section 315(c) of the Federal Election Campaign Act of 1971 is amended by striking out "subsection (b) of this section and subsection (d) of this section" and inserting in lieu thereof "subsections (b) and (d) of this section and subsection (a) of section 503".

(b) Section 315(c)(2)(B) of the Federal Election Campaign Act of 1971 is amended by inserting before the period at the end thereof the following: ", except that with respect to the limitations established by subchapter III of this Act, the term 'base period' means the calendar year 1985".

SEC. 4. This Act and the amendments made by this Act shall become effective on January 1, 1987, and shall apply to campaigns for election to the Senate after such date.

SENATORIAL ELECTION CAMPAIGN ACT

State-by-State expenditure limits of Mathias-Simon legislation to provide for public funding of U.S. Senate general election campaigns.

Alabama[1]	$1,440,000
Alaska[1]	500,000
Arizona[1]	1,098,000
Arkansas[1]	848,500
California[1]	5,688,300
Colorado[1]	1,160,000
Connecticut[1]	1,203,500
Delaware	500,000
Florida[1]	2,539,500
Georgia[1]	1,500,000
Hawaii[1]	500,000
Idaho[1]	500,000
Illinois[1]	2,526,300
Indiana[1]	1,500,000
Iowa[1]	1,063,000
Kansas[1]	893,000
Kentucky[1]	1,346,000
Louisiana[1]	1,500,000
Maine	500,000
Maryland[1]	1,500,000
Massachusetts	1,500,000
Michigan	1,976,000
Minnesota	1,500,000
Mississippi	900,500
Missouri[1]	1,500,000
Montana	500,000
Nebraska	581,500
Nevada[1]	500,000
New Hampshire[1]	500,000
New Jersey	1,698,300
New Mexico	500,000
New York[1]	4,003,800
North Carolina[1]	1,500,000
North Dakota[1]	500,000
Ohio[1]	2,361,900
Oklahoma[1]	1,188,500
Oregon[1]	982,500
Pennsylvania[1]	2,697,300
Rhode Island	500,000
South Carolina[1]	1,186,500
South Dakota[1]	500,000
Tennessee	1,500,000
Texas	3,381,600
Utah[1]	513,500
Vermont[1]	500,000
Virginia	1,500,000
Washington[1]	1,500,000
West Virginia	710,500
Wisconsin[1]	1,500,000
Wyoming	500,000

[1] Senate election in 1986.

Section-by-Section Summary

SENATORIAL ELECTION CAMPAIGN ACT

MATHIAS-SIMON BILL TO PROVIDE FOR PUBLIC FUNDING OF U.S. SENATE GENERAL ELECTION CAMPAIGNS

Title: "Senatorial Election Campaign Act."

SECTION TWO

Amends the Federal Election Campaign Act of 1971 and creates a new subchapter titled "Public Financing of Senate General Election Campaigns."

SEC. 501. DEFINITIONS

The definitions in this section supplement those used in Section 301 of the Federal Election Campaign Act.

"Candidate" means the Senate candidate nominated by a major or minor party or a candidate who has qualified for the general election ballot.

"Eligible candidate" is one who has met all the eligiblity requirements of Section 502.

"Election" includes any general, special, or runoff election held to elect a candidate to the U.S. Senate but does not include a primary.

The "expenditure report period" begins on the date of eligibility for a major party candidate. For all other eligible candidates, it is the same as the shortest expenditure report period of a major party candidate.

A "major party" is a political party whose Senatorial candidate in any of the three preceding elections received 25 percent or more of the popular votes.

A "minor party" is a party whose Senatorial candidate in any of the three preceding elections received 5 percent or more but less than 25 percent of the popular votes.

The "fund" is the Senate General Election Fund maintained by the Secretary of the Treasury as a part of the Presidential Election Campaign Fund.

SEC. 502. CONDITIONS FOR ELIGIBILITY FOR PAYMENTS

To become eligible, a candidate must agree and certify in writing to the Federal Election Commission (FEC), under penalty of perjury:

502(a).—To provide evidence of the qualified campaign expenses and contributions of such candidate, to keep and furnish such records to the Commission as it may require, to an audit and examination by the Commission following the election, and to repay such funds as may be required.

502(b).—A major party candidate must certify that he or she and at least one other major or minor party candidate have qualified for the general election ballot. A major party candidate must agree not to incur qualified campaign expenses in excess of payments to which he or she is entitled under the Act. Such major party candidate may not accept contributions except to the extent necessary to make up any deficiency in payments from the fund.

502(c).—A candidate, other than a major party candidate, must certify that he or she along with at least one major party candidate have qualified for the general election ballot. The candidate must agree not to incur qualified campaign expenses in excess of the limit (which is the amount of a major party candidate's entitlement) and to accept contributions only to the extent that public funds are not sufficient to cover such qualified campaign expenses.

503(d).—The FEC shall certify funds within five days after an application has been received.

502(e).—Any candidate accepting public funds may not make expenditures of personal funds or personal funds of the candidate's immediate family in excess of $20,000.

502(f).—Provides that an individual is no longer eligible to receive payments if he or she ceases to be a candidate.

SEC. 503. ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

503(a).—(1) An eligible candidate of a major party is entitled to receive payments not to exceed:

(A) $500,000 in each state with a voting age population of 1,000,000 or less.

(B) Fifty cents multiplied by the voting age population in states with a voting age population between 1,000,000 and 3,000,000.

(C) Thirty cents multiplied by the voting age population, but not less than $1,500,000, in states with a voting age population of 3,000,000 or over.

(2) Minor party candidates receive an amount that bears the same ratio to the payments received by the major party candidates as the minor party's vote in the preceding Senatorial election bears to the average of the votes received by both major party candidates in the preceding election.

(3) An eligible candidate, other than a major or minor party candidate, who receives 5% or more of the popular votes cast in the election is entitled to post election funding. The amount is equal to an amount which bears the same ratio to the payments allowed major party candidates as the ratio of votes received by the candidate bears to the average vote of the major party candidates.

503(b).—An eligible candidate of a minor party or an eligible candidate qualifying under the 5% threshold is entitled to receive the lesser of (1) the amount of qualified campaign expenses reduced by contributions received or (2) the equivalent of payments allowed a major party candidate reduced by contributions received.

503(c)—Eligible candidates may not receive payments in excess of qualified campaign expenses. Payments may be used for qualified campaigns expenses or to repay loans the proceeds of which were used to defray qualified campaign expenses.

SEC. 504. ADDITIONAL ENTITLEMENT OF OPPONENTS OF NON-PUBLICLY FINANCED CANDIDATES

504(a).—Within five days after nomination by a major or minor party, a Senate candidate must notify the FEC in writing of his or her intention to accept or not accept public funds.

504(b).—A publicly funded major party candidate opposed by a major party candidate who elects not to accept public funds will be entitled to additional public funds equal to the amount by which his or her opponent exceeds the expenditure limits.

504(c).—For purposes of authorizing additional payments under this section, a non-publicly funded major party candidate will be subject to additional reporting requirements, including daily reports of contributions and expenditures in the 10 days preceding the election.

504(d).—The Commission must certify entitlement to additional payments under this section within 24 hours of an eligible candidate's application.

SEC. 505. CERTIFICATION BY COMMISSION

Certification by the FEC for payment of funds is required within five days of an eligible candidate's submission of a request. Initial certifications and other determinations by the Commission are final except to the extent that they are subject to later examination and audit by the Commission and to judicial review.

SEC. 506. PAYMENTS TO ELIGIBLE CANDIDATES

506(a).—After setting aside adequate funds for the presidential general election, national party conventions, and presidential primary accounts, the Secretary of the Treasury shall deposit any remaining funds in the Senate General Election Campaign Fund.

506(b).—The Secretary shall promptly pay out funds upon receipt of the Commission's certification. Amounts paid are expressly under the control of the candidate.

506(c).—When funds are insufficient to satisfy full entitlements, pro rata payments will be made.

SEC. 507. EXAMINATIONS AND AUDITS: REPAYMENTS

507(a).—After each election the FEC shall conduct an audit of each candidate receiving payments.

507(b).—Repayments are required if the Commission determines that a candidate or authorized committee:

(1) Received payments to which the candidate was not entitled.

(2) Incurred qualified campaign expenses in excess of the spending limit.

(3) Accepted contributions other than contributions permitted to make up deficiencies in payments.

(4) Used payments for purposes other than to defray qualified campaign expenses or to repay loans which were used for qualified campaign expenses.

No payment will be required from a candidate in excess of the total amount of public funds received.

507(c).—The FEC may not notify candidates of repayments more than 3 years after the election.

507(d).—Repayments under this section are deposited into the Senate General Election Campaign Fund.

[Sections 508 through 511 parallel provisions of the Presidential Election Campaign Fund Act.]

SEC. 508. CRIMINAL PENALTIES

508(a).—It is unlawful for an eligible candidate, the authorized committee of an eligible candidate, or any officer or member of such authorized committee to knowingly and willfully incur qualified campaign expenses in excess of the aggregate payments to which an eligible candidate of a major party is entitled with respect to an election. Violators shall be fined not more than $5,000 or imprisoned not more than one year, or both.

508(b).—It is unlawful for an eligible candidate of a major party or the authorized committee of such candidate to knowingly and willfully accept any contribution with respect to an election except to the extent necessary to make up for any deficiency in payments from the fund, or to accept contributions in an amount which exceeds qualified campaign expenses. Violators shall be fined not more than $5,000, or imprisoned not more than 5 years, or both.

508(c).—It is unlawful for any person receiving payments under the Act to knowingly and willfully use or authorize the use of payments for any purpose other than to defray qualified campaign expenses or to repay loans which were used for qualified campaign expenses. Violators shall be fined not more than $10,000, or imprisoned not more than 10 years, or both.

508(d).—It is unlawful for any person to knowingly and willfully furnish any false, fraudulent or fictitious information to the Commission, or to fail to furnish any records or information requested by the Commission for purposes of this chapter. Violators shall be fined not more than $10,000, or imprisoned not more than five years, or both.

508(e).—It is unlawful for any person to knowingly and willfully give or accept any kickback or any illegal payment in connection with any qualified campaign expense. Violators shall be subject to a fine of not more than $10,000, or imprisonment for not more than five years, or both. Any person receiving such a kickback or illegal payment shall be required to pay to the Secretary an amount equal to 125 per cent of the illegal payment.

508(f).—It is unlawful for any person to disclose information obtained under the provisions of this chapter, except as provided by law. Violators shall be fined not more than $5,000, or imprisoned not more than one year, or both.

SEC. 509. REPORT TO CONGRESS; REGULATIONS

509(a).—The Commission is required after each election to report to the Senate on the qualified campaign expenses of candidates receiving payments, amounts certified by it under section 505, and the amount of and reasons for any repayments required under the Act.

508(b).—The Commission is given authority to prescribe regulations, to conduct examinations, audits, and investigations, and to require the keeping and submission of such books and records as the Commission deems necessary.

SEC. 510. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

The Commission is authorized through its attorneys or by appointed counsel to seek recovery of any amounts found payable as a result of an audit or examination, and to seek declaratory or injunctive relief concerning any civil matter arising under the Act. Such actions shall be heard by a three judge court on an expedited basis, and any appeal shall lie to the U.S. Supreme Court.

SEC. 511. JUDICIAL REVIEW

511(a).—Commission certifications and other actions taken pursuant to the Act are subject to review by the United States Court of Appeals for the District of Columbia.

508(b).—The Commission, the national committee of a political party, and any eligible voter may pursue declaratory or injunctive remedies to implement or construe the Act's provisions. Such actions shall be heard before a three judge court on an expedited basis with an appeal to the Supreme Court.

SECTION THREE

The amount of payments under the bill are subject to cost of living increases with 1985 designated as the base year.

SECTION FOUR

The bill applies to Senate elections held after January 1, 1987, the effective date of the legislation.●

By Mr. MURKOWSKI (for himself and Mr. THURMOND):

S. 1788. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity for surviving spouses and children of veterans, to improve veterans' education benefits, and to improve the Veterans' Administration Home Loan Guaranty Program; to amend titles 10 and 38, United States Code, to improve national cemetery programs; to redesignate, improve, and extend the Emergency Veterans' Job Training Act of 1983; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' COMPENSATION AND BENEFITS IMPROVEMENTS ACT

Mr. MURKOWSKI. Mr. President, when the Senate adopted the First Concurrent Budget Resolution we made a commitment to the Nation's veterans suffering from service-connected disabilities. We made a commitment that they would receive a cost-of-living adjustment equal to that provided to the recipients of Social Security and other Federal programs.

I rise today to introduce legislation to fulfill that commitment. This bill S. 1788, the proposed Veterans' Compensation and Benefits Act of 1985, would provide a cost-of-living adjustment of up to 3.7 percent for service-connected disability compensation paid to veterans and for the related benefits paid to the survivors of individuals who die in service or due to a service-connected cause.

In addition to a COLA for those with service-connected disabilities, my legislation is designed to improve and refine a number of veterans' benefits programs. At this time, I would like to summarize the major provision of my bill.

A major component of this proposed legislation is a section designed to streamline and improve the management of the VA's Home Loan Program.

Since 1944, the VA has been guaranteeing loans made to veterans for the purpose of purchasing homes. Over $230 billion in loans for approximately 11.3 million veterans have been guaranteed. I am happy to say that the program is a worthwhile one, but I also must tell you that it is not without its problems. High rates of foreclosure and a growing inventory of foreclosed loans threatens the integrity of the program. For the 2 fiscal years, 1984 and 1985, the VA requested a total of $566.6 million in supplemental appropriations to cover the deficit in the loan guaranty revolving fund. This deficit is the result of a number of factors.

First of all, prior to 1981, the direct loan fund provided a source of financing to keep the program afloat, second, the VA is experiencing an extremely high rate of foreclosure on properties it has guaranteed. Foreclosures continue to run at the average rate of 2,500 per month. The VA is responsible for either paying the guaranty on those pieces of property or taking title to them. If the VA pays the guaranty, it immediately writes off up to $27,500. For this reason the VA takes title to over 85 percent of the foreclosed properties under the assumption that it will be able to turn around and sell the property for, at best, a loss no greater than the value of the guaranty for which the VA was liable. As a result of this policy, the VA's inventory has grown to almost 20,000 homes. The stark reality is that the VA loses on the average, $14,496 on each foreclosed property.

In July of this year alone, the VA paid 2,156 claims filed against it for property it had guaranteed. At an average of $14,496 per property, the VA lost over $31 million in that one month. We would have hoped that the economic upswing would have reduced the number of foreclosures on VA guaranteed properties, but that has not been the case. I am sure that my colleagues realize that this Government cannot afford hundreds of millions of dollars in losses annually under a single program. I am proposing, therefore, that a number of long overdue reforms be made in the administration and management of the program which would bring the program toward solvency in order to pro-

tect this important benefit for eligible veterans.

The VA's Office of the Inspector General released a report on September 30, which addresses the loan approval practices of the VA. The information contained in the report is shocking. The IG found that 14.1 percent of the loans made in fiscal year 1982 should not have been guaranteed by the VA because the veterans receiving those loans were not satisfactory credit risks. Half of those loans have already been foreclosed. That means that approximately 7,293 VA guaranteed loans made during fiscal year 1982 have been foreclosed. The VA has already lost $105.7 million on loans it guaranteed during fiscal year 1982. That is unacceptable. Can we truly believe that veterans—individually or as a group—are well served by such practices.

Therefore, I believe that the method in which the loan guaranty program is now being administered is adversely affecting many veterans. This program is meant to be a veterans benefit. Allowing a veteran to purchase a home he/she cannot afford does not benefit the veteran for whom the program was designed. My bill would require the Administrator of the VA to set and use a maximum debt-to-income ratio as a guideline for determining whether the veteran is a satisfactory credit risk. This type of credit underwriting is more in line with that used by the private lending institutions, and its use will reduce the number of foreclosures. The bill would also hold lending institutions liable for knowingly making loans to veterans who did not meet the credit underwriting standards. In addition, the Administrator would be permitted to waive the basic standard in the event that a veteran could demonstrate that an unusual or extraordinary case exists which warrants approval. A reduction in the number of bad loans will result in reduced losses within the loan guaranty revolving funding and in the fund analysis in the best interests of all veterans.

A second audit report by the VA inspector General addressed the VA appraisal system, and concluded that quality appraisals are not always being conducted by the fee based appraisers. Between October 1981 and January 1985, the VA paid claims on approximately 63,000 loans. The IG found that 42 percent of those foreclosed properties had declined in value. There are many factors which cause property value to decline, but the IG felt that an unacceptable number had been poorly appraised to begin with. Every time a VA guaranteed property receives an inflated initial appraisal, and later ends in foreclosure, the VA loses additional money. This bill would relieve the VA of its duty of determining the value of properties it guarantees, and turn that responsibility over to the industry which practices it on a day-to-day basis. The mortgage bankers are now accepting a greater portion of the risk involved in making these low to no downpayment loans and have every incentive, therefore, to ensure that quality appraisals are made. My bill would require that those same bankers be responsible for designating the appraiser who will determine the value of the property.

Another major problem within the loan guaranty system is the inordinate length of time it takes the VA to dispose of property it has acquired through foreclosure. The VA presently holds on to property an average of 10½ months. This bill would direct the VA to better utilize local realtors to dispose of their inventory of property in a more timely manner. The bill would also provide for the establishment of a pilot program under which a representative sample of the VA inventory of property would be managed and disposed of by a private company, which would also utilize the local real estate industry. The purpose of the program wolud be to enable the VA to determine the cost effectiveness of contracting with the private sector the property management functions of this program. I am very interested in knowing whether the average length of time it takes to resell a VA foreclosed property could be substantially reduced by contracting with a major firm with expertise in managing and disposing of residential properties.

Finally, the bill I am introducing would raise the limit of the amount of guaranty that could be paid on conventional property from $27,500 to $32,500. This would allow veterans greater purchasing power, especially in areas of high housing costs, and help to offset the rate of inflation since the last increase.

Mr. President, I feel that these changes are necessary if we are to continue to provide our veterans with a sound home loan guaranty program.

This legislation would also address the needs of Vietnam veterans who have not yet established themselves in steady, suitable employment. In 1983 Vietnam veterans faced an employment emergency. Their national unemployment rate was over 9 percent, significantly higher than the rate for their nonveteran peers. This situation was unacceptable and the Congress addressed it by enacting the Emergency Veterans' Job Training Act, an 18-month program to reimburse employers for the costs of training veterans on the job.

In September 1985, the unemployment rate for Vietnam veterans aged 30 to 45 was 4.6 percent, the same rate as nonveteran men the same age. For the Nation we can now say the "emergency" is over. The legislation I am introducing today would acknowledge the end of the emergency but would also respond to the need to continue the program for another year to be sure that the job we started during the unemployment emergency is fully carried out. I have proposed that for the duration of the program it be renamed the "Veterans' Job Training Act."

The Commitee on Veterans' Affairs, in hearings and through information provided by the interested organizations, has documented that, for many veterans and some areas of the country, the end of the national emergency has not resulted in an acceptable level of veterans' employment in stable, long-term jobs. Therefore, my bill would address these continuing needs by extending the renamed Veterans' Job Training Act for 1 year and authorizing an additional $55 million for the program. It would reduce the waiting time for unemployed veterans who wish to utilize this program by reducing the unemployment requirement from 15 to 10 of the 20 weeks prior to the veterans' application for benefits.

This legislation would also look to the future by directing an evaluation of the costs and benefits of integrating employer training cost reimbursement, the heart of the Veterans' Job Training Act, into the veterans' employment programs now administered by the Veterans' Employment and Training Service of the Department of Labor as a permanent program under part IV-c of the Joint Training Partnership Act. This evaluation would assess the advisability of continuing reimbursement to employers with the funds to be held and "triggered" by geographic or specific employment deficiencies.

Mr. President, there are two other provisions of my bill that I would like to outline at this time. One is a provision which would require the VA to collocate five regional offices on the grounds of VA medical centers by September 30, 1987. Currently the VA has nine regional offices which are located on the grounds of VA medical centers. This has proved to be a very efficient and worthwhile initiative and I understand that the VA Administrator has identified up to 25 other regional offices which could be colocated over the next several years. There might be some costs associated with the renovation of existing office space or even the need to build additional space. However, the benefits of collocating medical and benefits programs as well as the savings of the GSA rental costs clearly outweigh the disadvantages. The VA has estimated GSA leasing costs for its regional offices of $46,786,000 in fiscal year 1986 rising to $57,324,000 in fiscal year 1990.

A veteran who needs medical treatment and also benefits counseling or other services provided at a regional

office is inconvenienced by the need to go to two locations and deal with the same agency in two totally separate bureaucratic environments. I expect that over the next 5 years, the VA will move to collocate as many regional offices on the grounds or as close to the medical center as possible in order to streamline the benefits and medical care delivery system and become more cost efficient.

The last provision I would like to highlight is one that would provide an opportunity for veterans buried in national cemeteries to have upright markers at their gravesites. Over the past few years, the VA has established a policy that future gravesites will be marked with flat markers. The VA cites the trend toward adoption of flat markers in the private sector, as well as substantial cost savings as reasons to abandon upright markers. Some veterans and their families attach substantial significance to the use of upright markers. Besides the symbolic and aesthetic value of upright markers, there is a practical consideration as well. In cases where veterans are interred in national cemeteries located in northern tier States, upright markers are more easily seen in deep snow. Thus, when family members in such States visit the cemetery, they can better locate the graves of their loved ones. Therefore, my bill would provide that a veteran or the veteran's family could request an upright marker in all national cemeteries with the exception of those already established for the sole use of flat markers.

Mr. President, a cost-of-living adjustment for service-connected disabled veterans and their survivors, reform of the home loan guaranty program and veterans' employment are important issues requiring action by this body. I urge my colleagues to join me in supporting this legislation.

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

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

S. 1788

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

SHORT TITLE AND REFERENCES

SECTION 1. (a) This Act may be cited as the "Veterans' Compensation and Benefits Improvements Act of 1985".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$66" in subsection (a) and inserting in lieu thereof "$68";

(2) by striking out "$122" in subsection (b) and inserting in lieu thereof "$127";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$192";

(4) by striking out "$266" in subsection (d) and inserting in lieu thereof "$276";

(5) by striking out "$376" in subsection (e) and inserting in lieu thereof "$390";

(6) by striking out "$474" in subsection (f) and inserting in lieu thereof "$492";

(7) by striking out "$598" in subsection (g) and inserting in lieu thereof "$620";

(8) by striking out "$692" in subsection (h) and inserting in lieu thereof "$718";

(9) by striking out "$779" in subsection (i) and inserting in lieu thereof "$808";

(10) by striking out "$1,295" in subsection (j) and inserting in lieu thereof "$1,343";

(11) by striking out "$1,609" and "$2,255" in subsection (k) and inserting in lieu thereof "$1,669" and "$2,338", respectively;

(12) by striking out "$1,609" in subsection (l) and inserting in lieu thereof "$1,669";

(13) by striking out "$1,774" in subsection (m) and inserting in lieu thereof "$1,840";

(14) by striking out "$2,017" in subsection (n) and inserting in lieu thereof "$2,092";

(15) by striking out "$2,255" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,338";

(16) by striking out "$968" and "$1,442" in subsection (r) and inserting in lieu thereof "$1,004" and "$1,495", respectively;

(17) by striking out "$1,449" in subsection (s) and inserting in lieu thereof "$1,503"; and

(18) by striking out "$280" in subsection (t) and inserting in lieu thereof "$290".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$79" in clause (A) and inserting in lieu thereof "$82";

(2) by striking out "$132" and "$42" in clause (B) and inserting in lieu thereof "$137" and "$44", respectively;

(3) by striking out "$54" and "$42" in clause (C) and inserting in lieu thereof "$56" and "$44", respectively;

(4) by striking out "$64" in clause (D) and inserting in lieu thereof "$66";

(5) by striking out "$143" in clause (E) and inserting in lieu thereof "$148"; and

(6) by striking out "$120" in clause (F) and inserting in lieu thereof "$124".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$349" and inserting in lieu thereof "$362".

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC 104 Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$494	W-4	$707
E-2	508	O-1	624
E-3	521	O-2	644
E-4	555	O-3	690
E-5	569	O-4	729
E-6	582	O-5	804
E-7	611	O-6	905
E-8	644	O-7	979
E-9	[1]673	O-8	1,073
W-1	624	O-9	1,152
W-2	649	O-10	[2]1,262
W-3	668		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $726.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,353.";

(2) by striking out "$55" in subsection (b) and inserting in lieu thereof "$57";

(3) by striking out "$143" in subsection (c) and inserting in lieu thereof "$148"; and

(4) by striking out "$70" in subsection (d) and inserting in lieu thereof "$73".

DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$240" in clause (1) and inserting in lieu thereof "$249";

(2) by striking out "$345" in clause (2) and inserting in lieu thereof "$358";

(3) by striking out "$446" in clause (3) and inserting in lieu thereof "$463"; and

(4) by striking out "$446" and "$90" in clause (4) and inserting in lieu thereof "$463" and "$93", respectively.

SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$143" in subsection (a) and inserting in lieu thereof "$148";

(2) by striking out "$240" in subsection (b) and inserting in lieu thereof "$249"; and

(3) by striking out "$122" in subsection (c) and inserting in lieu thereof "$127".

EFFECTIVE DATE

SEC. 107. Except as provided in section 108 of this Act, the amendments made by sections 101 through 106 of this Act shall take effect on December 1, 1985.

ALTERNATIVE RATE INCREASES

SEC. 108. (a)(1) If the percentage of the increase in benefit amounts under title II of the Social Security Act that will take effect on December 1, 1985, as a result of a determination under section 215(i) of such Act is not 3.7 percent—

(A) sections 101 through 106 of this Act shall not take effect; and

(B) the Administrator of Veterans' Affairs shall (i) compute alternative increased rates and limitations that are equal to those that would be arrived at by increasing, by the same percentage as the percentage by which such benefit amounts will thus be increased, each dollar amount that would have been increased by the amendments that would have been made by such sections, and (ii) effective December 1, 1985, pay benefits under chapters 11 and 13 of title 38, United States Code, in accordance with such alternative increased rates and limitations.

(2) In the computation of alternative increased rates and limitations pursuant to

paragraph (1)(B), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) The Administrator may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) If, under subsection (a) of this section, the Administrator is required to compute alternative increased rates and limitations, the Administrator shall publish in the Federal Register such alternative increased rates and limitations and the dollar amounts which would have been increased by the amendments which, but for subsection (a)(1) of this section, would have been made by sections 101 through 106 of this Act. The Administrator shall publish such rates and limitations at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act.

TITLE II—EDUCATIONAL ASSISTANCE PROGRAM IMPROVEMENTS

DURATION AND LIMITATIONS ON ENTITLEMENT TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

SEC. 201. Section 1632 is amended to read as follows:

"(a) Educational assistance benefits shall not be afforded an eligible veteran under this chapter more than 10 years after the date of such veteran's last discharge or release from active duty. In the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education during the delimiting period determined under the first sentence because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made within 1 year after (1) the last date of the delimiting period otherwise applicable under this section, or (2) the termination date of the period of such mental or physical disability, whichever is later, be granted an extension of the applicable delimiting period for such period as the Administrator determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence, the delimiting period with respect to such veteran shall again begin to run on the first day after such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations prescribed by the Administrator, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(b) In the event an eligible veteran has not utilized any or all of such veteran's entitlement by the end of the 10-year period applicable to the veteran under subsection (a) of this section, such eligible veteran is automatically disenrolled and any contributions made by such veteran remaining in the fund shall be refunded to the veteran after notice of disenrollment is transmitted to the veteran and the veteran applies for such refund. If no application is received within 1 year after the date the notice is transmitted to the veteran, it shall be presumed, for the purposes of section 1322(a) of title 31, that the individual's whereabouts is unknown and the funds shall be transferred as provided in such section.".

EDUCATIONAL AND VOCATIONAL COUNSELING UNDER THE VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

SEC. 202. Section 1663 is amended by inserting immediately after the first sentence the following: "Such counseling shall be required prior to the selection of a program of education or training in any case in which the Administrator, having considered all pertinent evidence of record (including any court adjudication finding the veteran mentally incompetent), has rated the veteran as being incompetent.".

PERIODS OF ELIGIBILITY UNDER THE SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM

SEC. 203. Section 1712(b) is amended by adding at the end thereof the following new paragraph (3):

"(3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in clause (B), (C), or (D) of section 1701(a)(1) of this title) who was prevented from initiating or completing such person's chosen program of education within the delimiting period determined under subsection (a) of this section because of a delay in determining such person's eligibility, such person shall, subject to the approval of the Administrator, be permitted to elect a date referred to in subparagraph (B) of this paragraph to commence receiving educational assistance benefits under this chapter.

"(B) The date which an eligible person may elect for the purposes of subparagraph (A) of this paragraph is any date during the period beginning on the date the person became an eligible person within the meaning of clause (B), (C), or (D) of section 1701(a)(1) of this title and ending on the date determined under subparagraph (A), (B), or (C) of paragraph (1) of this subsection to be applicable to such person.".

EDUCATIONAL AND VOCATIONAL COUNSELING UNDER THE SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM

SEC. 204. (a) Section 1720 is amended to read as follows:

"§ 1720. Educational and vocational counseling

"The Administrator may, upon request, arrange for educational or vocational counseling for persons eligible for benefits under this chapter to assist such persons in selecting their educational, vocational, or professional objectives and in developing their programs of education.".

(b)(1) Section 1721 is amended by—

(A) striking out "finally";

(B) striking out clause (1); and

(C) redesignating clauses (2), (3), (4), and (5) as clauses (1), (2), (3), and (4), respectively; and

(2) The catchline of such section is amended to read as follows:

"§ 1721. Approval of application".

(c) The items relating to sections 1720 and 1721 in the table of sections at the beginning of chapter 35 are amended to read as follows:

"1720. Educational and vocational counseling.
"1721. Approval of application.".

EDUCATIONAL ASSISTANCE FOR NONDEGREE PROGRAMS

SEC. 205. (a)(1) Section 1780(a) is amended—

(A) in clause (1), by inserting ", or enrolled in a course which does not lead to a standard college degree if the educational institution offering the course offers courses leading to a standard college degree and courses not leading to a standard college degree and is a fully accredited institution of higher learning," after "college degree"; and

(B) in clause (2), by inserting ", if the educational institution offering the course is not a fully accredited institution of higher learning or does not offer courses leading to a standard college degree and courses not leading to a standard college degree," after "title)".

(2) The third sentence of section 1788(a) is amended by inserting before the period at the end thereof the following: "unless the educational institution offering the course offers courses leading to a standard college degree and courses not leading to a standard college degree and is a fully accredited institution of higher learning".

(b)(1) The amendments made by subsection (a) of this section shall take effect September 1, 1986.

(2) Benefits shall not accrue by reason of such amendments for periods before September 1, 1986.

PAYMENT OF EDUCATIONAL ASSISTANCE

SEC. 206. Section 1780(f) is amended to read as follows:

"(f) Payment of educational assistance allowance in the case of any eligible veteran or eligible person pursuing a program of education at an educational institution on less than a half-time basis shall be made in an amount computed for the entire quarter, semester, or term at the rate provided in section 1682(b) or 1732(a)(2) of this title, as applicable. Such lump-sum payment shall be made only after the Administrator receives certification from the educational institution that such veteran or person has enrolled in and is pursuing a program at such institution.".

PROHIBITION ON BENEFITS UNDER MORE THAN ONE EDUCATIONAL ASSISTANCE PROGRAM

SEC. 207. Section 1781(b) is amended by striking out "for the pursuit of the same program of education".

DELAY OF CERTAIN REPORTS

SEC. 208. Section 1784(a) is amended—

(1) by striking out "(a) The" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2) of this subsection, the"; and

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

"(2) In the case of a program of independent study pursued on a less than half-time basis in an educational institution, the Administrator may, upon request by the educational institution, approve a delay by the institution in reporting the enrollment or reenrollment of an eligible veteran or eligible person until the end of the term, quarter, or semester.".

REPEAL OF EDUCATION LOAN PROGRAM

SEC. 209. (a) Section 1662(a) is amended by—

(1) striking out paragraph (2); and

(2) redesignating paragraph (3) as paragraph (2).

(b) Section 1682A is repealed.

(c) Section 1686 is repealed.

(d) Section 1712 is amended by—

(1) striking out subsection (f); and

(2) redesignating subsection (g) as subsection (f).

(e) Section 1737 is repealed.

(f) Section 1738 is repealed.

(g) Subchapter III of chapter 36 is repealed.

TECHNICAL AMENDMENTS

SEC. 210. (a)(1) The catchline at the beginning of section 1631 is amended to read as follows:

"§ 1631. Entitlement; payment of benefits".

(2) The table of sections at the beginning of chapter 32 is amended by striking out the item relating to section 1631 and inserting in lieu thereof the following:

"1631. Entitlement; payment of benefits.".

(b) The table of sections at the beginning of chapter 34 is amended by striking out the items relating to sections 1682A and 1686.

(c) The table of sections at the beginning of chapter 35 is amended by striking out the items relating to sections 1737 and 1738.

(d) The table of sections at the beginning of chapter 36 is amended by striking out the items relating to subchapter III and sections 1798 and 1799.

SAVINGS PROVISION

SEC. 211. Notwithstanding the provisions of section 209(g) of this Act—

(1) the Administrator is authorized, with respect to education loans made prior to the date of enactment of this Act, to continue to collect loan principal and interest due, and to declare and recover (or discharge) overpayments, pursuant to the provisions of section 1798, as such section was in effect on the day before the effective date of this Act; and

(2) the Veterans' Administration Education Loan Fund, established by former section 1799(a), shall continue to be maintained in the Treasury of the United States for deposit of the collections referred to in clause (1) of this section, and the Administrator is authorized to transfer all or any part of the sums contained therein to the appropriation for readjustment benefits, from time to time, to be used for the purposes of that appropriation.

TITLE III—HOME LOAN GUARANTY PROGRAM IMPROVEMENTS

CREDIT UNDERWRITING STANDARD

SEC. 301. (a) Section 1810(b)(3) is amended by inserting ", as determined in accordance with the credit underwriting standards prescribed pursuant to subsection (g) of this section" before the semicolon at the end.

(b) Section 1810 is further amended by adding at the end thereof the following new subsections:

"(g)(1) For the purposes of this subsection, the term 'veteran', when used with respect to a loan guaranteed or to be guaranteed under this chapter, includes the veteran's spouse if the spouse is jointly liable with the veteran under the loan.

"(2) For the purpose of determining whether a veteran meets the standards set out in subsection (b)(3) of this section and section 1819(e)(2) of this title, the Administrator shall prescribe in regulations—

"(A) credit underwriting standards to be used in evaluating loans to be guaranteed under this chapter; and

"(B) standards to be used by lenders in obtaining credit information and processing loans to be guaranteed under this chapter.

"(3) In carrying out paragraph (2)(A) of this subsection, the Administrator shall prescribe standards that—

"(A) establish—

"(i) a maximum debt-to-income ratio to apply in the case of the veteran receiving the loan;

"(ii) criteria for evaluating the reliability and stability of the income of the veteran receiving the loan; and

"(iii) procedures for ascertaining the monthly income required by the veteran to meet the anticipated loan payment terms; and

"(B) are designed—

"(i) to assure that, to the maximum extent practicable, a loan guaranteed or made under this chapter will be repaid by the veteran receiving the loan in accordance with the loan agreement;

"(ii) reflect the loan underwriting principles generally accepted and used by commercial lending institutions.

"(4)(A) In carrying out paragraph (2)(B) of this subsection, the Administrator shall prescribe standards that reflect the loan underwriting procedures that are generally accepted and used by commercial lending institutions and are designed to assure that the lender obtains accurate information on prospective veteran borrowers.

"(B) The standards prescribed under paragraph (2)(B) of this subsection as provided in subparagraph (A) of this paragraph shall include—

"(i) procedures for obtaining verifications of the income, employment, and debts of the veteran; and

"(ii) criteria for acceptable credit reports.

"(5)(A) Any lender submitting a loan to the Administrator to be guaranteed under this chapter shall certify, in such form as the Administrator shall prescribe, that the lender has complied with the credit information and loan processing standards prescribed pursuant to paragraph (2)(B) of this subsection, and that, to the best of the lender's knowledge and belief, the proposed loan meets the underwriting standards prescribed pursuant to paragraph (2)(A) of this subsection.

"(B) Any lender who knowingly makes a false certification with respect to a loan under subparagraph (A) of this paragraph shall be liable for a civil penalty equal to two times the amount of the Administrator's loss on such loan or $10,000, whichever is greater. All determinations necessary to carry out this subparagraph shall be made by the Administrator.

"(6) The Administrator may waive the application of the credit underwriting standards prescribed pursuant to this subsection in extraordinary circumstances. The Administrator shall prescribe restrictive guidelines specifying the criteria under which a waiver may be made under this paragraph.

"(h) The Administrator shall require each veteran who applies for a loan to be guaranteed under this chapter to certify whether the veteran has or has not been previously rejected for a loan for which the property which was to be used as the security is the same property which is to be used as security for the loan to be guaranteed under this chapter.".

(c) Section 1819(e)(2) is amended by inserting "as determined in accordance with the credit underwriting standards prescribed pursuant to section 1810(g) of this title and" after "credit risk,".

LOAN GUARANTY AMOUNT

SEC. 302. (a) Section 1810(c) is amended by striking out "$27,500" and inserting in lieu thereof "$32,500".

(b) Section 1811(d)(2)(A) is amended by striking out "$27,500" each place it appears and inserting in lieu thereof "$32,500".

DEFAULT NOTIFICATION AND FORECLOSURE PROCEDURES; FORECLOSURE INFORMATION

SEC. 303. (a) The first sentence of section 1816(a)(1) is amended to read as follows: "The holder of a loan guaranteed under this chapter shall promptly notify the Administrator of any failure of the debtor under the loan to make two consecutive monthly payments due on the loan.".

(b) Section 1816(a)(2) is amended by inserting before the first sentence the following: "Within 15 days after the first date on which a veteran has failed to make four consecutive monthly payments due on any loan guaranteed under this chapter, the holder of the loan shall initiate foreclosure.".

(c) Section 1816 is further amended by adding at the end thereof the following new subsections:

"(e) If a holder of a loan guaranteed under this chapter fails to initiate foreclosure on the loan as required by paragraph (2) of this subsection, other than during a period of forebearance approved by the Administrator under such paragraph, the Administrator shall not be liable under the guarantee for interest accruing on such loan during the period beginning on the date the holder should have initiated the foreclosure and ending on the date the holder initiates the foreclosure.

"(f)(1) The Administrator shall identify and compile information on common factors which contribute to foreclosures on loans guaranteed under this chapter.

"(2) The Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report on the Administrator's findings under paragraph (1) of this subsection.".

FORECLOSED LOANS PROPERTY MANAGEMENT PILOT PROGRAM

SEC. 304. (a) Subchapter II of chapter 37 is amended by adding at the end thereof the following new section:

"§ 1819A. Foreclosed loans property management pilot program

"(a) In order to evaluate the effectiveness, feasibility, and desirability of contracting with commercial organizations to perform the functions of management and disposal of property acquired by the Veterans' Administration under this chapter, the Administrator of Veterans' Affairs, during the period beginning April 1, 1986, and ending September 30, 1987, shall conduct a pilot program to contract with commercial organizations for the performance of such functions.

"(b) In order to carry out the pilot program under this section, the Administrator shall—

"(1) designate a representative nationwide sample of 10 percent of the inventory of properties held by the Veterans' Administration and referred to in subsection (a) of this section; and

"(2) enter into contracts with commercial organizations which would utilize local real estate brokers and other real estate sales professionals to manage and dispose of the properties in the designated sample.

"(c) Not later than March 3, 1988, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience under the pilot program. The report shall include—

"(1) the Administrator's assessment of—

"(A) the effectiveness of the program in providing quality management and timely disposition of properties acquired by the Veterans' Administration under this chapter; and

"(B) the cost-effectiveness of the program determined by comparing the cost of the program to the cost of management and dis-

posal of properties by the Veterans' Administration;

"(2) a description of the effects, if any, which the program had on the functions and duties performed by employees of the Veterans' Administration; and

"(3) any recommendations for legislation which the Administrator considers appropriate.".

(b) The analysis at the beginning of such chapter is amended by inserting after the item relating to section 1819 the following new item:

"1819A. Foreclosed loans property management pilot program.".

USE OF ATTORNEYS IN HOME LOAN FORECLOSURES

SEC. 305. The second sentence of section 1830(a) is amended by striking out "With the concurrence of the Attorney General of the United States, the" and inserting in lieu thereof "The".

DETERMINATIONS OF REASONABLE VALUE

SEC. 306. (a)(1) Subchapter III of chapter 37 is amended by adding at the end thereof the following new section 1831:

"§ 1831. Determination of reasonable value

"Whenever the reasonable value of any property, construction, repairs, or alterations is required to be made for the purposes of this chapter in connection with a loan guaranteed or proposed to be guaranteed under this chapter, the reasonable value shall be determined by an appraiser designated by the lender of such loan.".

(2) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 1830 the following new item:

"1831. Determination of reasonable value.".

(b) Section 1810(b)(5) is amended by striking out "as determined by the Administrator".

(c) Section 1819(e)(4) is amended by striking out ", as determined by the Administrator" in subclauses (B) and (C).

USE OF REAL ESTATE PROFESSIONALS TO DISPOSE OF FORECLOSED PROPERTY

SEC. 307. (a) Subchapter III of chapter 37, as amended by section 306 of this Act, is further amended by adding at the end thereof the following new section 1832:

"§ 1832. Use of real estate professionals to dispose of foreclosed property

"(a) The Administrator shall furnish to real estate brokers and other real estate professionals information on the availability of real property for disposition under this chapter and the procedures used by the Veterans' Administration to dispose of such property.

"(b) The Administrator shall, to the maximum extent practicable—

"(1) coordinate with real estate brokers and other real estate sales professionals for the purpose of expeditiously disposing of property acquired by the Veterans' Administration under this chapter; and

"(2) allocate sufficient resources to carry out the purpose specified in clause (1) of this subsection.".

(b) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 1831, as added by section 306(a)(2) of this Act, the following new item:

"1832. Use of real estate professionals to dispose of foreclosed property.".

TASK FORCE ON MANAGEMENT AND DISPOSITION OF PROPERTY

SEC. 308. (a) Subchapter III of chapter 37, as amended by sections 306 and 307 of this Act, is further amended by adding at the end thereof the following new section 1833:

"§ 1833. Task Force on Management and Disposition of Property

"(a)(1) The Administrator shall establish a task force to be known as the Task Force on Management and Disposition of Property (hereafter in this section referred to as the "Task Force").

"(2) The purposes of the Task Force are—

"(A) to exchange information between the Veterans' Administration and the real estate industry on efficient real property management and disposition practices and current developments in such practices; and

"(B) to advise the Administrator on ways to improve the manner in which the Veterans' Administration manages and disposes of real property acquired under this chapter.

"(3) The members of the Task Force shall be appointed by the Administrator and shall include—

"(A) appropriate representatives of the Veterans' Administration;

"(B) real estate brokers and other real estate sales professionals; and

"(C) representatives of residential real property management businesses.

"(4) The Administrator shall designate one member of the Task Force to be the Chairman.

"(5) The Administrator shall prescribe the number and terms of service (not to exceed 3 years) of members of the Task Force and the pay and allowances payable for service on the Task Force in the case of members of the Task Force who are not employees of the Federal Government.

"(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Task Force with respect to matters relating to the purposes of the Task Force.

"(c)(1) Not later than July 1, 1986, and not later than July 1 of each second year thereafter, the Task Force shall submit to the Administrator a report on the activities of the Task Force during the preceding year and such recommendations relating to the purposes of the Task Force as the Task Force considers appropriate.

"(2) The Task Force may also submit to the Administrator such other reports relating to the purposes of the Task Force as the Task Force considers appropriate and may include recommendations with respect to matters relating to such purposes in such reports.

"(d)(1) Not later than 30 days after the date the Administrator receives an annual report required by subsection (c)(1) of this section, the Administrator shall submit such report to the Committees on Veterans' Affairs of the Senate and the House of Representatives. The Administrator shall include with such report any comments concerning the report that the Administrator considers appropriate.

"(2) The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title—

"(A) a summary of all reports and recommendations submitted by the Task Force pursuant to subsection (c) of this section since the date on which the previous annual report was submitted under such section 214; and

"(B) a summary of all actions taken by the Administrator since such date to implement any recommendations made to the Administrator by the Task Force under subsection (c) of this section before, on, or after such date.

"(e) The Administrator shall furnish the Task Force such administrative services as is necessary for the Task Force to carry out its functions under this section.".

(b) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 1832, as added by section 307(a) of this Act, the following new item:

"1833. Task Force on Management and Disposition of Property.".

EFFECTIVE DATES

SEC. 309. (a) The amendments made by sections 301, 302, and 303 shall take effect 180 days after the date of enactment of this Act.

(b) The amendment made by section 306 shall take effect with respect to loans guaranteed under chapter 37 more than 180 days after the date of enactment of this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

NATIONAL CEMETERY GRAVE MARKERS

SEC. 401. (a) Section 1004(c) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end thereof the following new paragraphs (2) and (3):

"(2)(A) The Administrator shall designate a section in each national cemetery in which a person eligible for interment may be buried in a grave to be marked with an upright grave marker.

"(B) Subparagraph (A) shall not apply to a national cemetery established before the date of enactment of the Veterans' Compensation and Benefits Improvements Act of 1985 if the Administrator has never authorized graves in such cemetery to be marked with upright markers.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, each marker in a national cemetery shall be flat.

"(B) If the person to be buried in a national cemetery (or the survivor or the legal representative of the person to be buried) has requested that the person's grave be marked with an upright marker, the person shall be buried in a cemetery section designated for graves marked with upright markers, and an upright marker shall be used to mark the grave of such person.".

(b) The amendments made by subsection (a) shall apply with respect to markers for the graves of persons who die on or after January 1, 1986.

MEMORIAL AREAS IN ARLINGTON NATIONAL CEMETERY

SEC. 402. (a) Chapter 75 of title 10, United States Code, is amended by adding at the end thereof the following new section 1491:

"§ 1491. Memorial areas in Arlington National Cemetery

"(a) The Secretary of the Army may set aside, when available, suitable areas in Arlington National Cemetery, Virginia, to honor the memory of members of the armed forces and veterans (as defined in section 101(2) of title 38)—

"(1) who are missing in action;

"(2) whose remains have not been recovered or identified;

"(3) whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

"(4) whose remains were donated to science; or

"(5) whose remains were cremated and whose ashes were scattered without interment of any portion of the ashes.

"(b) Under regulations prescribed by the Secretary, appropriate memorials or markers may be erected in Arlington National Cemetery to honor the memory of those individuals, or group of individuals, referred to in subsection (a).".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1491. Memorial areas in Arlington National Cemetery.".

ESTATE LIMITATIONS RELATING TO INCOMPETENT INSTITUTIONALIZED VETERANS

SEC. 403. Section 3203(b)(1)(A) is amended—

(1) by striking out "$1,500" and inserting in lieu thereof "$8,000"; and

(2) by striking out "$500" and inserting in lieu thereof "$2,000".

EVALUATION OF THE NEEDS OF NATIVE AMERICAN VETERANS

SEC. 404. (a)(1) The Administrator of Veterans' Affairs shall conduct an evaluation to determine the extent to which the programs and other activities of the Veterans' Administration meet the needs of veterans who are Native Americans, including Alaska Natives (as defined in section 3(b) of the Alaska Native Claims Settlement Act (85 Stat. 689; 43 U.S.C. 1602(b)).

(2) The evaluation required by paragraph (1) shall include—

(A) an assessment of the needs of the veterans referred to in such paragraph for health care, rehabilitation, readjustment counseling, drug and alcohol counseling, outreach services, and other benefits and assistance under programs administered by the Veterans' Administration; and

(B) a review of the manner in which and the extent to which the programs and other activities of the Veterans' Administration meet such needs.

(b) In conducting the evaluation required by subsection (a), the Administrator may utilize information or studies which have been obtained or completed by other departments, agencies, or instrumentalities of the Federal Government or by any State or local government, as the Administrator considers appropriate.

(c) Not later than October 1, 1987, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report of the Administrator's findings resulting from the evaluation required by subsection (a).

COLLOCATION OF REGIONAL OFFICES AND MEDICAL CENTERS; CONSOLIDATION OF REGIONAL OFFICES

SEC. 405. (a)(1) Not later than September 30, 1987, the Administrator of Veterans' Affairs shall collocate at least 5 regional offices of the Veterans' Administration described in paragraph (3) with Veterans' Administration medical centers.

(2)(A) Not later than September 30, 1986, the Administrator shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the feasibility of collocating more than 5 regional offices of the Veterans' Administration described in paragraph (3) with Veterans' Administration medical centers.

(B) The report required by subparagraph (A) shall include—

(i) an analysis of the estimated costs and savings which would result from the collocations; and

(ii) the benefits and costs of furnishing personnel, supply, administration, and finance services and other supporting services jointly to regional offices of the Veterans' Administration and Veterans' Administration medical centers.

(3) The regional offices referred to in paragraphs (1) and (2) are regional offices of the Veterans' Administration which are not located at Veterans' Administration medical centers on the date of the enactment of this Act.

(b)(1) The Administrator of Veterans' Affairs shall assess the benefits and costs of combining regional offices of the Veterans' Administration which, on the date of enactment of this Act, are located near each other.

(2) The Administrator shall include the results of the assessment required by paragraph (1) in the report required by subsection (a)(2).

REDESIGNATION AND EXTENSION OF THE EMERGENCY VETERANS' JOB TRAINING ACT OF 1983

SEC. 406. (a)(1) The first sentence of section 1 of Public Law 98-77 (29 U.S.C. 1721 note) is amended to read as follows: "This Act may be cited as the 'Veterans' Job Training Act of 1983'.".

(2) Any reference in any Federal law to the Emergency Veterans' Job Training Act of 1983 shall be deemed to refer to the Veterans' Job Training Act of 1983.

(b) Section 16 of such Act is amended by inserting "and $55,000,000 for fiscal year 1986" in the first sentence after "and 1985".

(c) Section 17 of such Act is amended—

(1) in clause (1), by striking out "after February 28, 1985" and inserting in lieu thereof "more than one year after the date of enactment of the Veterans' Compensation and Benefits Improvements Act of 1985";

(2) in clause (2), by striking out "after July 1, 1986" and inserting in lieu thereof "more than 18 months after the date of enactment of the Veterans' Compensation and Benefits Improvements Act of 1985";

(3) by inserting "(a)" after "Sec. 17."; and

(4) by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), if funds are not appropriated for fiscal year 1986 pursuant to the authorization contained in section 16 and made available by the Director of the Office of Management and Budget on or before January 1, 1986, for the purpose of making payments to employers under this Act, assistance may be paid to an employer under this Act on behalf of a veteran if the veteran—

"(1) applies for a program of job training under this Act within one year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director; and

"(2) begins participation in such program within 18 months after such date.".

(d) Section 5(a)(1)(B) of such Act is amended by striking out "fifteen of the twenty" and inserting in lieu thereof "10 of the 20".

EVALUATION OF VETERANS' JOB TRAINING

SEC. 407. (a) For the purposes of this section:

(1) The term "private industry council" means a private industry council established pursuant to section 102 of the Job Training Partnership Act (29 U.S.C. 1512).

(2) The term "service delivery area" means a service delivery area established pursuant to section 101 of the Job Training Partnership Act (29 U.S.C. 1511).

(b)(1) The Secretary of Labor shall evaluate the feasibility and advisability of establishing and administering, under part C of title IV of the Job Training Partnership Act, a program described in paragraph (2).

(2) The program referred to in paragraph (1) is a program under which, upon the Secretary's determination and declaration of a severe State or regional employment deficiency or a veterans' employment deficiency in a State or service delivery area, grants are made from a veterans' job training grant fund to a State or appropriate private industry council to fund an on-the-job training program which is similar in structure and purpose to the job training program established under the Veterans' Job Training Act of 1983 (as redesignated by section 405(a)(1)) and is to be conducted in such State or service delivery area.

(c) Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation made under subsection (b). The report shall include—

(1) recommended definitions, standards, and implementation procedures for declaring and determining the duration of a severe State or regional employment deficiency and a veterans' employment deficiency in a State or service delivery area;

(2) recommended procedures for commencing a job training program in a State or service delivery area and for making financial assistance and other resources available for such job training program when a veterans employment emergency is declared with respect to the State or service delivery area;

(3) recommended procedures for administering an emergency veterans' job training grant fund, including recommended minimum and maximum amounts to be maintained in such grant fund, and appropriate amounts to be authorized;

(4) recommended limits on the amounts of grants to be made to any grantee;

(5) recommended veteran and employer eligibility criteria and entry and completion requirements;

(6) a description of the support and counseling services that are necessary to carry out a State or service delivery area job training program;

(7) the recommended division or divisions of the Department of Labor which would be appropriate—

(A) to administer a grant program described in subsection (b), including the contracting and monitoring functions;

(B) to determine the eligibility criteria for applicants for training and for employer certifications;

(C) to establish findings of veterans' employment deficiencies in States and service delivery areas; and

(D) to verify the level of compliance of grantees, veterans, and employers with the requirements of the grant program and the job training programs funded by the grant program;

(8) the estimated costs of administering and monitoring a job training grant program to be established under part C of title IV of the Job Training Partnership Act; and

(9) such other findings and recommendations, including any recommendations for legislation, which the Secretary considers appropriate.

Mr. THURMOND. Mr. President, I am pleased to join Senator MURKOWSKI in sponsoring this legislation to improve the benefits provided to our Nation's veterans. I have always felt that the highest obligation of American citizenship is to provide for the defense of the freedoms and ideals inherent to our great land. We as a grateful Nation, in turn, have the responsibility to see that those who have given of

themselves for their country are provided adequate compensation for their losses. I believe that we will continue to do just that through this legislation.

The bill we have introduced includes a number of provisions which I feel are especially necessary. It provides for a cost-of-living adjustment of up to 3.7 percent for the veterans who receive compensation for their service-connected disabilities. The wounds and injuries suffered by these men and women are silent testimony of their devotion to their country. We cannot allow inflation to erode the compensation that represents our most tangible recognition of their sacrifice.

This bill also includes a provision addressing the employment situation of our Vietnam veterans. This has long been an issue of utmost importance to me. The Emergency Veterans' Job Training Act should be extended and the eligibility requirements made less strict. This bill meets both of those objectives. The program, to be called the Veterans' Job Training Act, would be extended for 1 year. It would have less stringent eligibility requirements, and additional funding would be provided in order that more veterans could be assisted in their effort to gain employment.

This bill also incorporates the provisions of S. 1207, which I introduced earlier in this Congress. These provisions address the problem of the inequities faced by veterans who pursue vocational education as opposed to a traditional academic degree. The legislation which I proposed, and which is now included in this bill, would permit credit hour measurement of vocational training pursued at fully accredited institutions of higher learning, and would establish parity in attendance reporting and payment requirements for both standard college degree and nondegree vocational courses offered by those institutions.

Mr. President, I urge my colleagues to join me in supporting this bill which will benefit those Americans who have done so much. The veterans of our Armed Forces continue to look to those of us in Congress to ensure that their service and sacrifice will be recognized, acknowledged and rewarded.

By Mr. KERRY:

S. 1789. A bill to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns by eliminating the tax credit for political contributions; to the Committee on Finance.

DEFICIT REDUCTION CAMPAIGN FINANCE REFORM ACT

● Mr. KERRY. Mr. President, I am today introducing a bill to provide for full public financing of Senate general election campaigns. Under this amendment, public financing would replace contributions by both individuals and political action committees not merely without cost to the Treasury, but with deficit reduction. For this reason, I have entitled this bill the "Deficit Reduction Campaign Finance Reform Act."

All of us have experienced first hand the burden that massive increases in the cost of running for elective office have placed on our political system. We have seen increased reliance on interest groups for campaign funds at the same time that candidates for public office have been forced to devote more and more of their time on raising funds for campaigns—time better spent on carrying out their work as public officials and as candidates.

At the same time, calls for public financing of campaigns have been met by the justifiable concern that public financing of congressional elections would be too costly, especially in a period when we are seeking to reduce the Federal deficit, rather than increase it.

To meet these concerns, the Deficit Reduction Campaign Finance Reform Act provides for public financing of congressional elections by eliminating the current tax credit for political contributions by individuals—50 percent of contributions up to $100 credit per individual, and applying that previously foregone revenue to a newly created Senate general election campaign fund.

As a result, Senate races would be funded in the general election without increasing the Federal deficit either now or in the future, but, in fact, lowering the Federal deficit.

The relevant statistics are as follows:

In recent years, the Government has spent an average of $265 million annually on foregone tax revenues to individuals making political contributions. Recent available figures are: $269.4 million, 1980; $262 million, 1981; $269.8 million, 1982; $256.9 million, 1983. This amounts to at least $520 million per election cycle.

Only 5 to 5.5 percent of the American public has taken this tax credit annually.

Total congressional election campaign expenditures in the 1984 cycle amounted to $377 million. CRS analysts estimate that half of this money is attributable to primaries, and half to the general election campaign. Thus, this fund could pay for all election campaign costs, if it were funded by the foregone credit. Revenues from the foregone credit are clearly more than adequate to fund general election public financing.

The specific calculations are as follows: $530 million available each election cycle; $85 million necessary for full funding of Senate general election; $103 million necessary for full funding of House general election; and $342 million available for deficit reduction.

This legislation encompasses a number of concepts first developed by Philip M. Stern, cochairman of the organization Citizens Against PAC's, and incorporated by Senators MATHIAS and SIMON in their campaign finance legislation, which unfortunately does not contain a funding mechanism. With this new mechanism, the legislation can both provide full funding of Senate general elections while reducing the Federal budget deficit.

We may have an opportunity to act swiftly to engage in this fundamental reform of campaign finance law. I urge my colleagues to support this reform bill, and 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. 1789

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 "Deficit Reduction Campaign Finance Reform Act."

SEC. 2. The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—PUBLIC FINANCING OF SENATE GENERAL ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this subchapter—

"(1) unless otherwise provided in this subchapter the definitions set forth in section 301 of this Act apply to this subchapter;

"(2) 'authorized committee' means, with respect to any candidate for election to the United States Senate, any political committee which is authorized in writing by such candidate to accept contributions, incur expenses, or make expenditures on behalf of such candidate to further the election of such candidate. Such authorization shall be addressed to the chairman of the political committee, and a copy of such authorization shall be filed by each candidate with the Commission. A withdrawal of any authorization shall be in writing and shall be addressed and filed in the same manner as the authorization;

"(3) 'candidate' means an individual who has been nominated for election to the office of United States Senator by a major or minor party or who has qualified to have his or her name on the general election ballot;

"(4) 'eligible candidate' means a candidate who is eligible, under section 502, for payments under this subchapter;

"(5) 'expenditure report period' with respect to an election means—

"(A) in the case of a major party candidate, the period beginning on the date such candidate becomes an eligible candidate and ending 30 days after the date of the election or the date such candidate is no longer an eligible candidate, whichever date is earlier; or

"(B) in the case of a candidate other than a candidate of a major party, the same period as the expenditure report period of

the major party which has the shortest expenditure report period for such election;

"(6) 'election' means any regularly scheduled general, special, or runoff election, other than a primary election, held to elect a candidate to the United States Senate;

"(7) 'fund' means the Senate General Election Campaign Fund maintained by the Secretary of the Treasury pursuant to section 506;

"(8) 'major party' means with respect to any election, a political party whose candidate for the office of United States Senator in any of the three preceding elections received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office;

"(9) 'minor party' means with respect to any election, a political party whose candidate for the office of Senator in any of the three preceding elections received, as the candidate of such party, 5 percent or more, but less than 25 percent of the total number of popular votes received by all candidates for such office;

"(10) the term 'qualified campaign expense' means an expense—

"(A) incurred by the candidate or the authorized committee of the candidate for the office of United States Senator to further his or her election to such office,

"(B) incurred within the expenditure report period, or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

"(C) neither the incurring nor paying of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, for expenses on behalf of such candidate or such committee.

"CONDITION FOR ELIGIBILITY FOR PAYMENTS

"SEC. 502. (a) In order to be eligible to receive any payments under this subchapter, the candidate shall agree, in writing—

"(1) to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses and contributions of such candidate,

"(2) to keep and furnish to the Commission such records, books, and other information as it may request, and

"(3) to an audit and examination by the Commission under section 507 and to pay or repay any amounts required under such section.

"(b) To be eligible to receive payments under section 503, the candidate of a major party shall certify to the Commission, under penalty of perjury, that—

"(1) such candidate is seeking election to the United States Senate and such candidate and at least one other major party or minor party candidate have qualified for the election ballot under the law of the State involved,

"(2) such candidate and the authorized committees of such candidate will not incur qualified campaign expenses in excess of the aggregate payments to which they are entitled under section 503, unless otherwise provided in this subchapter,

"(3) no contributions to defray qualified campaign expenses have been or will be accepted by such candidate or any of the authorized committees of such candidate except to the extent necessary to make up any deficiency in payments received out of the fund because of the application of section 506(c), and

"(4) no contributions have been or will be accepted by such candidate or any authorized committees of such candidate to defray expenses which are not qualified campaign expenses.

"(c) In order to be eligible to receive any payments under this subchapter, a candidate other than a candidate of a major party shall certify to the Commission under penalty of perjury, that—

"(1) such candidate is seeking election to the United States Senate and such candidate and at least one other candidate of a major party have qualified for the election ballot under the law of the State involved,

"(2) such candidate and the authorized committees of such candidate will not incur qualified campaign expenses in excess of the aggregate payments to which an eligible candidate of a major party is entitled under section 503, unless otherwise provided in this subchapter, and

"(3) such candidate and the authorized committees of such candidate will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidate and the authorized committees of such candidate certified to under paragraph (2) exceed the aggregate payments received by such candidate out of the fund pursuant to section 506.

"(d) Certification for payment to a candidate shall be made by the Commission within 5 days after the date the Commission receives a certification from such candidate, pursuant to this section. Such certification shall be in such form and filed as the Commission shall prescribe by rule or regulation.

"(e)(1) To be eligible to receive any payment under this subchapter, a candidate shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his or her personal funds, or the personal funds of his or her immediate family in connection with such candidate's campaign for election in excess of, in the aggregate, $20,000.

"(2) For purposes of this subchapter, the term 'immediate family' means the spouse, any child, parent, grandparent, brother, halfbrother, sister, or halfsister of the candidate, and the spouses of such persons.

"(f) If an individual ceases to be a candidate such individual—

"(1) shall no longer be eligible to receive any payments under this subchapter, except that such individual shall be eligible to receive payments to defray qualified campaign expenses incurred while such person was an eligible candidate actively seeking election to the Senate; and

"(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under this subchapter if such payments are not used to defray qualified campaign expenses.

"ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

"SEC. 503. (a) Subject to the provisions of this chapter—

"(1) each eligible candidate of a major party in an election shall be entitled to equal payments under this subchapter in an amount which, in the aggregate, shall not exceed—

"(A) in each State with a voting-age population of 1,000,000 or less: $500,000";

"(B) in each State with a voting-age population greater than 1,000,000 but less than 3,000,000: an amount equal to 50 cents times such voting-age population; and

"(C) in each State with a voting-age population of 3,000,000 or over: an amount equal to 30 cents times such voting-age population, but not less than $1,500,000.

"(2) An eligible candidate of a minor party in an election shall be entitled to a payment under this subchapter equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by the candidate for Senator of the minor party, as such candidate, in the preceding election bears to the average number of popular votes received by the candidates for Senator of the major parties in the preceding election.

"(3) An eligible candidate, other than a candidate of a major or minor party, who receives 5 percent or more of the total number of popular votes cast for the office of United States Senate in such election shall be entitled to payments pursuant to this subchapter equal in the aggregate to an amount which bears the same ratio to the amount allowed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for Senator of the major parties. All such payments shall be made at such time after the election as the Commission determines the amount of payments such candidate is eligible for pursuant to this subparagraph. The Commission shall certify such amount to the United States Treasury for payment.

"(b) The aggregate payments to which an eligible candidate shall be entitled under paragraph (2) or (3) of subsection (a), shall not exceed an amount equal to the lesser of—

"(1) the amount of qualified campaign expenses incurred by an eligible candidate and the authorized committees of such candidate, reduced by the amount of contributions allowed to defray qualified campaign expenses received and expended or retained by an eligible candidate and such committees, or

"(2) the aggregate payments to which an eligible candidate of a major party is entitled under subsection (a)(1), reduced by the amount of contributions described in paragraph (1) of this subsection.

"(c) An eligible candidate shall be entitled to payments only—

"(1) to defray qualified campaign expenses incurred by an eligible candidate or the authorized committees of such candidate, or

"(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidate or such committees) used to defray such qualified campaign expenses.

"ADDITIONAL ENTITLEMENT OF OPPONENTS OF NONPUBLICLY FINANCED CANDIDATES

"SEC. 504. (a) Within 5 days after nomination by a major or minor party, and under such regulations as the Commission may prescribe, each candidate nominated by a major or minor party shall notify the Commission in writing of his or her intention to accept or not accept the funds to which he or she is entitled under section 503.

"(b)(1) A candidate of a major party who has elected to accept the funds for which he or she has qualified under section 503 and who is opposed by a major party candidate who has elected not to accept public funding shall be entitled to receive additional funds from the general fund of the United States Treasury, pursuant to paragraph (2).

"(2)(A) Subject to the provisions of subparagraph (B), a major party candidate eligible to receive funds pursuant to paragraph (1), shall receive additional funds in the amount of one dollar for every dollar of contributions or expenditures raised, incurred, or expended by the candidate not accepting funding.

"(B) Such additional funds shall only match those contributions or expenditures raised, incurred, or expended by the candidate not accepting funding which are in excess of the entitlement of such eligible candidate.

"(c) For purposes of implementing subsection (b), a candidate who elects not to accept public funding shall report his or her receipts and expenditures to the Commission—

"(1) monthly for contributions or expenditures received, incurred, or expended prior to 60 days prior to the date of the election;

"(2) weekly for contributions or expenditures received, incurred, or expended from 59 to 11 days prior to the date of the election; and

"(3) daily for contributions or expenditures received, incurred, or expended during the 10 days prior to the date of the election.

"(d) Notwithstanding the provisions of section 505—

"(1) if a major party candidate is eligible, pursuant to subsection (b), to receive additional funding because of contributions or expenditures received, incurred, or expended by such opponent between the date 59 days prior to the date of the election and the date of the election which are required to be reported by paragraph (2) or (3) of subsection (c), and

"(2) such eligible candidate files a request with the Commission stating that such candidate is eligible to receive such additional funds,

the Commission, within 24 hours after such request is filed, shall certify to the Secretary of the Treasury for payments to such eligible candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) Except as otherwise provided in section 504(d), not later than 5 days after a candidate files a request with the Commission stating that he or she has met all applicable conditions for eligibility to receive payments under this subchapter, the Commission shall certify to the Secretary of the Treasury (hereafter in this subchapter referred to as the 'Secretary') for payment to such eligible candidate, payment in full of amounts to which such candidate is entitled under section 503, unless the provisions of section 506(c) apply.

"(b) Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 511.

"PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a) The Secretary of the Treasury shall maintain in the Treasury of the United States a separate account known as the 'Senate General Election Campaign Fund'. The Secretary shall deposit into such fund, for use by a candidate eligible to receive payments under this subchapter, an amount equal to $265,000,000 for each fiscal year. Moneys designated for such account which are in excess of amounts needed for the Senate General Election Campaign Fund in any fiscal year shall be returned to the General Fund of the United States Treasury.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary shall promptly pay to the candidate, out of the fund, the amount certified by the Commission. Amounts paid to any such candidate shall be under the control of such candidate.

"(c) If at the time of a certification by the Commission under section 505 for payment to an eligible candidate, the Secretary determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlement of such eligible candidate, he shall withhold from such payment such amount as he determines to be necessary to assure that an eligible candidate will receive his or her pro rata share of his or her full entitlement. Amounts so withheld shall be paid when the Secretary determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of an eligible candidate, the amounts so withheld shall be paid in such manner that each eligible candidate receives his or her pro rata share of his or her full entitlement.

"EXAMINATIONS AND AUDITS; REPAYMENTS

"SEC. 507. (a) Notwithstanding the provisions of section 311(b), after each election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of each candidate for the United States Senate who received payments under this subchapter.

"(b)(1) If the Commission determines that any portion of the payments made to a candidate under this subchapter was in excess of the aggregate payments to which such candidate was entitled, it shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(2) If the Commission determines that a candidate or any authorized committee of such candidate incurred qualified campaign expenses in excess of the aggregate payments to which the candidate was entitled under section 503, it shall notify such candidate of the amount of such excess and such candidate shall pay to the Secretary an amount equal to such amount.

"(3) If the Commission determines that a candidate or any authorized committee of such candidate accepted contributions, other than contributions to make up deficiencies in payments out of the fund because of the application of section 506(c) to defray qualified campaign expenses, other than qualified campaign expenses with respect to which payment is required under paragraph (2), it shall notify such candidate of the amount of the contributions so accepted, and such candidate shall pay to the Secretary an amount equal to such amount.

"(4) If the Commission determines that any amount of any payment made to a candidate under section 506 was used for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used to defray qualified campaign expenses,

it shall notify such candidate of the amount so used, and such candidate shall pay to the Secretary an amount equal to such amount.

"(5) No payment shall be required from a candidate under this subsection to the extent that such payment, when added to other payments required from such candidate under this subsection, exceeds the amount of payments received by such candidate under this subchapter.

"(c) No notification shall be made by the Commission under subsection (b) with respect to an election more than 3 years after the date of such election.

"(d) All payments received by the Secretary under subsection (b) shall be deposited in the Senate General Election Campaign Fund established in section 506.

"CRIMINAL PENALTIES

"SEC. 508. (a)(1) It shall be unlawful for an eligible candidate of a political party in an election or for any authorized committee of such candidate to knowingly and willfully incur qualified campaign expenses in excess of the aggregate payments to which an eligible candidate of a major party is entitled with respect to such election.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both. In the case of a violation by any authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(b)(1) It shall be unlawful for an eligible candidate of a major party in an election or for any authorized committee of such candidate to knowingly and willfully accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund because of the application of section 506 or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 501(10).

"(2) It shall be unlawful for an eligible candidate of a political party (other than an eligible candidate of a major party) in an election or for any authorized committee of such candidate to knowingly and willfully accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and an authorized committee of such candidate.

"(3) Any person who violates paragraph (1) or (2) shall be fined not more than $5,000, or imprisoned not more than one year, or both. In the case of a violation by any authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(c)(1) It shall be unlawful for any person who receives any payment under section 506, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

"(A) to defray the qualified campaign expenses with respect to which such payment was made, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds

(other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(d)(1) It shall be unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this subchapter, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this subchapter; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this subchapter.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(e)(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of an eligible candidate or any authorized committee of such candidate.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of an eligible candidate or any authorized committee of such candidate shall pay to the Secretary of the Treasury, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

"(f)(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this subchapter except as may be required by law.

"(2) Any person who violates paragraph (1) shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 509. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by a candidate and the authorized committees of such candidate;

"(2) the amounts certified by it under section 505 for payment to each eligible candidate; and

"(3) the amount of payments, if any, required from such candidate under section 507, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission is authorized to prescribe such rules and regulations in accordance with the provisions of subsection (c), to conduct such examinations and audits (in addition to the examinations and audits required by section 507), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this subchapter.

"(c) Thirty days before prescribing any rule or regulation under subsection (b), the Commission shall transmit a statement with respect to such rule or regulation to the Senate, setting forth the proposed rule or regulation. The statement shall contain a detailed explanation and justification of such rule or regulation.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) The Commission is authorized to appear in and defend against any action filed under section 511, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission is authorized to appear, through attorneys and counsel described in subsection (a), in the district courts and other appropriate courts of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of any examination and audit made pursuant to section 507.

"(c) The Commission is authorized to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter arising under this subchapter, through attorneys and counsel described in subsection (a). Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal from the determination of such court shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court of the United States for certiorari to review judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"JUDICIAL REVIEW

"SEC. 511. (a) Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this subchapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after such certification, determination, or other action by the Commission.

"(b)(1) The Commission, the national committee of any political party, or any individual eligible to vote for a candidate is authorized to institute an action under this section, including an action for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this subchapter.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise such jurisdiction without regard to whether a person asserting rights under the provisions of this subsection has exhausted administrative or other remedies provided by law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.".

SEC. 3. Section 315(c) of the Federal Election Campaign Act of 1971 is amended by striking out "subsection (b) of this section and subsection (d) of this section" and inserting in lieu thereof "subsections (b) and (d) of this section and subsection (a) of section 503".

SEC. 4. Section 315(c)(2)(B) of the Federal Election Campaign Act of 1971 is amended by inserting before the period at the end thereof the following: ", except that with respect to the limitations established by subchapter III of this Act, the term 'base period' means the calendar year 1985".

SEC. 5. This section and the amendments made by this section shall become effective on January 1, 1987, and shall apply to campaigns for election to the Senate after such date.

SEC. 6. (1) Section 24 of the Internal Revenue Code of 1954 (relating to contributions to candidates for public office) is hereby repealed.

(2)(A) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 24.

(B) Subsection (a) of section 642 of such Code (relating to credits against tax) is amended to read as follows:

"(a) CREDITS AGAINST FOREIGN TAXES.—An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries.".

(C) Paragraph (3) of section 901(i) of such code (relating to cross references) is amended by striking out "section 642(a)(1)" and inserting in lieu thereof "section 642(a)".

(D) Section 7871(a)(6) of such Code (relating to the treatment of Indian tribal governments) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(3) The amendments made by this subsection shall apply to contributions made after December 31, 1985, in taxable years ending after such date.●

ADDITIONAL COSPONSORS

S. 288

At the request of Mr. GORTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 288, a bill to provide Federal coordination for the continued development and commercialization of food irradiation through the establishment of a Joint Operation Commission for Food Irradiation in the Department of Agriculture and through other means.

S. 524

At the request of Mr. ARMSTRONG, the names of the Senator from New

Hampshire [Mr. HUMPHREY], and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 524, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 571

At the request of Mr. D'AMATO, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of S. 571, a bill to amend subchapter II of chapter 53 of title 31, United States Code, relating to currency reports.

S. 678

At the request of Mr. COHEN, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 678, a bill to amend the Federal Property and Administration Services Act of 1949 to authorize multiyear contracts in certain cases.

S. 827

At the request of Mrs. HAWKINS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 827, a bill to amend the Public Health Service Act to provide for the compensation of children and others who have sustained vaccine-related injuries, and for other purposes.

S. 1026

At the request of Mr. PRESSLER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1026, a bill to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

S. 1181

At the request of Mr. HATCH, the names of the Senator from Connecticut [Mr. WEICKER], and the Senator from Wyoming [Mr. WALLOP] were withdrawn as cosponsors of S. 1181, a bill to establish a program for the provision of home and community based services to elderly individuals.

S. 1223

At the request of Mr. ARMSTRONG, the names of the Senator from Nevada [Mr. LAXALT], the Senator from Virginia [Mr. WARNER], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1223, a bill to authorize the erection of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in the Korean war.

S. 1292

At the request of Mr. BAUCUS, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from South Dakota [Mr. PRESSLER] 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. 1305

At the request of Mr. TRIBLE, the name of the Senator from North Carolina [Mr. EAST] was added as a cosponsor of S. 1305, a bill to amend title 18, United States Code, to establish criminal penalties for the transmission by computer of obscene matter, or by computer or other means, of matter pertaining to the sexual exploitation of children, and for other purposes.

S. 1570

At the request of Mr. NICKLES, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1570, a bill to amend the Fair Labor Standards Act of 1938 to exclude the employees of States and political subdivisions of States from the provisions of that act relating to maximum hours, to clarify the application of that act to volunteers, and for other purposes.

S. 1618

At the request of Mr. GORE, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of S. 1618, a bill to amend the Communications Act of 1934 to clarify policies regarding the right to view satellite-transmitted television programming, and for other purposes.

S. 1639

At the request of Mr. EXON, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of S. 1639, a bill to authorize the minting of gold bullion coins.

S. 1700

At the request of Mr. PRESSLER, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1700, a bill to amend chapter 106 of title 10, United States Code, to extend the educational assistance program for members of the Selected Reserve to additional programs of education.

S. 1734

At the request of Mr. COCHRAN, the names of the Senator from Georgia [Mr. MATTINGLY], the Senator from Georgia [Mr. NUNN], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1734, a bill to prevent distortions in the reapportionment of the House of Representatives caused by the use of census population figures which include illegal aliens.

S. 1774

At the request of Mr. GRASSLEY, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of S. 1774, a bill to amend section 1951 of title 18 of the United States Code, and for other purposes.

S. 1775

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1775, a bill to authorize a multifamily housing preservation loan program.

SENATE JOINT RESOLUTION 102

At the request of Mr. ZORINSKY, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 102, a joint resolution to establish a National Commission on Illiteracy.

SENATE JOINT RESOLUTION 130

At the request of Mr. QUAYLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor to Senate Joint Resolution 130, a joint resolution designating the week beginning on November 10, 1985, as "National Blood Pressure Awareness Week."

SENATE JOINT RESOLUTION 181

At the request of Mrs. HAWKINS, the names of the Senator from Illinois [Mr. SIMON], the Senator from Washington [Mr. GORTON], the Senator from California [Mr. WILSON], the Senator from New York [Mr. D'AMATO], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week beginning September 1, 1985, as "National School-Age Child Care Awareness Week."

SENATE JOINT RESOLUTION 198

At the request of Mr. MATHIAS, the names of the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of Senate Joint Resolution 198, a joint resolution to designate the year of 1986 as the "Sesquicentennial Year of the National Library of Medicine."

SENATE JOINT RESOLUTION 199

At the request of Mr. MURKOWSKI, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from Ohio [Mr. GLENN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 199, a joint resolution to designate the month of November 1985 as "National Elks Veterans Remembrance Month."

SENATE JOINT RESOLUTION 203

At the request of Mr. MURKOWSKI, the names of the Senator from Illinois [Mr. SIMON], the Senator from Michigan [Mr. RIEGLE], the Senator from Tennessee [Mr. GORE], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Joint Resolution 203, a joint resolution designating November 6, 1985, as "Ignacy Jan Paderewski Day."

SENATE JOINT RESOLUTION 208

At the request of Mr. COCHRAN, the names of the Senator from West Virginia [Mr. BYRD], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 208, a joint resolution to designate the week of October 27, 1985, through November 2, 1985, as "National Alopecia Awareness Week."

SENATE JOINT RESOLUTION 211

At the request of Mr. DURENBERGER, the name of the Senator from Indiana

[Mr. LUGAR] was added as a cosponsor 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 JOINT RESOLUTION 213

At the request of Mr. FORD, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 213, a joint resolution to designate January 19-25, 1986, "National Jaycee Week."

SENATE CONCURRENT RESOLUTION 59

At the request of Mr. TRIBLE, the names of the Senator from North Dakota [Mr. ANDREWS], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Concurrent Resolution 59, a concurrent resolution expressing the sense of the Congress that food producers who permit gleaning of their fields and nonprofit organizations which glean fields and distribute the resulting harvest to help alleviate hunger should be commended for their efforts, and for other purposes.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. DANFORTH, the names of the Senator from Florida [Mrs. HAWKINS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Concurrent Resolution 69, a concurrent resolution to recognize the National Camp Fire Organization for 75 years of service.

SENATE CONCURRENT RESOLUTION 76

At the request of Mr. HART, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from California [Mr. WILSON], the Senator from Georgia [Mr. MATTINGLY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Ohio [Mr. GLENN], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Concurrent Resolution 76, a concurrent resolution asking that the President bring the rights of the Polish people to the attention of the Soviet Government.

SENATE RESOLUTION 81

At the request of Mr. ARMSTRONG, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Resolution 81, a resolution to establish regulations to implement television and radio coverage of proceedings of the Senate.

SENATE RESOLUTION 244—ORIGINAL RESOLUTION REPORTED AUTHORIZING THE PRINTING OF INFORMATION ON THE COMMITTEE ON FOREIGN RELATIONS

Mr. LUGAR, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 244

Resolved, That there be printed with illustrations as a Senate document background information relating to the history of the Senate Committee on Foreign Relations in connection with its one hundred and seventieth anniversary (1816-1986); and that there be printed for the use of the committee additional copies of such document not to exceed the cost of $1,200.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION, 1986

STAFFORD (AND OTHERS) AMENDMENT NO. 862

Mr. STAFFORD (for himself, Mr. BENTSEN, and Mr. MOYNIHAN) proposed an amendment to the bill (H.R. 2965) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1986, and for other purposes; as follows:

On page 42, line 24 strike "$136,000,000" and insert in lieu thereof "$135,000,000"; on page 43, line 7 strike "$148,000,000" and insert in lieu thereof "$147,000,000"; and on page 40, after line 10 insert the following:

CONSTRUCTION

For necessary expenses of the Architect of the Capitol to carry out, in cooperation with the Union Station Redevelopment Corporation, feasibility studies, design, and engineering for the construction of a builidng on the United States Capitol Grounds to provide office space for the judicial branch of the Federal Government and for other purposes, to become available upon enactment of S. 1706 or similar legislation authorizing such appropriations, $2,000,000, to remain available until September 30, 1986.

HATFIELD AMENDMENT NO. 863

Mr. HATFIELD proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 66 after line 17 insert the following:

"SEC. 503. Both the United States and Soviet Union, as signatories of the United Nations Declaration of Human Rights and the Helsinki Accords, are pledged to allow information to flow freely across their national boundaries;

Whereas allowing information to flow freely across their national boundaries is in the best interest of the people of the United States and the Soviet Union, and is a necessary response to the times;

Increased communications between the United States and the Soviet Union reduces the risk that misunderstandings will cause conflict; and

The Director of the United States Information Agency, Charles Z. Wick, has extended to the Chief of International Information Department of the Soviet Union, Mr. Leonid M. Zamyatin, an invitation to participate in reciprocal exchanges using the medium of television: Now, therefore, be it

Declared by the Senate (the House of Representatives concurring), That the Congress, recognizing the significant potential for improving communications, enhancing mutual understanding, and aiding the free flow of information through the medium of television, supports the initiative of the Director of the United States Information Agency to

(1) arrange for a high level official of the Soviet Union to appear on American television if the Soviet Union reciprocates by arranging for a high level official of the United States to appear for an equal time on Soviet television; and

(2) plan for participation by the United States and the Soviet Union in a worldwide discussion using the WORLDNET international satellite television transmission network, and giving journalists an opportunity to ask uncensored questions of such officials."

THURMOND (AND BIDEN) AMENDMENT NO. 864

Mr. THURMOND (for himself and Mr. BIDEN) proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 16, line 1, strike "$31,000,000" and insert in lieu thereof "$29,900,000"; on page 16, line 2, strike "$24,366,000" and insert in lieu thereof "$23,266,000"; and on page 66, after line 17, insert the following:

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $1,100,000, to remain available until expended.

HATFIELD (AND OTHERS) AMENDMENT NO. 865

Mr. HATFIELD (for himself, Mr. MOYNIHAN, Mr. WEICKER, and Mr. SIMON) proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 34, line 20, before the period insert a colon and the following: "*Provided further*, That none of the funds appropriated under this heading may be made available while the United States is not subject to the compulsory judisdiction of the International Court of Justice (as described in Article 36(2) of the Statute of the International Court of Justice and in the United States declaration thereto)".

WILSON AMENDMENT NO. 866

Mr. WILSON proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 35, line 7, strike "$6,839,000" and insert in lieu thereof "$6,039,000"; on page 35, line 25, strike "$10,340,000" and insert in lieu thereof "$11,340,000"; on page 36, restore the matter stricken on line 10 through line 15, amended to change the appropriation on line 11 to "$1,200,000"; and on page 37, line 22, strike "$10,000,000" and insert in lieu thereof "$9,800,000".

CHILES (AND HEFLIN) AMENDMENT NO. 867

Mr. CHILES (for himself and Mr. HEFLIN) proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 8 at the end of line 6 insert:

In addition, $3,000,000 for payments under section 4(b) of the Commercial Fisheries Research and Development Act of 1964 for commercial fisheries failures and disruptions to be derived by transfer from the "Disaster loan fund, Small Business Administration".

MURKOWSKI AMENDMENT NO. 868

Mr. MURKOWSKI proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 69, after line 4, add the following:

SEC. 607. (a) Not later than January 15, 1986, the Secretary of State, in consultation with the Secretary of Commerce and the United States Trade Representative, shall prepare and transmit to the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate a report which—

(1) assesses the advisability of imposing a boycott against any country that supports or harbors international terrorists;

(2) describes the diplomatic and economic consequences of imposing an economic boycott against such a country; and

(3) assesses the potential for gaining international or multilateral cooperation in imposing an economic boycott against such a country.

(b) For purposes of making the assessment required by subsection (a)(1), the Secretary of State shall consider the adequacy of existing laws imposing economic sanctions against a country described in such subsection.

(c) For purposes of this section, the term "economic boycott", with respect to a country, means a prohibition on imports and exports from such country and a termination of United States assistance for such country.

LUGAR (AND SIMON) AMENDMENT NO. 869

Mr. LUGAR (for himself and Mr. SIMON) proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 33, line 5 strike "$336,600,000" and insert in lieu thereof "$331,800,000" and on page 38, restore the matter stricken on line 1 through line 7, amended to appropriate "$4,800,000".

PRESSLER AMENDMENT NO. 870

Mr. PRESSLER proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 7, line 6, after "expended," insert "of which $600,000 shall be for enhancements to the EROS Data Center in Sioux Falls, South Dakota".

HEFLIN AMENDMENT NO. 871

Mr. HEFLIN proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 31, after line 5, add the following new section:

SEC. 27. (a) Notwithstanding any other provision of law, the Department of Justice shall—

(1) make available to the Birmingham Public Library located in Birmingham, Alabama the twenty-five thousand seven hundred and eleven releasable pages of documents, requested by such Library on August 22, 1984, relating to files on Dr. Martin Luther King and racist hate groups; and

(2) waive the duplication fee of $2,571.10 for such documents.

(b) Nothing in the provisions of subsection (a) may be construed to affect any determination of the Department of Justice pursuant to section 552(a)(4)(A) of title 5, United States Code, relating to any other request for such documents.

LUGAR AMENDMENT NO. 872

Mr. LUGAR proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 63, line 20, strike out "$2,000,000 shall be available" and insert in lieu thereof "$1,200,000 in addition to the base shall be available only".

DOMENICI AMENDMENT NO. 873

Mr. RUDMAN (for Mr. DOMENICI) proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 12, line 5 after "$71,200,000" insert: , of which $500,000 shall remain available until expended to reimburse private litigants for legal fees incurred in the United States v. Abousleman, the United States v. Bluewater-Toltec Irrigation District, and the State of New Mexico ex rel. Reynolds v. Aamodt water adjudication suits

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OMNIBUS BUDGET RECONCILIATION ACT

THURMOND (AND OTHERS) AMENDMENT NO. 874

(Ordered to lie on the table.)

Mr. THURMOND (for himself, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. HELMS, Mr. HEFLIN, Mr. HEINZ, Mr. COHEN, Mr. WARNER, Mr. KENNEDY, Mr. MITCHELL, Mr. EAGLETON, Mr. SPECTER, Mr. EAST, Mr. COCHRAN, Mr. TRIBLE, Mr. DENTON, Mr. D'AMATO, Mr. SASSER, Mr. HATCH, Mr. PELL, Mr. MATTINGLY, Mr. ROCKEFELLER, Mrs. HAWKINS, Mr. GORE, Mr. DIXON, Mr. DODD, Mr. SIMON, Mr. FORD, Mr. DECONCINI, Mr. PRYOR, Mr. MATHIAS, Mr. LONG, Mr. LEAHY, Mr. METZENBAUM, Mr. RIEGLE, Mr. WEICKER, Mr. MCCONNELL, Mr. KASTEN, Mr. GLENN, Mr. BUMPERS, Mr. NUNN, and Mr. BYRD) proposed an amendment to the bill intended to be proposed by them to the bill (S. 1730) to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress); as follows:

In the pending amendment, strike "provisions", and insert:

ENFORCEMENT

"SEC. 1201. SHORT TITLE.

"This title may be cited as the 'Textile and Apparel Trade Enforcement Act of 1985'.

"SEC. 1202. POLICY.

"The policy of this title is—

"(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

"(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

"SEC. 1203. FINDINGS.

"The Congress finds that—

"(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

"(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December, 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

"(3) since 1980, the objective of orderly growth of imports of textiles and textile products for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

"(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

"(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

"(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts and sweaters exceeds 50 per centum of domestic consumption;

"(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and

have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

"(8) imports of textiles and textile products into the United States are predominantly the product of significant exporting countries, with five large exporting countries now accounting for more than 50 per centum of all imports of textiles and textile products;

"(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

"(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

"(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

"(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

"(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United Stats cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

"(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

"(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

"(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum; as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

"(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Title;

"(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

"(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

"(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

"(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

"(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

"(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum, whichever is the lesser,

"(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

"(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

"(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

"(21) the establishment of import levels, and limitation on future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

"(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

"(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

"(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Milti-Fiber Arrangement and its Protocol.

"SEC. 1204. DEFINITIONS.

"For purposes of this title—

"(1) The term "Textiles and textile products" includes, but is not limited to, all tops, yarns, piece goods, made-up articles, apparel, manmade fibers, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, part 1, 4, 5 (except subpart E), 7, or 13 of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States or part 1 of the Appendix to the Tariff Schedules of the United States;

"(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

"(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

"(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

"(C) a category consisting of the manmade fiber products classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

"(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

"(i) yarn,

"(ii) fabric,

"(iii) apparel, and

"(iv) other textile products;

"(3) The term "import sensitive category" means—

"(A) a category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production

Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

"(B) a category covering wool products;

"(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on December 31, 1984), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

"(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 10 percent of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(6) The term "producing country" means a country (other than a major producing country and a country in the Carribean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(7) the term "small producing country" means a country other than a major producing country and a producing country;

"(8) The term "country in the Caribbean region" means Mexico and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C 2702);

"(9) The term "wool product" means an article containing over 17 per centum by weight of wool;

"(10) The term "cotton, wool and man-made fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

"(11) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

"(12) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

"SEC. 1205. LIMITS ON TEXTILE AND APPAREL IMPORTS.

"(a) CALENDAR YEAR 1985.— Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

"(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage and textile flat goods subject (as of the date of enactment of this Title) to a specific limitation under an agreement with a major producing country, the lesser of an amount equal to 101 per centum—

"(A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or

"(B) If the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

"(2) in the case of textile luggage and textile flat goods subject (as of the date of enactment of this Title) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this Title;

"(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of—

"(A) such products from such country classified under such category that entered during calendar year 1984, or

"(B) in the case of textile luggage and textile flat goods subject (as of the date of enactment of this Title) to specific limitation under an agreement with a producing country, the specific limitation quantity in effect as of the date of enactment of this Title;

"(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of—

"(A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus

"(B) an amount equal to—

"(i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or

"(ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

"(5) in the case of cotton, wool and man-made fiber sweaters that are—

"(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

"(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

"If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

"(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

"(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

"(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

"(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

"(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

"If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 1210(b), than in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 1210(b) in previous calendar years.

"(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

"(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

"(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

"(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

"then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products that may be entered from such country under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of imports from such country under such category equals the minimum quantity prescribed under this subsection.

"(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country, other than a country in the Caribbean region, and that are entered under the categories referred to in paragraph (2)(A) of section 1204 equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

"(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and

textile products as may be necessary to carry out this title.

"SEC. 1206. IMPORT LICENSING.

"In order to ensure the equitable and efficient administration of section 1205 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

"SEC. 1207. ANNUAL REPORT.

"Not later than March 15, 1986, and March 15 each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 1205. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

"SEC. 1208. REVIEW.

"The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult members and committees of Congress, representatives of the labor unions and the industries affected by the program, and appropriate government agencies. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

"SEC. 1209. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

"Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"'385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 205(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 205(b) of such Act that adjust the quotas under such section 205(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation.	Free

"SEC. 1210. EFFECTIVE DATE.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

"(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall determine, and publish in the Federal Register, the aggregate quantity, if any, of textiles and textile products that may be entered under section 1205 (a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products from a country under a category entered after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such country and such category during calendar year 1985 under subsection (a) or (c) of section 1205, then the limit that would otherwise apply under section 1205 (b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 1205(b) or (c) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

"TITLE XIII—FOOTWEAR

"SEC. 1301. SHORT TITLE

"This title may be cited as the 'American Footwear Industry Recovery Act of 1985'.

"SEC. 1302. FINDINGS AND PURPOSE.

"(a) The Congress finds that—

"(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

"(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing on newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

"(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

"(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

"(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

"(A) the loss of 155,000 footwear jobs since 1968,

"(B) a decline in domestic production and production capacity, and

"(C) the permanent closure of over 500 plants during the same period.

"(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

"(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

"(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from 51 percent in 1981 to 77 percent in 1985.

"(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

"(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

"(11) Since the termination of the two, four-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

"(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

"(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

"(B) in the absence of and effective remedy under such process, legislative relief is essential.

"(b)(1) It is the purpose of Congress in enacting this section to—

"(A) promote and expend the economic health of the United States nonrubber footwear industry,

"(B) preserve the jobs of American workers, and

"(C) prevent the further decline of this important domestic industry.

"(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, of which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

"SEC. 1303. DEFINITIONS.

"For purposes of this title—

"(1) The term 'entered' means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(2) The term 'Secretary' means Secretary of Commerce.

"(3) The term 'nonrubber footwear' means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95.

"(4) The term 'apparent domestic consumption' means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

"SEC. 1304. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

"(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 percent of the estimated apparent domestic consumption of nonrubber footwear for such period.

"(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

"(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 percent of apparent do-

mestic consumption of nonrubber footwear for such period,

"(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 percent of apparent domestic consumption of nonrubber footwear for such period, and

"(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 percent of apparent domestic consumption of nonrubber footwear for such period.

"(b) Within sixty days after the effective date of this title, and on the first day of the fourth quarter of each 1 year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1 year period and in the case of the first day of the fourth quarter of each 1 year period thereafter, the next succeeding 1 year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeding 1 year period of permissible imports of nonrubber footwear as required by this section.

"(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

"(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

"(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

"(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

"(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

"(i) consult with interested domestic parties,

"(ii) afford an opportunity for such parties to comment on the proposed regulations, and

"(iii) consider all such comments before prescribing final regulations.

"SEC. 1305. COMPENSATION AUTHORITY.

"For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).".

HOLLINGS (AND THURMOND) AMENDMENT NO. 875

Mr. HOLLINGS (for himself and Mr. THURMOND) proposed an amendmen to the bill S. 1730, supra; as follows:

At the appropriate place, insert the following:

TEXTILE AND APPAREL TRADE ENFORCEMENT

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Textile and Apparel Trade Enforcement Act of 1985'.

"SEC. 202. POLICY.

"The policy of this title is—

"(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

"(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

"SEC. 203. FINDINGS.

"The Congress finds that—

"(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

"(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December, 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

"(3) since 1980, the objective of orderly growth of imports of textiles and textile products for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

"(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

"(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

"(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts and sweaters exceeds 50 per centum of domestic consumption;

"(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

"(8) imports of textiles and textile products into the United States are predominantly the product of significant exporting countries, with five large exporting countries now accounting for more than 50 per centum of all imports of textiles and textile products;

"(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

"(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

"(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

"(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

"(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United Stats cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

"(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in cer-

tain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

"(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

"(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum; as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

"(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Act;

"(18) based on experience during the past ten years and on other factors, the growth of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

"(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

"(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

"(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

"(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

"(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum,

whichever is the lesser,

"(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

"(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

"(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

"(21) the establishment of import levels, and limitation on future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

"(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

"(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

"(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Milti-Fiber Arrangement and its Protocol.

"SEC. 204. DEFINITIONS.

"For purposes of this title—

"(1) The term "Textiles and textile products" includes, but is not limited to, all manmade fibers, tops, yarns, piece goods, made-up articles, apparel, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, part 1, 4, 5 (except subpart E), 7, or 13 of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States or part 1 of the Appendix to the Tariff Schedules of the United States;

"(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

"(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

"(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

"(C) a category consisting of the manmade fiber products classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

"(D) each category consisting of each of the following products when, because of any fiber content, that product is not subject to the Multi-Fiber Arrangement:

"(i) yarn,

"(ii) fabric,

"(iii) apparel, and

"(iv) other textile products;

"(3) The term "import sensitive category" means—

"(A) a category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

"(B) a category covering wool products;

"(4) The term "country" means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on December 31, 1984), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

"(5) The term "major producing country" means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 10 percent of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(6) The term "producing country" means a country (other than a major producing country and a country in the Carribean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(7) the term "small producing country" means a country other than a major producing country and a producing country;

"(8) The term "country in the Caribbean region" means Mexico and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C 2702);

"(9) The term "wool product" means an article containing over 17 per centum by weight of wool;

"(10) The term "cotton, wool and manmade fiber sweaters" means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

"(11) The term "entered" means entered, or withdrawn from warehouse, for consump-

tion in the customs territory of the United States;

"(12) The term "imported" means entered; and

"(13) The term "Multi-Fiber Arrangement" means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

"SEC. 205. LIMITS ON TEXTILE AND APPAREL IMPORTS.

"(a) CALENDAR YEAR 1985.— Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

"(1) in the case of textiles and textile products that are a product of a major producing country other than textile luggage and textile flat goods subject (as of the date of enactment of this Act) to a specific limitation under an agreement with a major producing country, the lesser of an amount equal to 101 per centum—

"(A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or

"(B) If the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

"(2) in the case of textile luggage and textile flat goods subject (as of the date of enactment of this Act) to specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of the Act;

"(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of—

"(A) such products from such country classified under such category that entered during calendar year 1984, or

"(B) in the case of textile luggage and textile flat goods subject (as of the date of enactment of this Act) to specific limitation under an agreement with a producing country, the specific limitation quantity in effect as of the date of enactment of this Act;

"(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of—

"(A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus

"(B) an amount equal to—

"(i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or

"(ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

"(5) in the case of cotton, wool and man-made fiber sweaters that are—

"(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

"(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

"If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

"(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

"(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

"(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

"(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

"(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

"If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 210(b), than in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 210(b) in previous calendar years.

"(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

"(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

"(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

"(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

"then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products that may be entered from such country under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of imports from such country under such category equals the minimum quantity prescribed under this subsection.

"(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country, other than a country in the Caribbean region, and that are entered under the categories referred to in paragraph (2)(A) of section 204 equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

"(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

"SEC. 206. IMPORT LICENSING.

"In order to ensure the equitable and efficient administration of section 205 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system.

"SEC. 207. ANNUAL REPORT.

"Not later than March 15, 1986, and March 15 each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 205. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

"SEC. 208. REVIEW.

"The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult members and committees of Congress, representatives of the labor unions and the industries affected by the program, and appropriate government agencies. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

"SEC. 209. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

"Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 205(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 205(b) of such Act that adjust the quotas under such section 205(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation.	Free

"SEC. 210. EFFECTIVE DATE.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

"(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall determine, and publish in the Federal Register, the aggregate quantity, if any, of textiles and textile products that may be entered under section 205(a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products from a country under a category entered after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such country and such category during calendar year 1985 under subsection (a) or (c) of section 205, then the limit that would otherwise apply under section 205(b) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 205(b) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

"TITLE III—FOOTWEAR

"SEC. 301. SHORT TITLE

"This title may be cited as the 'American Footwear Industry Recovery Act of 1985'.

"SEC. 302. FINDINGS AND PURPOSE.

"(a) The Congress finds that—

"(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

"(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing on newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

"(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

"(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

"(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

"(A) the loss of 155,000 footwear jobs since 1968,

"(B) a decline in domestic production and production capacity, and

"(C) the permanent closure of over 500 plants during the same period.

"(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

"(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

"(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from 51 percent in 1981 to 77 percent in 1985.

"(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

"(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

"(11) Since the termination of the two, four-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

"(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

"(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

"(B) in the absence of and effective remedy under such process, legislative relief is essential.

"(b)(1) It is the purpose of Congress in enacting this section to—

"(A) promote and expend the economic health of the United States nonrubber footwear industry,

"(B) preserve the jobs of American workers, and

"(C) prevent the further decline of this important domestic industry.

"(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, or which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

"SEC. 303. DEFINITIONS.

"For purposes of this title—

"(1) The term 'entered' means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(2) The term 'Secretary' means Secretary of Commerce.

"(3) The term 'nonrubber footwear' means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95.

"(4) The term 'apparent domestic consumption' means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

"SEC. 304. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

"(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 percent of the estimated apparent domestic consumption of nonrubber footwear for such period.

"(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

"(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 percent of apparent domestic consumption of nonrubber footwear for such period,

"(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 percent of apparent domestic consumption of nonrubber footwear for such period, and

"(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 percent of apparent domestic consumption of nonrubber footwear for such period.

"(b) Within sixty days after the effective date of this title, and on the first day of the fourth quarter of each 1 year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1 year period and in the case of the first day of the fourth quarter of each 1 year period thereafter, the next succeeding 1 year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeeding 1 year period of permissible imports of nonrubber footwear as required by this section.

"(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

"(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would

be made on any such first day of the second quarter under subsection (c) of this section.

"(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

"(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

"(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

"(i) consult with interested domestic parties,

"(ii) afford an opportunity for such parties to comment on the proposed regulations, and

"(iii) consider all such comments before prescribing final regulations.

"SEC. 305. COMPENSATION AUTHORITY.

"For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 204 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).".

THURMOND (AND OTHERS) AMENDMENT NO. 876

Mr. THURMOND (for himself, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. HELMS, Mr. HEFLIN, Mr. HEINZ, Mr. COHEN, Mr. WARNER, Mr. KENNEDY, Mr. MITCHELL, Mr. EAGLETON, Mr. SPECTER, Mr. EAST, Mr. COCHRAN, Mr. TRIBLE, Mr. DENTON, Mr. D'AMATO, Mr. SASSER, Mr. HATCH, Mr. PELL, Mr. MATTINGLY, Mr. ROCKEFELLER, Mrs. HAWKINS, Mr. GORE, Mr. DIXON, Mr. DODD, Mr. SIMON, Mr. FORD, Mr. DECONCINI, Mr. PRYOR, Mr. MATHIAS, Mr. LONG, Mr. LEAHY, Mr. METZENBAUM, Mr. RIEGLE, Mr. WEICKER, Mr. MCCONNELL, Mr. KASTEN, Mr. GLENN, Mr. BUMPERS, Mr. NUNN, and Mr. BYRD) proposed an amendment to amendment No. 875 proposed by Mr. HOLLINGS (and Mr. THURMOND) to the bill S. 1730, supra; as follows:

Beginning on page 1 of the pending amendment strike all after line 3 and insert the following:

"This title may be cited as the 'Textile and Apparel Trade Enforcement Act of 1985'.

"SEC. 1202. POLICY.

"The policy of this title is—

"(1) to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and apparel manufacturers, and loss of jobs by United States workers by providing for orderly and nondisruptive growth of imports of textiles and textile products; and

"(2) to implement the objectives of the Multi-Fiber Arrangement by requiring the effective enforcement of import levels of textiles and textile products contemplated by the Multi-Fiber Arrangement.

"SEC. 1203. FINDINGS.

"The Congress finds that—

"(1) the United States and most major textile producing countries are parties to the Multi-Fiber Arrangement, the purpose of which is to ensure the orderly growth of imports of textiles and textile products and to avoid disruption of the markets for textiles and textile products in importing nations;

"(2) the Multi-Fiber Arrangement, which first entered into force on January 1, 1974, and which was most recently extended in December, 1981, through July 1986, contemplates a 6 per centum annual rate of growth for imports for most exporting countries and provides for a lower rate of growth for imports from significant exporting countries;

"(3) since 1980, the objective of orderly growth of imports of textiles and textile products for in the Multi-Fiber Arrangement has not been achieved; from 1981 through 1984 imports of textiles and textile products into the United States have grown at an annual rate of 19 centum, far in excess of the 1 per centum growth rate of the United States market for textiles and textile products during the same period and far in excess of the annual rate of import growth of less than 2 per centum that prevailed during the period 1974 through 1980;

"(4) the disruptive surge in imports of textiles and textile products which occurred from 1981 through 1984 resulted from the failure of the United States to enforce adequately its rights under the Multi-Fiber Arrangement and to extend coverage of the Multi-Fiber Arrangement to imports made of competing fibers;

"(5) import growth of apparel products has substantially outstripped the growth of the domestic market so that import penetration of the domestic market has more than doubled in the last six years, reaching a level of 50 per centum in 1984;

"(6) based on a nationwide audit of major retail outlets, the import penetration of such major items of apparel as trousers, blouses, shirts, suits, skirts and sweaters exceeds 50 per centum of domestic consumption;

"(7) since the most recent extension of the Multi-Fiber Arrangement, certain exporting countries have sharply increased their exports of textiles and textile products made in whole or in part from fibers not subject to the Multi-Fiber Arrangement with the effect of circumventing restraints agreed to under the Arrangement; the increased imports of these textiles and textile products have caused disruption of the United States market for textiles and textile products and have seriously undercut the effectiveness of the Multi-Fiber Arrangement;

"(8) imports of textiles and textile products into the United States are predominantly the product of significant exporting countries, with five large exporting countries now accounting for more than 50 per centum of all imports of textiles and textile products;

"(9) the domination of import trade by producers in the significant producing countries has limited participation in the United States market by other producing countries, many of which share important trade and other national interests, and encourage mutually beneficial trade and investment, with the United States;

"(10) a change in United States textile trade policy to afford the smaller producing countries and countries in the Caribbean region a relatively greater share of imports of textiles and textile products would promote the national economic interests of the United States;

"(11) the textile and apparel trade deficit of the United States was more than $16,200,000,000 in 1984, an increase of 53 per centum over 1983, and accounted for 13 per centum of the Nation's overall merchandise trade deficit;

"(12) the current level of imports of textiles and textile products, ten billion square yard equivalents in 1984, represents over one million job opportunities lost to United States workers;

"(13) imported textiles and textile products now account for 38 per centum (the equivalent of three million two hundred thousand bales of cotton) of the annual cotton consumption in the United States; only one of five of the bale equivalents included in imported textiles and textile products is grown in the United States; the result of the massive increases in cotton textile and apparel imports has been a declining market share for, and a $1,000,000,000 loss to, domestic cotton producers in 1983 alone, which was only partially offset by Federal cotton program benefits; another result is that United States cotton producers, who are spending about $20,000,000 annually in research and promotion efforts, have built markets not for themselves but for foreign growers;

"(14) imports of wool products have doubled since 1980, creating major disruptions among domestic wool products producers and seriously depressing the price of United States produced raw wool; the Multi-Fiber Arrangement recognizes that imports of certain products, such as wool products, in certain countries, including the United States, pose particular problems for certain industries, such as, the wool products industries in those countries and import growth rates of 1 per centum or less have been permitted in such cases;

"(15) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products identical, or similar, to those imported have been seriously damaged, many of them have been forced out of business, many have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to local governments;

"(16) the increase in imports and increased import penetration of the United States domestic market have occurred notwithstanding the fact that, through extensive modernization programs and investment in more modern equipment, productivity, as measured by output per man hour, in the textile mill products sector has increased in the last ten years at the average annual rate of 4.2 per centum and in the apparel sector at the average annual rate of 3.4 per centum; as compared with the lower productivity growth of all manufacturing in the same period of 1.9 per centum;

"(17) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring the new measures established under this Title;

"(18) based on experience during the past ten years and on other factors, the growth

of the United States market for textiles and textile products is unlikely to exceed an average annual rate of 1 per centum during the next several years;

"(19) if the rate of growth of imports of textiles and textile products into the United States that occurred since 1980 continues, plant closings will continue to accelerate, leaving the United States market with reduced domestic competition for imported products;

"(20) in order to avoid further market disruption and deterioration of the situation confronting the United States industry producing textiles and textile products, which is already seriously damaged, it is essential—

"(A) to require the establishment of import levels for textiles and textile products supplied by major producing countries that reflect—

"(i) the import level that would have occurred had imports from these countries grown since 1980 by the 6 per centum annual growth rate contemplated by the Multi-Fiber Arrangement, or 1 per centum in the case of wool products, or

"(ii) the actual import level resulting from restraints under a bilateral agreement with the United States providing for an annual import growth rate of less than 6 per centum, whichever is the lesser,

"(B) to require the establishment of import levels for textiles and textile products supplied by producing countries that reflect their 1984 import levels,

"(C) to require the establishment of import levels for textiles and textile products supplied by small producing countries that provide a significant increase in their market shares to meet their development needs and to permit future growth in such shares consistent with the Multi-Fiber Arrangement, and

"(D) to limit the future growth rate of imports of textiles and textile products into the United States to levels which reflect orderly growth as provided for in the Multi-Fiber Arrangement and the most recent Protocol extending the Multi-Fiber Arrangement;

"(21) the establishment of import levels, and limitation on future import growth to levels, that reflect effective enforcement of the Multi-Fiber Arrangement and that also reflect the expected growth rate of the United States market for textiles and textile products will fulfill announced policy objectives of the United States regarding trade in textiles and apparel;

"(22) as the Department of Defense has long recognized, a strong, viable and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States;

"(23) the developments that have led to the sharp increase in imports of textiles and textile products since 1980 may not have been foreseeable; nevertheless, the rights of the United States under international agreements should have been invoked in order to prevent increased quantities of textiles and textile products from being imported under such conditions as to cause or threaten serious damage to domestic producers of textiles and textile products in the United States; and

"(24) the sharp increase in imports of textiles and textile products since 1980, and the effect of this increase on the United States textiles and apparel industry and its workers, constitutes exceptional circumstances within the meaning of the Milti-Fiber Arrangement and its Protocol.

"SEC. 1204. DEFINITIONS.

"For purposes of this title—

"(1) The term "Textiles and textile products" includes, but is not limited to, all tops, yarns, piece goods, made-up articles, apparel, manmade fibers, and other textile manufactured products (which derive their chief characteristics from their textile components) made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6 of schedule 6, part 1, 4, 5 (except subpart E), 7, or 13 of schedule 7, or part 1 of schedule 8 of the Tariff Schedules of the United States or part 1 of the Appendix to the Tariff Schedules of the United States;

"(2) The term "category" means, with respect to textiles and textile products that are the product of a country, each of the following—

"(A) each category of textiles and textile products identified by a three-digit textile category number in the Department of Commerce publication "Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated", dated January 1985 and, subsequently, in the first edition of such document that is revised to reflect the adoption by the United States of the Nomenclature Structure of the Harmonized System;

"(B) with respect to each country with which the United States has (i) an agreement on the date of enactment of this title limiting exports of textiles and textile products to the United States that includes specific limitations on subdivisions of a category described in subparagraph (A), or (ii) taken unilateral action to limit products entered under such a subdivision, each such subdivision;

"(C) a category consisting of the manmade fiber products classified under subpart E of part 1 of schedule 3 to the Tariff Schedules of the United States; and

"(D) each category consisting of each of the following products when, because of fiber content, that product is not subject to the Multi-Fiber Arrangement:

"(i) yarn,

"(ii) fabric,

"(iii) apparel, and

"(iv) other textile products;

"(3) The term "import sensitive category" means—

"(A) a category (other than a category applicable to textiles and textile products that are a product of a country in the Caribbean region) for which the ratio of imports to domestic production, as reported in the Department of Commerce publication "U.S. Production, Imports and Import/Production Ratios for Cotton, Wool and Man-Made Fiber Textiles and Apparel", equals or exceeds 40.0 for the preceding calendar year; and

"(B) a category covering wool products;

"(4) The term 'country' means a foreign country (other than Canada and the Member States of the European Economic Community as constituted on December 31, 1984), a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship or political entity, whether affiliated with the United States or not, that is outside the customs territory of the United States;

"(5) The term 'major producing country' means a country the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 10 percent of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(6) The term 'producing country' means a country (other than a major producing country and a country in the Carribean region) the annual aggregate quantity of textiles and textile products of which that entered under the categories referred to in paragraph (2)(A) during calendar year 1984 equalled or exceeded 1.25 per centum of all textiles and textile products under such categories that entered from all countries and from Canada and the Member States of the European Economic Community during calendar year 1984;

"(7) the term 'small producing country' means a country other than a major producing country and a producing country;

"(8) The term 'country in the Caribbean region' means Mexico and a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C 2702);

"(9) The term 'wool product' means an article containing over 17 per centum by weight of wool;

"(10) The term 'cotton, wool and manmade fiber sweaters' means articles classified under categories 345, 445, 446, 645 or 646 as defined in the Department of Commerce publication "Correlation Textile and Apparel Categories with Tariff Schedules of the United States Annotated," dated January 1985;

"(11) The term 'entered' means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and

"(12) The term 'Multi-Fiber Arrangement' means the Arrangement Regarding International Trade in Textiles, as extended by the Protocol done at Geneva, December 22, 1981.

"SEC. 1205. LIMITS ON TEXTILE AND APPAREL IMPORTS.

"(a) CALENDAR YEAR 1985.— Notwithstanding any other provision of law, the aggregate quantity of textiles and textile products classified under a category that is entered during calendar year 1985 shall not exceed—

"(1) in the case of textiles and textile products that are a product of a major producing country, other than textile luggage and textile handbags and textile flat goods subject (as of the date of enactment of this Title) to a specific limitation under an agreement with a major producing country, the lesser of an amount equal to 101 per centum—

"(A) of the aggregate quantity of such products of such country classified under such category that would have entered during calendar year 1984 if the aggregate quantity of such products of such country classified under such category entered during calendar year 1980 had increased by 6 per centum annually, or 1 per centum annually in the case of a category covering a wool product, during calendar years 1981, 1982, 1983, and 1984, or

"(B) If the United States has an agreement with such country providing for an annual growth rate for such category of less than 6 per centum, of the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984;

"(2) in the case of textile luggage and textile handbags and textile flat goods subject (as of the date of enactment of this Title) to

specific limitation under an agreement with a major producing country, the specific limitation quantity in effect as of the date of enactment of this Title;

"(3) in the case of textiles and textile products that are a product of a producing country, an amount equal to the aggregate quantity of—

"(A) such products from such country classified under such category that entered during calendar year 1984, or

"(B) in the case of textile luggage and textile handbags and textile flat goods subject (as of the date of enactment of this Title) to specific limitation under an agreement with a producing country, the specific limitation quantity in effect as of the date of enactment of this Title;

"(4) in the case of textiles and textile products that are a product of a small producing country (other than cotton, wool, and man-made fiber sweaters described in paragraph (5)), an amount equal to the sum of—

"(A) the aggregate quantity of such products of such country classified under such category that entered during calendar year 1984, plus

"(B) an amount equal to—

"(i) 15 per centum of such quantity, in the case of a category that is not an import sensitive category, or

"(ii) 1 per centum of such quantity, in the case of a category that is an import sensitive category; and

"(5) in the case of cotton, wool and man-made fiber sweaters that are—

"(A) the product of substantial assembly operations in Guam from otherwise completed knit-to-shape component parts, an aggregate amount equal to 160,000 dozen; and

"(B) the product of substantial assembly operations in the Commonwealth of the Northern Mariana Islands from otherwise completed knit-to-shape component parts, an aggregate amount equal to 70,000 dozen.

"If application of paragraph (1) would result in the aggregate quantity of textiles and textile products of a major producing country classified under all categories permitted to enter during calendar year 1985 to be less than 70 per centum of the aggregate quantity of such products of such country that entered during calendar year 1984, then, notwithstanding paragraph (1), the aggregate quantity of textiles and textile products of such country that may be entered under each category during calendar year 1985 shall not be less than 40 per centum of the aggregate quantity of such products of such country that entered under such category during calendar year 1984.

"(b) GROWTH ADJUSTMENT.—For calendar years after 1985, the aggregate quantity of textiles and textile products classified under each category that may be entered during each such calendar year shall—

"(1) in the case of such products that are a product of a major producing country or of a producing country, be increased by an amount equal to 1 per centum of the aggregate quantity that could be entered under such category during the preceding calendar year; and

"(2) in the case of such products that are a product of a small producing country, be increased by an amount equal to—

"(A) in the case of a category (other than an import sensitive category), 6 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year, and

"(B) in the case of an import sensitive category, 1 per centum of the aggregate quantity that could be entered under that category during the preceding calendar year.

"If the aggregate quantity that could be entered under a category for a calendar year after 1985 is reduced under section 1210(b), than in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 1210(b) in previous calendar years.

"(c) MINIMUM QUANTITIES.—If, under subsection (a) or (b), the aggregate quantity of textiles and textile products of a country that may be entered during a calendar year under a category is—

"(1) less than one million square yard equivalents, in the case of a category covering yarn, fabric, made-ups, and miscellaneous products, other than wool products;

"(2) less than seven hundred thousand square yard equivalents, in the case of a category covering apparel, other than wool products apparel; or

"(3) less than one hundred thousand square yard equivalents, in the case of a category covering wool products,

"then, notwithstanding subsection (a) or (b), the aggregate quantity of textiles and textile products that may be entered from such country under such category during the calendar year shall be one million, seven hundred thousand, or one hundred thousand square yard equivalents, respectively. The amount prescribed in the preceding sentence shall be accorded growth subject to the provisions of subsection (b) beginning the first calendar year after the aggregate quantity of imports from such country under such category equals the minimum quantity prescribed under this subsection.

"(d) SPECIAL RULE.—For purposes of this section, if during any calendar year after 1984, the aggregate quantity of textiles and textile products that are the product of a small producing country, other than a country in the Caribbean region, and that are entered under the categories referred to in paragraph (2)(A) of section 1204 equals or exceeds 1.25 per centum of all textiles and textile products entered under such categories from all countries and from Canada and the Member States of the European Economic Community during such calendar year, then such small producing country shall be considered to be a producing country for all succeeding calendar years.

"(e) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations governing the entry, or withdrawal from warehouse, for consumption of textiles and textile products as may be necessary to carry out this title.

"SEC. 1206. IMPORT LICENSING.

"In order to ensure the equitable and efficient administration of section 1205 of this title, the Secretary of Commerce shall, within six months after the date of enactment of this title, establish and administer an import licensing system under which an importer of any textiles and textile products from any country and from Canada and the Member States of the European Economic Community, will be required to present an import permit as a condition of entry. The Secretary shall charge a fee for import licenses in such amount as may be necessary to cover the cost of administration of the system. The Secretary of the Treasury shall make all determinations regarding classification under the Tariff Schedules of the United States, appraisement, and valuation of products subject to licensing under this section.

"SEC. 1207. ANNUAL REPORT.

"Not later than March 15, 1986, and March 15 each calendar year thereafter, the President shall submit to the Congress a report on the administration of this title during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 1205. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

"SEC. 1208. REVIEW.

"The Secretary of Commerce shall commence ten years after the date of enactment of this title a formal review of the operation of the Textile Import Control Program under the provisions of this title. The Secretary shall consult members and committees of Congress, representatives of the labor unions and the industries affected by the program, and appropriate government agencies. Within six months after the commencement of the study, the Secretary shall submit to Congress his findings as well as his recommendations for the future conduct of the program.

"SEC. 1209. DUTY FREE ENTRY OF CERTAIN SWEATERS FROM GUAM AND THE NORTHERN MARIANAS.

"Subpart A of part 7, schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new item:

"385.97	Cotton, wool and man-made fiber sweaters that are entitled to enter under the quotas established under section 205(a)(5) of the Textile and Apparel Trade Enforcement Act of 1985 or the increased quotas under section 205(b) of such Act that adjust the quotas under such section 205(a)(5) and that do not contain foreign materials to the value of more than 50 percent of their total value as this standard is applied pursuant to Headnote 3(a) of the General Headnotes and Rules of Interpretation.	Free

"SEC. 1210. EFFECTIVE DATE.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the provisions of this title shall apply to textiles and textile products entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

"(b) CALENDAR YEARS 1985 AND 1986.—The Secretary of Commerce shall determine, and publish in the Federal Register, the aggregate quantity, if any, of textiles and textile products that may be entered under section 1205(a) or (c) of this title from each country under each category during the period beginning on the date of enactment of this title and ending December 31, 1985. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products from a country under a category entered after December 31, 1984, and before the date of enactment of this title exceeds the quantity permitted entry for such country and such category during calendar year 1985 under subsection (a) or (c) of section 1205, then the limit that would otherwise apply under section 1205(b) or (c) for such category for such country for calendar year 1986 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 1205(b) or (c) for such category for such country for calendar year 1986, then the limit for such category and country for calendar years after 1986 shall be reduced until such excess is accounted for.

"TITLE XIII—FOOTWEAR

"SEC. 1301. SHORT TITLE

"This title may be cited as the 'American Footwear Industry Recovery Act of 1985'.

"SEC. 1302. FINDINGS AND PURPOSE.

"(a) The Congress finds that—

"(1) The domestic nonrubber footwear industry is important to the national economy, and footwear firms are vital to the economic health of small towns throughout the United States.

"(2) The domestic nonrubber footwear industry is highly labor intensive, and low capital requirements for entry into footwear production make it a primary target for industrializing on newly industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world.

"(3) Tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and nontariff barriers by foreign countries designed to protect their domestic footwear industries.

"(4) The United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the United States market has become a focal point for world trade in nonrubber footwear.

"(5) The diversion of international trade to the United States market has resulted in serious injury to domestic producers as manifested by—

"(A) the loss of 155,000 footwear jobs since 1968,

"(B) a decline in domestic production and production capacity, and

"(C) the permanent closure of over 500 plants during the same period.

"(6) The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

"(7) The domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment.

"(8) Since the termination of temporary import relief in 1981, capital investment in the domestic nonrubber footwear industry has declined as the industry struggled to battle the massive surge in imports which increased the percentage share of imported footwear in the United States market from 51 percent in 1981 to 77 percent in 1985.

"(9) Without the restriction of import levels, capital investment in this domestic industry will continue to decrease.

"(10) The domestic nonrubber footwear industry has thrice been judged by the International Trade Commission, as recently as May 1985, to be seriously injured by imports.

"(11) Since the termination of the two, four-year orderly marketing agreements in 1981, the harm to the domestic industry is even more critical than the serious injury which triggered the Commission's unanimous findings in 1976 and 1977.

"(12) The domestic nonrubber footwear industry has not been afforded adequate and appropriate relief from imports; therefore, the Congress concludes that—

"(A) the administrative process under sections 201, 202, and 203 of the Trade Act of 1974 has proven inadequate; and

"(B) in the absence of and effective remedy under such process, legislative relief is essential.

"(b)(1) It is the purpose of Congress in enacting this section to—

"(A) promote and expend the economic health of the United States nonrubber footwear industry,

"(B) preserve the jobs of American workers, and

"(C) prevent the further decline of this important domestic industry.

"(2) It is declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States balance-of-payments problems, or which footwear is the seventh largest component. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear into the United States market.

"SEC. 1303. DEFINITIONS.

"For purposes of this title—

"(1) The term 'entered' means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(2) The term 'Secretary' means Secretary of Commerce.

"(3) The term 'nonrubber footwear' means the following categories of nonrubber footwear products, identified by reference to the following item numbers of the Tariff Schedules of the United States (as in effect on January 1, 1985): 700.05 through 700.45; 700.56; 700.72 through 700.83; and 700.95.

"(4) The term 'apparent domestic consumption' means, with respect to any 1-year period, the sum of imports plus domestic production less exports.

"SEC. 1304. QUANTITATIVE LIMITATION ON NONRUBBER FOOTWEAR.

"(a)(1) During the 8-year period beginning on the date of enactment of this title, the aggregate number of pairs of nonrubber footwear which may be entered during any 1-year period shall not exceed 60 percent of the estimated apparent domestic consumption of nonrubber footwear for such period.

"(2) The quantitative limitation imposed by paragraph (1) for any 1-year period shall be distributed among the following categories of nonrubber footwear so that the aggregate number of pairs of nonrubber footwear in such category which may be entered during any 1-year period shall not exceed the quantity equal to—

"(A) in the case of nonrubber footwear with a customs value that does not exceed $1.25 per pair, 10 percent of apparent domestic consumption of nonrubber footwear for such period,

"(B) in the case of nonrubber footwear with a customs value that exceeds $1.25 per pair but does not exceed $2.50 per pair, 5.4 percent of apparent domestic consumption of nonrubber footwear for such period, and

"(C) in the case of nonrubber footwear with a customs value that exceeds $2.50 per pair, 44.6 percent of apparent domestic consumption of nonrubber footwear for such period.

"(b) Within sixty days after the effective date of this title, and on the first day of the fourth quarter of each 1 year period thereafter, the Secretary shall determine on the basis of the best information available, including his own or independent forecasts, the expected apparent domestic consumption of nonrubber footwear for, in the case of the initial determination, the remainder of the current 1 year period and in the case of the first day of the fourth quarter of each 1 year period thereafter, the next succeeding 1 year period. On each such date, the Secretary shall determine and publish in the Federal Register the allocation for the next succeeeding 1 year period of permissible imports of nonrubber footwear as required by this section.

"(c) On the first days of the first, second, and third quarters of each 1 year period, the Secretary shall revise the determinations of expected apparent domestic consumption made under subsection (b) for the current 1 year period on the basis of the best information then available and shall make such adjustments in the quantity of nonrubber footwear permitted to be imported under this section as indicated by the revision. All revisions and adjustments made under this subsection shall be published in the Federal Register.

"(d) If the revised determination of expected apparent domestic consumption published in the Federal Register under subsection (c) on the first day of the third quarter in any 1 year period for nonrubber footwear varies from the actual apparent domestic consumption of nonrubber footwear for such 1 year period, the Secretary shall publish in the Federal Register on the first day of the second quarter of such succeeding 1 year period a revision to the determination of expected apparent domestic consumption for such 1 year period made under subsection (c) of this section. The revision shall be in the amount of such variance and shall be in addition to any other revision that would be made on any such first day of the second quarter under subsection (c) of this section.

"(e)(1) The Secretary and the Secretary of the Treasury shall take such actions within their respective jurisdictions as may be necessary or appropriate to enforce the provisions of this section, including without limitation, the issuance of orders to customs officers to bar entry to merchandise if the entry of such merchandise would cause the limitations established under this section to be exceeded.

"(2)(A) The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this section and to enforce the provisions of this section.

"(B) Before prescribing any regulations under subparagraph (A), the Secretary or the Secretary of the Treasury, as the case may be, shall—

"(i) consult with interested domestic parties,

"(ii) afford an opportunity for such parties to comment on the proposed regulations, and

"(iii) consider all such comments before prescribing final regulations.

"SEC. 1305. COMPENSATION AUTHORITY.

"For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), the imposition of the quantitative limitation under section 1304 shall be treated as action taken under section 203 of the Trade Act of 1974 (19 U.S.C. 2253).".

DANFORTH AMENDMENT NO. 877

Mr. DANFORTH proposed an amendment to amendment No. 875 proposed by Mr. HOLLINGS (and Mr. THURMOND), and subsequently amended, to the bill S.1730, supra; as follows:

At the end of the matter proposed to be inserted, add the following:

SEC. . (a) Notwithstanding any other provision of this Act, any limitation imposed by this Act on the quantity of any textiles, textile products, or nonrubber footwear that may be entered, or withdrawn from warehouse, for consumption in the customs territory of the United States—

(1) shall not apply with respect to textiles and textile products before August 1, 1986,

(2) shall not apply after the first date on which the President provides—

(A) import relief under section 203 of the Trade Act of 1974 (19 U.S.C. 2253) that is substantially equivalent to the import relief recommended by the United States International Trade Commission under section 201(d)(1)(A) of such Act in connection with an investigation conducted under section 201(b) of such Act (19 U.S.C. 2251) with respect to imports of textiles and textile products, and

(B) imports relief under section 203 of such Act that is substantially equivalent to the import relief recommended by the United States International Trade Commission under section 201(d)(1)(A) of such Act on June 12, 1985, in connection with the investigation conducted under section 201(b) of such Act with respect to nonrubber footwear, and

(3) shall not apply with respect to textiles and textile products after the date on which the United States International Trade Commission makes a negative injury determination under section 201(b) of such Act with respect to imports of textiles and textile products.

BYRD (AND OTHERS) AMENDMENT NO. 878

Mr. BYRD (for himself, Mr. DOLE, Mr. STEVENS, Mr. CHILES, and Mr. DOMENICI) proposed an amendment, which was subsequently modified and modified further, to the bill S. 1730, supra; as follows:

At the appropriate place add the following:

When the Senate is considering a reconciliation bill upon a point of order being made by any Senator, and sustained any part of the bill not in the jurisdiction of the reporting committee or extraneous to the instructions given that committee shall be deemed stricken from the bill and may not be offered as a floor amendment. This provision may be waived by three-fifths of the Senators duly chosen and sworn. No motion to waive germaneness or reconciliation bills shall be agreed to unless suported by three-fifths of the Senators duly chosen and sworn, which super-majority shall be required to successfully appeal the ruling of the Chair on these matters which include the points of order on extraneous matters and matter not properly reported by a committee.

STAFFORD (AND OTHERS) AMENDMENT NO. 879

(Ordered to lie on the table.)

Mr. STAFFORD (for himself, Mr. KENNEDY, Mr. HEINZ, Mr. GLENN, Mr. DANFORTH, Mr. LEAHY, Mr. D'AMATO, Mr. EAGLETON, Mr. BURDICK, Mr. COHEN, Mr. HATFIELD, Mr. MOYNIHAN, Mr. HART, Mr. ANDREWS, Mr. LAUTENBERG, and Mr. RIEGLE) submitted an amendment intended to be proposed by them to the bill S. 1730, supra; as follows:

On page 10, beginning on line 23, strike out the dash and all that follows through "(2)" on line 4 of page 11.

On page 11, beginning on line 6, strike out "a" and all that follows through "or" on line 10.

On page 11, line 11, strike out "such".

On page 11, beginning on line 11, strike out "In" and all that follows through "Act." on line 15.

COMPACT OF FREE ASSOCIATION

BOREN (AND OTHERS) AMENDMENT NO. 880

(Ordered to lie on the table.)

Mr. BOREN (for himself, Mr. GOLDWATER, Mr. HART, Mr. LEVIN, and Mrs. KASSEBAUM) submitted an amendment intended to be proposed by them to the joint resolution (S.J. Res. 77) to approve the "Compact of Free Association," and for other purposes; as follows:

On page 96, line 7, strike "Senate." and insert in lieu thereof the following: Senate.

SEC. 8. (a) Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 is amended by striking out "$1,000" and inserting in lieu thereof "$1,500".

(b) Section 315(a)(2) of the Federal Election Campaign Act of 1971 is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out "$5,000." in subparagraph (C) and inserting in lieu thereof "$3,000;"; and

(3) by adding at the end the following new subparagraphs:

"(D) to any candidate and his authorized political committees with respect to—

"(i) a general or special election for the office of Representative in, or Delegate to Resident Commissioner to, the Congress (including any primary election, convention, or caucus relating to such general or special election) which exceed $100,000 ($125,000 if at least two candidates qualify for the ballot in the general or special election involved and at least two candidates qualify for the ballot in a primary election relating to such general or special election) when added to the total of contributions previously made by multicandidate political committees to such candidate and his authorized political committees with respect to such general or special election; or

"(ii) a runoff election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress which exceed $25,000 when added to the total of contributions previously made by multicandidate political committees to such candidate and his authorized political committees with respect to such runoff election; or

"(E) to any candidate and his authorized political committees with respect to—

"(i) a general or special election for the office of Senator (including any primary election, convention, or caucus relating to such general or special election) which exceed the greater of $175,000 ($200,000 if at least two candidates qualify for the ballot in the general or special election involved and at least two candidates qualify for the ballot in a primary election relating to such general or special election) or the amount equal to $35,000 times the number of Representatives to which the State involved is entitled, when added to the total of contributions previously made by multicandidate political committees to such candidate and his authorized political committees with respect to such general or special election;

"(ii) a runoff election for the office of Senator which exceed the greater of $25,000 or the amount equal to $12,500 times the number of Representatives to which the State involved is entitled, when added to the total of contributions previously made by multicandidate political committees to such candidate and his authorized political committees with respect to such runoff election; or

"(iii) a general or special election for the office of Senator (including any primary election, runoff election, convention, or caucus relating to such general or special election) which exceed $750,000 when added to the total of contributions previously made by multicandidate political committees to such candidate and his authorized political committees with respect to such general or special election.".

(c) Section 315(a)(8) of the Federal Election Campaign Act of 1971 is amended—

(1) by striking out "person" the second place it appears and inserting in lieu thereof "person and intermediary or conduit".

(d) Section 315(a)(8) of the Federal Election Campaign Act of 1971 is amended—

"(1) by adding at the end of the paragraph the following subparagraph:

"(A) Notwithstanding any other provision of this Act, each multicandidate political committee which makes an independent expenditure in a Federal election in connection with such candidate's campaign, shall not do so in any newspaper, magazine, broadcast or other media advertisement without the following notice placed on, or within such advertisement:

"This message has been authorized and paid for by (name of committee), (name/title of treasurer and/or president). Its presentation is not subject to any campaign law contribution limits."

(e) Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting immediately after subsection (a) the following:

"(b)(1) if any licensee permits a person to utilize a broadcasting station to broadcast material which either endorses a legally qualified candidate for any Federal elective office or opposes a legally qualified candidate for that office, such licensee shall, within a reasonable period of time, provide to any legally qualified candidate opposing the candidate endorsed (or to the authorized committee of such legally qualified candidate), or to any legally qualified candidate who was so opposed (or to an authorized committee of such legally qualified candidate), the opportunity to utilize, without charge, the same amount of time on such broadcasting station, during the same period of the day, as was utilized by such person.

"(2) For purposes of this subsection, the term 'person' includes an individual, partnership, committee, association, corporation, or any other organization or group of persons, but such term does not include a legally qualified candidate for any Federal elective office or an authorized committee of any such candidate.".

(f) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by striking "section" and inserting in lieu thereof "subsection".

(g) Section 315(e) of the Communications Act of 1934, as so redesignated by subsection (a) of this section, is amended to read as follows:

"(e) For purposes of this section—

"(1) the term 'authorized committee' means, with respect to any candidate for nomination for election, or election, to any Federal elective office, any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000 and which is authorized by such candidate to accept contributions or make expenditures on behalf of such candidate to further the nomination or election of such candidate;

"(2) the term 'broadcasting station' includes a community antenna television system; and

"(3) the term 'licensee' and 'station licensee' when used with respect to a community antenna system mean the operator of such system.".

(h) Section 301(17) of the Federal Election Campaign of 1971 is amended to read as follows:

"(17) The term 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

"(A) For the purposes of this subsection, 'made without cooperation or consultation with any candidate' means—

"(i) the person making the independent expenditure did not communicate with, advise, or counsel the candidate at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, including any device relating to the candidate decision to seek Federal office;

"(ii) the person making the independent expenditure does not include as one of its officers, directors, or other employees an individual who communicated with, advised or counseled the candidate at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election to Federal office, including any advice relating to the candidate's decision to seek Federal office; and

"(iii) the person making the independent expenditure does not retain the professional services of any individual or other person also providing, or who in the same election cycle provided, those services to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidates decision to seek Federal office."

(i) If any provision of this Act or the application of it to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to any other person or circumstance shall not be affected by such invalidation.

(j) The amendments made by such sections (a) through (i) of this section shall apply with respect to general, special, and runoff election occurring after December 31, 1986.

FAIR LABOR STANDARDS ACT AMENDMENTS

NICKLES (AND OTHERS) AMENDMENT NO. 881

Mr. NICKLES (for himself, Mr. METZENBAUM, Mr. BENTSEN, Mr. CHAFEE, and Mr. LAUTENBERG) proposed an amendment to the bill (S. 1570) to amend the Fair Labor Standards Act of 1938 to exclude the employees of States and political subdivisions of States from the provisions of that act relating to maximum hours, to clarify the application of that act to volunteers, and for others purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Fair Labor Standards Amendments of 1985".

(b) REFERENCE TO ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section of other provision, the reference shall be considered to be a reference to a section or other provision of the Fair Labor Standards Act of 1938.

COMPENSATORY TIME

SEC. 2. (a) COMPENSATORY TIME.—Section 7 (29 U.S.C. 207) is amended by adding at the end the following:

"(o)(1) Employees of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency may receive, in accordance with this subsection and in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this section.

"(2) A public agency may provide compensatory time under paragraph (1) only—

"(A) pursuant to—

"(i) applicable provisions of a collective bargaining agreement, memorandum of understanding, or any other agreement between the public agency and representative of such employees; or

"(ii) in the case of employees not covered by subclause (i), an agreement or understanding arrived at between the employer and employee before the performance of the work; and

"(B) if the employee has not accrued compensatory time in excess of the limit applicable to the employee prescribed by paragraph (3).

In the case of employees described in clause (A)(ii) hired prior to April 15, 1986, the regular practice in effect on April 15, 1986, with respect to compensatory time off for such employees in lieu of the receipt of overtime compensation, shall constitute an agreement or understanding under such clause (A)(ii). Except as provided in the previous sentence, the provision of compensatory time off to such employees for hours worked after April 14, 1986, shall be in accordance with this subsection.

"(3)(A) No overtime compensation in the form of compensatory time off may be accrued by any employee of a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, in excess of 480 hours for hours worked after April 15, 1986. Any such employee who after April 15, 1986, has accrued 480 hours of compensatory time off shall, for additional overtime hours of work, be paid overtime compensation.

"(B) If compensation is paid to an employee for accrued compensatory time off, such compensation shall be paid at the regular rate of compensation earned by the employee at the time the employee receives such payment.

"(4) An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon termination of employment, be paid for the unused compensatory time at the regular rate of compensation earned by the employee at the time the employee receives compensation for overtime.

"(5) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency—

"(A) who has accrued compensatory time off authorized to be provided under paragraph (1), and

"(B) who has requested the use of such compensatory time,

shall be permitted by the employee's employer to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency.

"(6) For purposes of this subsection—

"(A) the term 'overtime compensation' means the compensation required by subsection (a), and

"(B) the term 'compensatory time or compensatory time off' means hours during which an employee is not working and which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation and for which the employee is compensated at the employee's regular rate.".

(b) EXISTING COLLECTIVE BARGAINING AGREEMENTS.—A collective bargaining agreement which is in effect on April 15, 1986, and which permits compensatory time off in lieu of overtime compensation shall remain in effect until its expiration date unless otherwise modified, except that compensatory time shall be provided after April 14, 1986, in accordance with section 7(o) of the Fair Labor Standards Act of 1938 (as added by subsection (a)).

(c) LIABILITY AND DEFERRED PAYMENT.—(1) No State, political subdivision of a State, or interstate governmental agency shall be liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 7 or 11(c) (as it relates to section 7) of such Act occurring before April 15, 1986, with respect to any employee of the State, political subdivision, or agency who would not have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in sections 775.2 and 775.4 of title 29 of the Code of Federal Regulations.

(2) A State, political subdivision of a State, or interstate governmental agency may defer until August 1, 1986, the payment of overtime compensation under section 7 of the Fair Labor Standards Act of 1938 for hours worked after April 14, 1986.

SPECIAL DETAILS, OCCASIONAL OR SPORADIC EMPLOYMENT, AND SUBSTITUTION

SEC. 3. (a) SPECIAL DETAIL WORK FOR FIRE PROTECTION AND LAW ENFORCEMENT EMPLOYEES.—Section 7 (29 U.S.C. 207) is amended by adding after subsection (o) (added by section 2) the following:

"(p)(1) If an individual who is employed by a State, political subdivision of a State, or an interstate governmental agency in fire protection or law enforcement activities (including activities of security personnel in correctional institutions) and who, solely at such individual's option, agrees to be employed on a special detail by a separate or independent employer in fire protection, law enforcement, or related activities, the hours such individual was employed by such separate and independent employer may be excluded by the public agency employing such individual in the calculation of the hours for which the employee is entitled to overtime compensation under this section if the public agency—

"(A) requires that its employees engaged in fire protection, law enforcement, or security activities be hired by a separate and independent employer to perform the special detail,

"(B) facilitates the employment of such employees by a separate and independent employer, or

"(C) otherwise affects the condition of employment of such employees by a separate and independent employer.".

(b) OCCASIONAL OR SPORADIC EMPLOYMENT.—Section 7(p) (29 U.S.C. 207), as added by subsection (a), is amended by adding at the end the following:

"(2) If an employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency undertakes, on an occasional or sporadic basis and solely at the employee's option, part-time employment for the public agency which is in a different capacity from any capacity in which the employee is regularly employed, the hours such employee was employed in performing the different employment may be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(c) SUBSTITUTION.—(1) Section 7(p) (29 U.S.C. 207), as amended by subsection (b), is amended by adding at the end the following:

"(3) If an individual who is employed by a public agency which is a State, political subdivision of a State, or an interstate governmental agency,

agrees, with the approval of the public agency and solely at the option of such individual, to substitute during scheduled work hours for another individual who is employed by such agency in the same activities, the hours such employee worked as a substitute may be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.".

(2) Section 11(c) (29 U.S.C. 211(c)) is amended by adding at the end the following: "The employer of an employee who performs substitute work described in section 7 (p)(4) may not be required under this subsection to keep a record of the hours of the substitute work.".

VOLUNTEERS

SEC. 4. (a) DEFINITION.—Section 3(e) (29 U.S.C. 203(e)) is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting in lieu thereof "paragraphs (2), (3), and (4)", and

(2) by adding at the end the following:

"(4)(A) The term 'employee' does not include any individual who is a volunteer for a public agency which is a State, a political subdivision of a State, or an interstate governmental agency, if (i) the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and (ii) such services are not the same type of services which the individual is employed to perform for such public agency.

"(B) An employee of a public agency which is a State, political subdivision of a State, or an interstate governmental agency may volunteer to perform services for any other State, political subdivision, or interstate governmental agency, including a State, political subdivision or agency with which the employing State, political subdivision, or agency has a mutual aid agreement.".

(b) REGULATIONS.—Not later than March 15, 1986, the Secretary of Labor shall issue regulations to carry out paragraph (4) of section 3(e) (as added by subsection (a) of this section).

(c) CURRENT PRACTICE.—If before April 15, 1986, the practice of a public agency was to treat certain individuals as volunteers, such individuals shall until April 15, 1986, be considered, for purposes of the Fair Labor Standards Act of 1938, as volunteers and not as employees. No public agency which is a State, a political subdivision of a State, or an interstate governmental agency shall be liable for a violation of section 6 occurring before April 15, 1986, with respect to services deemed by that agency to have been performed for it by an individual on a voluntary basis.

STATE AND LOCAL LEGISLATIVE EMPLOYEES

SEC. 5. Clause (ii) of section 3(e)(2)(C) (29 U.S.C. 203(e)(2)(C)) is amended—

(1) by striking out "or" at the end of subclause (III),

(2) by striking out "who" in subclause (IV),

(3) by striking out the period at the end of subclause (IV) and inserting in lieu thereof ", or", and

(4) by adding after subclause (IV) the following:

"(V) is an employee in the legislative branch or legislative body of that State, political subdivision, or agency and is not employed by the legislative library of such State, political subdivision, or agency.".

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall take effect April 15, 1986. The Secretary of Labor shall before such date promulgate such regulations as may be required to implement such amendments.

EFFECT OF AMENDMENTS

SEC. 7. The amendments made by this Act shall not affect whether a public agency which is a State, political subdivision of a State, or an interstate governmental agency is liable under section 16 of the Fair Labor Standards Act of 1938 for a violation of section 6, 7, or 11 of such Act occurring before April 15, 1986, with respect to any employee of such public agency who would have been covered by such Act under the Secretary of Labor's special enforcement policy on January 1, 1985, and published in section 775.3 of title 29 of the Code of Federal Regulations.

DISCRIMINATION

SEC. 8. An employee of a public agency who asserts coverage under the Fair Labor Standards Act of 1938 between February 19, 1985, and April 14, 1986, shall be accorded the same protection against discharge or discrimination as is available under section 15(a)(3) of the Fair Labor Standards Act of 1938.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION, 1986

DIXON AMENDMENT NO. 882

Mr. DIXON proposed an amendment to the bill H.R. 2965, supra; as follows:

SEC. . (a) The Congress finds that:

(1) there are more than 200 Soviet nationals employed at U.S. diplomatic posts in the Soviet Union;

(2) State Department officials have confirmed that most, if not all, of the Soviets report to the KGB in one way or another;

(3) retaining Soviets to work in our mission is an invitation to easy espionage;

(4) the reports of radically increased Soviet use of the chemical compound NPPD, a known cancer causing agent, which is used to attack Americans are alarming;

(5) NPPD may jeopardize the health and well-being of our diplomatic personnel and their families in the Soviet Union;

(6) the United States must strive continually to safeguard our foreign service officers and their dependents;

(7) Soviet citizens employed at our diplomatic posts in the Soviet Union pose greater risks to our national security than American citizens would; and

(8) reliable reports assert that Secretary of State Shultz endorses a plan to replace Soviets with Americans.

(b) it is the sense of the Congress that:

(1) the State Department should take steps to improve security and protect American lives at our Soviet missions by replacing the maximum number of Soviet citizens possible with Americans, at the earliest available opportunity; and

(2) the employment of a reduced number of Soviet nationals should be continued only if:

(A) such Soviet nationals do not pose a significant threat to the security of the United States;

(B) the employment of such Soviet nationals is necessary to provide usual and customary services to United States nationals, and the employment of a United States national as a replacement for such Soviet national would reduce to a significant extent the efficiency of operations at a United States diplomatic mission or consular post; or

(C) such Soviet nationals are employed in an occupation which precludes entry into the facilities of a United States diplomatic mission or consular post in the Soviet Union.

McCLURE AMENDMENT NO. 883

Mr. McCLURE proposed an amendment to the bill H.R. 2965, supra; as follows:

Add at the end of the bill the following new section:

"SEC. . (a) Since the Communist government of the Union of Soviet Socialist Republics since it seized power in Russia on November 7, 1917, has never submitted its rule to the consent of the governed through free elections; has designated the anniversary of this seizure "Revolution Day" as a national holiday; has held power since November 7, 1917 only through unrestrained secret police terror, and an extensive network of

forced labor Gulag camps; denies its subject Peoples the most basic human rights of free speech, free religion, free press, free assembly, free personal movement, and personal property; this Soviet repression has cost the Peoples of the Soviet Union tens of millions of deaths and has resulted in great damage to the culture, religion, and material well being of these Peoples; this repression violates the Universal Declaration of Human Rights and the 1975 Helsinki Final Act; the Soviet Union is actively seeking to subject other countries to the Communist system and is currently waging a genocidal war to subjugate the people of Afghanistan, making use of the most inhumane weapons of scientific barbarism against defenseless civilians, including the use of toxin weapons the possession of which is outlawed by international conventions to which the USSR is a signatory.

(b) Since: inexplicably, the annual "Revolution Day" message from the United States State Department of behalf of the American People congratulates the Communist Government of the USSR on its violent and undemocratic seizure of power on the anniversary of November 7, 1917; the annual message also congratulates the people of the Soviet Union on their rulers' seizure of power; such U.S. congratulations are displayed before the Soviet Peoples as a demonstration of the legitimacy of the Bolshevik Government in the eyes of the Democratic government of the United States of America and are perceived as the cruelest mockery of these Peoples.

"(c) None of the funds appropriated by this Act shall be used in any fashion or manner whatsoever to continue the practice of the Department of State of congratulating or in any way referring to such an anniversary as a holiday or cause for celebration, the Soviet Union, the Communist Party of the Soviet Union, or the People of the Soviet Union on the anniversary of the Communist Revolution of 1917; *Provided further,* That the amounts appropriated by this Act for the Department of State shall be reduced by 10 percent on November 4, 1985 unless the Secretary of State shall have submitted before the date of enactment of this Act a report describing his plan for proclaiming the sympathy of the American People for the bondage of the enslaved Peoples of the Soviet Empire and the hope that they will soon recover their freedom and national integrity."

HELMS (AND ARMSTRONG) AMENDMENT NO. 884

Mr. HELMS (for himself and Mr. ARMSTRONG) proposed an amendment to the bill H.R. 2965, supra; as follows:

On page 24, between lines 21 and 22, insert the following:

"SEC. . None of the funds appropriated under this Act shall be used to pay for abortions for which Federal funds are not available under the Medicaid program (title XIX of the Social Security Act).".

SYMMS AMENDMENT NO. 885

(Ordered to lie on the table.)

Mr. SYMMS submitted an amendment intended to be proposed by him to the bill H.R. 2965, supra; as follows:

At the end thereof add the following new section:

The Senate finds that: The following events document Romania's attitude towards religious freedoms:

(1) Father Geza Palfi, a Romanian Roman Catholic priest was arrested on December 26, 1983, because he mentioned in a Christmas day sermon that Christmas Day should be a national holiday, instead of a working day. At the time of his arrest he was savagely beaten by the Romanian secret police, SECURITATEI, outside his church in Tirgu Mures, Romania. Father Palfi died three months later of internal injuries sustained during the fatal beating.

(2) Geheoghe Caliu was imprisoned for 22 years for his activities in the Romanian Orthodox Church, and after serving five years of his last ten year sentence, he was released to serve the remainder of the sentence under House arrest in Bucharest. House arrest has been harsher punishment than the previous 22 years of imprisonment, owing to its high visibility and the government's desire to make Caliu's case an example to what happens to Christians in Romania.

(3) Doral Catarama, a minister for the Seventh-Day Adventist Church, was sentenced to ten years in prison for "embezzlement" by government officials. This was done in face of the fact that Dorel Catarama's State employers signed an affidavit stating he was a model employee, always "honest and disciplined." Christian Response International and Amnesty International have investigated the charges and found them to be unfounded.

(4) Under pressure from Western governments Romania gave permission to the World Reformed Alliance to send 20,000 Bibles to the Hungarian Reformed Church in Romania. The Romanian ambassador in talks with western officials, United States Senators and Congressmen has continually pointed to his country's acceptance of the Bibles as an illustration of his country's attitude towards religious freedoms. This example would be used frequently when discussing Romania's "most favored nation" trading status with the United States. The Bibles, upon arrival to Romania, immediately disappeared. It soon became apparent what had happened to the Bibles. In areas where toilet paper was extremely scarce, letters and certain words of the confiscated Bibles appeared on the toilet paper. The Romanian government had ground up the Bibles to make toilet paper.

(5) The Romanian government has bulldozed many Christian Churches in Romania. Among these:

(i) The Pentecostal Church of Cinpia Turzii, Romania, on May 7, 1982 was bulldozed and destroyed by government officials.

(ii) The Second Baptist Church of Romania had its building destroyed May 6, 1985, in an attempt to suppress religious freedoms.

(iii) The Baptist Church of Bistrita was bulldozed on November 3, 1984.

(iv) The largest Baptist Church in Europe, the Ordea Baptist Church of Ordea, Romania, which has a congregation of 2,000 members, is soon to be demolished by Romanian officials.

(6) Five leading Romanian Baptist Pastors of Bucharest, Joseph Sarac, Vasile Talos, Vasile Brinzei, Pascu Geabau, and Buni Cocar, have all been falsely accused of "embezzlement" because congregational funds totaling $57,285 were spent with full knowledge and consent of the various congregations involved, but without approval of the Ministry of Cults.

(7) Klaus Wagner of Sighisoara, Romania, a member of the Brethren Church, and Maria and Fibia Delepeta of Carpinis, Romania, members of the Army of the Lord/Romanian Orthodox Church were arrested October 1, 1981, and tried in Romanian courts. They were sentenced to six years, five years, and five years imprisonment respectively, for their illegal religious activities.

(8) Silviu Ciotata and Costel Georgescu of Ploestic, Romania, were arrested on December 11, 1981, for distributing Bibles. Their fate remains unknown.

(9) John Teodosiu of Cluj, Romania, was arrested and charged on December 16, 1981 for espionage, because of his activities compiling information for various human rights organizations relating to the arrests and persecution of religious believers in the Socialist Republic of Romania. John Teodosiu has been held incommunicado by the Romanian secret police; his situation today remains unknown.

(10) Relatives of Christian believers are being compelled to sign statements which would subject their loved ones—solely because of their religious beliefs—to treatment and detention in psychiatric institutions.

(11) Many Christians in Romania today are subjected to daily interrogations; beatings, torture, and electric shock treatment.

(12) These reprehensible, revolting, and blatantly evil practices occur in spite of the fact that in August of 1975 the Romanian government signed the Final Act of the Helsinki Accords, which stated Romania would "Recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience." The International Covenant of Civil and Political Rights which Romania ratified in 1974 is equally violated by these repulsive actions.

(13) In accordance with Section 402 of the 1974 Trade Act, Romania's emigration and human rights record is required to be studied annually by the administration, as well as both houses of Congress to determine whether that country is eligible to receive Most Favored Nation trading status.

Therefore it is the sense of the Senate that:

(1) The United States should play an active role in restoring Human Rights and religious freedoms to the Romanian people—in accordance with the Helsinki Accords and the International Covenant of Civil and Political Rights and the principles of religious freedom on which this country was founded.

(2) These acts of religious oppression and persecution taken by the government of the Socialist Republic of Romania are barbaric and repugnant to the community of civilized nations, and in violation of the intrinsic rights of all men.

(3) These actions are particularly objectionable because they are in blatant violation of the Helsinki Accords and the International Covenant of Civil and Political Rights. Romania's outright contempt for international agreements should be taken into consideration during the future bilateral agreements between this country and the Socialist Republic of Romania.

(4) The Senate should promptly consider and, in the absence of major mitigating circumstances arising subsequent to the consideration of this measure, should adopt a resolution of disapproval concerning the renewal of Most Favored Nation Status for the Socialist Republic of Romania.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, October 29, 1985, at 9:30 a.m., in SR-301, Russell Senate Office Building, to deal with legislative and administrative business currently pending on its agenda.

The committee will be marking up the following three measures which concern Smithsonian Institution activities: S. 581, to authorize construction of facilities for the Whipple Observatory in Arizona and to authorize repair and replacement of facilities at the Tropical Research Institute in Panama; S. 582, to reauthorize the National Museum Act; and S. 583, to authorize appropriations for construction of additional facilities for the Cooper-Hewitt Museum in New York. Hearings were held by the committee on these bills on July 24, 1985.

Senate Resolutions 28, 29, and 81, each of which provides for television and radio coverage of Senate proceedings will also be under consideration by the committee. Hearings were held by the committee on the subject of broadcast coverage of Senate floor proceedings on September 17 and 18, 1985.

On its administrative agenda the committee will be considering a number of proposed amendments to the Senate mass mail regulation; chief among them is an amendment which would provide for printing the pictures of missing children on certain Senate mail.

For further information regarding this business meeting, please contact Carole Blessington of the Rules Committee staff on 224-0278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, October 24, to conduct a meeting on the nomination of Carol G. Dawson to be Commissioner of the Consumer Product Safety Commission.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOMENICI. 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 24, 1985, in closed executive session in order to receive a briefing on intelligence matters.

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

SUBCOMMITTEE ON TOXIC SUBSTANCES AND ENVIRONMENTAL OVERSIGHT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances and Environmental Oversight, of the Committee on Environmental and Public Works, be authorized to meet during the session of the Senate on Thursday, October 24, in order to conduct a hearing on ground water protection.

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

SUBCOMMITTEE ON SEAPOWER AND FORCE PROJECTION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Seapower and Force Projection of the Committee on Armed Services, be authorized to meet during the session of the Senate on Thursday, October 24, 1985, in order to conduct a hearing on S. 535, National Ship Building Industrial Base Act of 1985

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the permanent Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, October 24, 1985, in order to conduct a hearing on the role of the feature film industry in deglamourizing drug use.

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

ADDITIONAL STATEMENTS

AN OPEN LETTER TO THE PRESIDENT OF THE UNITED STATES

● Mr. HART. Each year, in the opening session of the United Nations, the world's leaders come to New York to discuss their visions of the future and their hopes for peace. Tomorrow, it will be President Reagan's turn.

Our President has addressed the United Nations before, but this year the stakes could not be higher. In a matter of weeks President Reagan will be meeting with the Soviet leader at Geneva—his first summit with the Soviets since he took office. On the issue of arms control alone, where so much divides us, this meeting will be of crucial importance. The President's address provides an excellent opportunity for him to spell out an agenda for Geneva, a framework for United States-Soviet relations, and a program for peace.

It is my earnest hope that the President will use this occasion to lay the groundwork for a successful summit. I have prepared a letter to Mr. Reagan which expresses this hope and recommends some steps he should consider. I ask that this letter be printed in the RECORD.

The letter follows:

AN OPEN LETTER TO THE PRESIDENT

DEAR PRESIDENT REAGAN: The support of all Americans goes with you in your first meeting with Soviet Chairman Gorbachev. Our people are united in hoping the summit will help change relations with the Soviet Union and prove a turning point in our quest for peace.

The debate over the potential outcome of the upcoming summit, however, seems to have obscured what you have repeatedly pledged in the critical goal of your Administration: to recast U.S.-Soviet relations to create a lasting peace. The divisive debate among your own advisers only heightens the perception that, with less than four weeks to go, you have not exerted your leadership to set clear and bold objectives for the summit.

Mr. President, please resist the counsel of those in your Administration who might want simply another forum for ideological confrontation. You have before you an historic opportunity to fundamentally reshape U.S.-Soviet relations for the next century. I urge you to ignore the voices—including those within your own Administration—that would guide you toward a narrower agenda.

History offers a precedent: President Nixon's 1972 summit with Mr. Brezhnev. Mr. Nixon used that occasion to draw a comprehensive new paradigm for U.S.-Soviet relations—"detente." At that meeting, President Nixon signed the Agreement on the Prevention of War, the Threshold Test Ban Treaty, and a protocol on the Anti-Ballistic Missile Treaty. He also paved the way for President Ford's signing of the Vladivostok Accords in 1974.

Mr. Nixon's blueprint was not flawless. What is important is that he had a blueprint to offer. It was a blueprint that sketched a plan for the entirety of U.S.-Soviet relations: arms control, European security, trade, human rights, cultural exchange, and engagement in the Third World. The American people expect no less today.

Mr. President, your electoral landslide and personal popularity give you an almost unprecedented opportunity to create a new framework for U.S.-Soviet relations. You have the power to implement a new vision—but only if you make clear to the American people, and the Soviets, what that vision is.

Some in your Administration indicate you are prepared to engage Mr. Gorbachev in serious discussions over the full range of issues that are heightening tensions between our two nations. But your recent statements suggest you have a different agenda: insistence on testing, development, and eventual deployment of your Strategic Defense Initiative—regardless of the impact this single-minded pursuit would have on the overall balance of issues which threaten our security.

Mr. President, we stand on the threshold of a transformed strategic environment. The Soviets have a dynamic new leader, intent on consolidating and expanding his power within and beyond his nation's borders. The SALT II Treaty expires this year. The ABM Treaty is headed for erosion or outright abrogation in the absence of a plan to guide future compliance by both sides.

If you insist simply on defending SDI, our prospects for advancing our interests in this new environment appear grim indeed. Progress in reducing offensive armanents,

an objective you continually espouse, will be held hostage to the two sides' continued insistence on "force modernization." And US-Soviet relations, in a state of steady decline for five years, will continue on a course of dangerous instability. We need a new, clearer blueprint for out survival in the new and dangerous environment with the Soviet Union.

Mr. President, detente proved our antagonisms with the Soviets cannot be transcended with overly optimistic formulas. We cannot wish away the Soviets' internal repression, their military adventurism, or their growing arsenals. Our fundamental differences must be managed, not papered over: and it is a President's obligation to tell us how they should be managed.

In the current environment, it is obviously not realistic to expect that major new agreements will be signed at the upcoming summit or soon thereafter. There is too much mutual suspicion and too much damage to repair. But your announcement of a broad, bold strategy could recapture the initiative from the Soviets.

There is no shortage of realistic goals—compatible with your own philosophy—which you could build into such an agenda: reductions in both sides' offensive nuclear arsenals—not some time in the next century pending the results of SDI experiments—but by the next decade; concrete agreements for the continuation of research on strategic defenses in ways that do not undermine the ABM Treaty; joint efforts to make breakthroughs in verification technology so we can negotiate, ratify, and enforce broader arms control agreements; cooperative measures to stem nuclear proliferation and terrorism; arrangements to avoid inadvertent nuclear conflict in crisis; an agreement to renew progress toward a Comprehensive Test Ban Treaty.

Even this list is just a beginning. East-West trade, human rights, emigration, Third World "hot spots"—all these should be part of a comprehensive strategy for managing our relations with the Soviets. It does not require trusting the Soviets. It does require looking beyond fragile panaceas, like SDI, and developing a comprehensive plan for managing our inevitable tensions with the Soviets.

Mr. President, before you sit down with Mr. Gorbachev next month, I strongly urge you to develop and announce such a strategy in the coming weeks. A troubled, anxious world waits in hope.

Sincerely,

GARY HART.●

FIFTH ANNUAL MEETING OF THE SMALL BUSINESS COMMITTEE'S NATIONAL ADVISORY COUNCIL

● Mr. WEICKER. Mr. President, on Wednesday, October 23, 1985, the National Advisory Council to the Senate Committee on Small Business held its fifth annual day-long meeting and unanimously passed eight resolutions urging Congress and the President to take action on some of the most pressing issues facing small businesses and the economy today.

The Council, composed of 25 small business persons from about the country, provides the committee with regular grassroots insight into the problems and concerns of our Nation's small businesses. The Council was formed in 1981 to give the committee a better understanding of the small business viewpoint, while affording Council members the opportunity to expand their knowledge of the Federal Government and how it operates. This Council is the only officially recognized advisory body in the Senate. Its members come to Washington each year, at their own expense, to meet with committee members and other officials to discuss the state of small business from their perspective as active working members of the small business community.

Yesterday's meeting included morning sessions with Clayton Yeutter, U.S. Trade Representative, Joseph R. Wright, Jr., Deputy Director, Office of Management and Budget, James C. Sanders, Administrator, Small Business Administration, Michael Stern, minority staff director, Senate Finance Committee, and a luncheon address by Senator Ernest F. Hollings. In the afternoon, the council held its formal working session with members of the committee, and approved several important resolutions.

The Council's measures call for the President and Congress to take immediate action on the budget crisis, endorsing cuts in all areas, including entitlement programs, Social Security, defense spending and tax increases, if necessary; to oppose comprehensive tax reform with the exception of a minimum corporate tax; and to maintain the Small Business Administration [SBA] as an independent agency.

The Council also declared its support for vigorous enforcement of U.S. antitrust laws, particularly in the areas of anticompetitive mergers and acquisitions; stronger implementation of the Prompt Payment Act to ensure that small contractors doing business with the Federal Government receive timely payment; called for hearings and a Federal standard on the issue of liability insurance, in light of the current unavailability of affordable insurance for small firms; and finally, asked the President, the U.S. Trade Representative, International Trade Commission, and the Commerce Department to reduce imports from any country whose unfair trade practices contribute to the U.S. trade deficit with that country.

Mr. President, I commend the Advisory Council for the important contribution it has made to the congressional deliberations on small business matters. I urge my colleagues and the President to carefully review these resolutions, as they reflect some of the major concerns of America's 14 million small business owners and operators.

Mr. President, I ask that the full text of the eight resolutions and a list of the Council members who attended the annual meeting to be printed in the RECORD following this statement.

The material follows:

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON BUDGET DEFICIT

Whereas, the total Federal debt has doubled over the past four years to almost 2 trillion dollars, and seriously threatens the majority of the nation's small businesses, which would be particularly hard hit by higher interest rates, renewed inflation and a stagnating economy.

Whereas, the Congressional Budget Office estimates that without any corrective action by the President or Congress to immediately reduce these deficits, and hold the line across the board on controllable spending, that a crisis is at hand for small business;

Whereas, any effective debt reduction package should include necessary tax increases, while allowing for provisions that are favorable to the short- and long-term planning of both small and agri-related businesses: Therefore, be it

Resolved, That the National Advisory Council to the Senate Committee on Small Business calls upon the President and the Congress of the United States to take immediate action to address this budget crisis. In the consideration of specific actions no areas should be exempt, including tax increases, and entitlements programs, as well as substantial reductions in defense spending, and other domestic discretionary programs.

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON PROPOSED TAX REFORM

Whereas, small business is a critical segment of our national economy, whose employment expanded by 11.4% between 1982 and 1984, compared with only 5.3% employment growth for large firms during this same period;

Whereas, small business produces a more-than-proportionate share of net new jobs relative to the small business share of total employment;

Whereas, small business generally does not have access to public capital markets, and therefore, often has to rely on retained earnings to fund its growth and operations;

Whereas, Congress is currently considering comprehensive reform of the income tax code;

Whereas, there are a number of major provisions of the tax code affecting the ability of small business to retain earnings which are currently being recommended for change, either by limitation or elimination;

Whereas, the concerns of small business are often over-looked in important tax legislation;

Whereas, in the last four years, Congress has enacted three major tax revision bills and the small business community desires stability in the tax code in order to be able to make long-term economic decisions;

Whereas, the tax concerns of small business must be adequately addressed for any tax reform bill to be truly equitable;

Whereas, small business is nearly unanimous in its support of the retention of certain provisions of the tax code, including the preferential treatment of capital gains, graduated corporate income tax rates, the investment tax credit, loan loss reserve, direct expensing, tax exempt financing for small business, and some form of accelerated depreciation.

Therefore, be it resolved that, the National Advisory Council to the United States Senate Committee on Small Business does not believe that fundamental change in the tax code is warranted, with the exception of

a strong corporate miminum tax. Should Congress decide to enact comprehensive tax reform, any such revision of the tax code must recognize the needs of small businesses as reflected in the specific small business tax provisions cited above.

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON THE SMALL BUSINESS ADMINISTRATION

Whereas, the Small Business Administration (SBA) was established as an independent Federal agency in 1953, and is the only agency in the Executive Branch whose sole mission is to serve, promote and protect this nation's 14 million small enterprises;

Whereas, small businesses annually lead the country in job creation, productivity and innovation, and provide the key to our overall economic growth;

Whereas, SBA has an impressive 32 year record of providing critical financial and management assistance which is not otherwise available to small business owners and operators;

Whereas, the United States Senate, in passing S. 408, a three year authorization bill for SBA by an overwhelming vote of 94 to 3 on July 16, 1985, has already agreed to preserve SBA as an independent Federal agency;

Therefore, be it resolved that, the National Advisory Council to the Senate Committee on Small Business calls upon the President and the entire Congress of the United States to enact legislation consistent with S. 408, which maintains SBA as an independent agency and maintains adequate funding (at its current funding level) for its essential lending, management, procurement and advocacy functions, and further, that the President, in future budget submissions to Congress, submit recommendations consistent with this Congressional action.

PROPOSED RESOLUTION OF NATIONAL ADVISORY COUNCIL ON FOREIGN TRADE

Whereas, the United States trade deficit threatens the economic well-being of the United States;

Whereas, for the first time since World War I, the United States is a debtor nation, owing its trading partners more than they owe us;

Whereas, the United States trade practices are more free and fair than those of most of our trading partners;

Whereas, small businesses are particularly harmed by unfair trade practices;

Whereas, the President has elected not to follow the recommendations of the International Trade Commission;

Therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business calls upon the President and the Congress of the United States to take comprehensive action this year to insist that our trading partners promptly reciprocate our free and fair trade policies, including following the recommendations of the International Trade Commission and, in the event that such trading partners fail to reciprocate, the President, the United States Trade Representative, the International Trade Commission, and the U.S. Commerce Department shall take direct action under current trade laws to reduce imports from such country to the full extent of such failure or offset the advantages of any unfair trade practice which contributes to the United States trade deficit with such country.

PROPOSED RESOLUTION OF THE NATIONAL ADVISORY COUNCIL ON LIABILITY INSURANCE

Whereas, small businesses currently face a crisis in obtaining liability insurance with reported rate increases of 300 percent to 1000 percent making insurance coverage either unaffordable or unobtainable at any price;

Whereas, the increase in insurance premium rates adds fuel to inflationary engines in the economy as a result of higher costs being passed along in the cost of goods and services;

Whereas, the number of insurance companies offering such liability coverage is steadily decreasing because of high past loss ratios in this type of insurance;

Whereas, many small firms have discontinued uninsurable products and services, others have closed their doors because they cannot continue operations as self-insurers or without insurance;

Whereas, one factor which has contributed to this crisis is the fractured nature of tort law in the various states of our Union which has caused increased unwillingness by insurance companies to provide coverage for firms which do business in a variety of states; and

Therefore, be it resolved that the National Advisory Council to the Senate Committee on Small Business calls upon the Committee to study and conduct hearings on this critical problem of liability insurance availability and affordability for small businesses, and supports the concept of a federal liability standard removing the uncertainty that surrounds this issue, and thereby providing the type of structure that will permit insurance companies to accurately estimate the costs of such insurance.

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON IMPLEMENTATION OF THE PROMPT PAYMENT ACT

Whereas, the members of the National Advisory Council to the Senate Committee on Small Business, having considered the Federal agency implementation of the Prompt Payment Act, Public Law 97-177, during the three years since it became effective on October 1, 1982 have found that the objectives of the legislation and the intent of Congress are not being fully attained;

Whereas, some Federal agencies continue to make payments beyond the payment date specified in its contracts or beyond the times specified in the Act, without the payment of interest;

Whereas, some Federal agencies are abusing the fifteen day "grace period" provided in the Act by failing to initiate payment action on contractors' invoices until the expiration of thirty days;

Whereas, some Federal agencies are delaying payments to small business contractors by rejecting their invoices as "improper" after the fifteen days provided by the Act;

Whereas, some Federal agencies are delaying payments to small business contractors by refusing formal acceptance of supplies, services or construction so as to delay the start of the payment periods mandated by the Act, after which interest must be paid;

Whereas, some Federal agencies are failing to automatically pay interest due to small business contractors, rather requiring them to make a demand for payment of interest contrary to the Act's self-enforcing intent;

Whereas, these problems with agency implementation of the Act are placing substantial financing burdens on small business government contractors, and acting as an obstacle to small business participation in the Federal procurement market, thus denying the Government the advantages of the competition, industry, and innovation provided by many small businesses;

Therefore, be it resolved That, the National Advisory Council to the Senate Committee on Small Business calls upon the Congress, especially the Senate and House Committees on Small Business, the Senate Governmental Affairs Committee, and the House Government Operations Committee which were instrumental in the passage of the Prompt Payment Act, to:

1. conduct oversight hearings on the implementation of the Prompt Payment Act through OMB Circular A-125, the Federal Acquisition Regulation, and the implementing regulations of individual Federal agencies; and

2. To consider modifications to the Prompt Payment Act that will address demonstrated implementational abuses by some Fedeal agencies and assure attainment of Congressional intent and objectives in passing the Act.

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON ANTITRUST ENFORCEMENT

Whereas, the antitrust laws of the United States have been the strong underpining of the American free enterprise system through insuring a free and open marketplace;

Whereas, the antitrust laws of the United States is the first line of defense against anticompetitive activity and is critical to the health of the economy and the survival of small business;

Whereas, the antitrust laws of the United States have insured the integrity and independence of the American small businessperson in being able to decide which products to handle, where and to whom to sell such products and the prices at which such products are sold;

Therefore, be it resolved That, the National Advisory Council to the Senate Committee on Small Business resolves as follows:

First, that the Federal Trade Commission and the Antitrust Division of the Department of Justice are urged to vigorously enforce the antitrust laws of the United States in the following areas where enforcement is now lacking:

A. Anticompetitive mergers and acquisitions;

B. Resale price maintenance;

C. Tying arrangements; and

D. Unreasonable territorial and customer restrictions.

Second, Senator RUDMAN and the other Members of the Senate Committee on Small Business are to be commended for their opposition to the "Vertical Restraints Guidelines" published by the Department of Justice on January 23, 1985—which do not accurately state current antitrust law—and for urging that the Vertical Restraints Guidelines be withdrawn as per Senate Concurrent Resolution 56;

Third, the Senate Committee on Small Business is urged to oppose the efforts of Secretary of Commerce Malcolm Baldrige to abolish Section 7 of the Clayton Act that makes illegal mergers and acquisitions which may unreasonably restrain competition or increase monopoly in any line of commerce; and

Fourth, the Senate Committee on Small Business is urged to insist that the Administration appoint a recognized spokesman for

small business to the Administration's current Task Force on Antitrust.

RESOLUTION OF NATIONAL ADVISORY COUNCIL ON INVESTMENT TAX CREDIT REFORM

Whereas, the manufacturing community in our nation is currently faced with increasing foreign competition;

Whereas, those foreign competitive businesses are often aided by direct and indirect subsidies afforded them by their home governments;

Whereas, those foreign competitors are further assisted by the artificially high value of the United States dollar vis-a-vis the value of their currencies;

Whereas, our system of government and basic integrity preclude the United States from violating the General Agreement on Tariffs and Trade (GATT);

Whereas, domestic manufacturers have applied for the investment tax credit for the purchase of foreign manufactured machinery, further enhancing the benefit of the purchase of such machinery from foreign suppliers, rather than domestic firms;

Whereas, the investment tax credit was originally designed to act as an incentive for manufacturing in the United States;

Therefore, be it resolved That, the National Advisory Council to the United States Senate Committee on Small Business urges the Members of this Committee to advocate a version of the investment tax credit that would allow only the purchase of equipment manufactured within the United States be eligible for such credit.

NATIONAL ADVISORY COUNCIL PARTICIPANTS

1. Mr. Robert Baker, Essex Bank, Peabody, Massachusetts.
2. Mrs. Asta Ball, Miniature Nut and Screw Corporation, Newington, Connecticut.
3. Mr. Herb Bowden, Sencore, Inc., Sioux Falls, South Dakota.
4. Mr. Timothy H. Fine, The Law Offices of Timothy H. Fine, San Francisco, California.
5. Mr. Walter Floss, Jr., Floss Insurance Agency, East Amherst, New York.
6. Mr. R. Alan Fuentes, Computer Dynamics, Inc., Virginia Beach, Virginia.
7. Mr. Odus Hennessee, Cosmetic Specialty Labs., Inc., Lawton, Oklahoma.
8. Mr. Bruce Hopewell, Lincoln Business Help Associates, Inc., New York, New York.
9. Mr. David L. Houston, Northwest Federal Savings & Loan Association, Woodward, Oklahoma.
10. Mrs. Gay Kruglick, Earls Academy, Phoenix, Arizona.
11. Mr. Michael Lefkiades, Michigan Coni Islands, Inc., Bay City, Michigan.
12. Mr. David Longnecker, Kiltons of Manchester, Manchester, New Hampshire.
13. Mr. F. Ray McCormick, McCormick Construction Co., Inc., El Paso, Texas.
14. Ms. Judy McCoy, McCoy Goldsmith & Jewelers, Dubuque, Iowa.
15. Mr. Frederic E. Mohs, Mohs, McDonald and Widdar, Madison, Wisconsin.
16. Mr. Shaw Mudge, Shaw Mudge & Company, Stamford, Connecticut.
17. Mr. Bill Nourse, Brookmeade Hardware & Supply, Nashville, Tennessee.
18. Mr. Larry Stanley, Empire Bolt and Screw, Inc., Spokane, Washington.
19. Mr. Rufus Tindol, Tindol Service, Inc., Atlanta, Georgia.
20. Mr. Don Munro, Munro & Co., Inc., Hot Springs, Arkansas.
21. Mrs. Thelma Stevenson Ablan, Stevenson & Associates, Chicago, Illinois.
22. Mr. Frank Carroll, Carrolline Travel, Worchester, Massachusetts.

MASSACHUSETTS FOR AFRICA MONTH

● Mr. KERRY. Mr. President, I would like to take this opportunity to draw attention to the fact that Governor Michael Dukakis of Massachusetts has proclaimed November as "Massachusetts for Africa Month." Twenty-five African countries are appealing for emergency aid to fight famine, and 150 million people are facing critical shortages of food, medical supplies, health care, and water. Through a community-wide effort Massachusetts will try to do its part to alleviate these horrible conditions.

This project was initiated by Douglas Rose, a Massachusetts youth counselor. During the month of November, merchants will donate proceeds from certain business days, while local school children, senior citizens, labor unions, colleges, religious organizations and sports teams will contribute in various ways.

Mr. President, I praise Governor Dukakis, Mr. Rose, and all those involved in this program for continuing to keep us aware of the terrible plight facing many Africans. It is this cooperation of neighbor working with neighbor for a common goal that shows true American spirit and compassion. I urge my colleagues to follow the example of Massachusetts and promote this kind of community participation in their own States.●

JAPAN-UNITED STATES SENATE SCHOLARSHIP PROGRAM

● Mr. COHEN. Mr. President, on behalf of myself and Senator MITCHELL, I would like to take this opportunity to share with our colleagues a letter we received from a student in Maine who participated in the Youth for Understandings Japan-United States Senate Scholarship Program. These appointments are made by a State selection committee which is comprised of a member we each name, along with representatives of the National Association of Secondary School Principals, the National Council for the Social Studies, and Youth for Understanding. High school principals throughout the State are invited to nominate one outstanding high school junior for consideration.

One such scholarship winner is Lara Horner of Bar Harbor. Her letter certainly underlines the positive experience which these students enjoy in Japan. The value of the program and the obviously beneficial relationships being established between our two countries are made clear in Ms. Horner's letter. To quote:

I am extremely grateful for the part you played in sending me to Japan. My summer in Japan was a learning and uplifting time unlike anything I have ever experienced in the past. I stayed on Okinawa which is different in many ways from the mainland of Japan. Okinawa does not have temples or an abundance of festivals, so I was able to direct my attention to the people, the school, and the uniqueness of Okinawa's history.

Youth for Understanding could not have selected a better family for me. My family was warm, caring, sensitive, and most of all had a wonderful sense of humor. They have become my second family. I got along very well with each member of the family: my older brother and I took karate lessons together; with my older sister I learned to cook; with my 17-year-old sister I went to school; and with my younger sister I learned origami. These are only a few of my sharing experiences with my family.

Everyone was always willing to teach me as much about Okinawa as possible. My sister read the paper every day and then translated it for me. My father took me to visit famous Okinawan war memorials on the southern part of the island. In his explaining, I learned a lot about the strength of the people and their ability to recover from such devastation in a relatively short period of time.

I learned even more about the Okinawan people by attending school. This gave me the chance to make friends, participate in activities, and share myself with the students and teachers. I attended classes in math, physics, Japanese caligraphy, and English. I was made to feel welcome on my first day of school. No fewer than 50 people surrounded me during my first 5 minutes at Nago High School. Everyone introduced him/herself and made a huge effort to speak English. All of the students wanted to be helpful and took a genuine interest in me. My entire school experience helped to better my image of myself. The students enabled me to understand that effort matters more than ability.

My experiences this summer have influenced my plans for the future. I intend to study the Japanese language in college and hope to spend a year studying in Japan. Maintaining a close relationship with my Japanese family and friends is important to me.

I delivered your message to the Okinawan Governor and he received it with pleasure. I deeply appreciate the privilege of being a U.S. Senate Scholar.

Lara Horner, Bar Harbor, Maine.●

SOUND ECONOMICS

● Mr. BRADLEY. Mr. President, I rise to recommend an article entitled, "Sound Economics, Sound Trade Policy," which appeared in the New York Times on September 15, 1985.

Prof. Richard Gardner's article urges the President not to deal solely with the politics of the trade issue, but to begin solving the fundamental economic problems affecting trade. His article adeptly explains that although unfair foreign trade practices need to be stopped, they only account for 10 percent of the current trade imbalances. He cites five key areas where fundamental policy are needed: The budget deficit, exchange rates, national competitiveness, import adjustments, and capital flows. Without

change in these areas, we may see a future collapse in what remains of the open trading system.

Mr. President, Professor Gardner's article gives us much to think about. I urge my colleagues to review it, and ask that it be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 15, 1985]

SOUND ECONOMICS, SOUND TRADE POLICY

(By Richard N. Gardner)

The tidal wave of restrictive trade legislation pending in Congress has concentrated President Reagan's mind wonderfully. In his second term, he is beginning to give to trade policy the attention so sadly lacking in his first.

But so far he has dealt only with the politics of the problem, not with the economic fundamentals. He has not yet recognized that his free-trade objectives are being undermined, not only by the unfair trading practices of other nations but also by some of his own domestic and international policies.

On protectionism, the President has the right instincts. Import surcharges and other trade restrictions would again ignite inflation, making us less competitive, worsening our long-term trade imbalance and triggering foreign restrictions against our exports. They could also bring the foreign debt crisis to a potentially ruinous climax. Unable to export, debtor nations could not service their debts, and this would damage our banking system and even our national security.

Enforcing our laws against foreign unfair trade practices is essential to protect American interests and to restore confidence in Presidential leadership. But unfair trade practices abroad account for less than 10 percent of the $150 billion annual trade imbalance that is devastating basic industry in this country. A 10 percent solution is not enough. To deal with the other 90 percent, the President will need to consider fundamental policy changes in five key areas.

First, the budget deficit. As long as we go on spending more than we are saving, we will continue to borrow abroad to make up the difference. The high real interest rates necessary to attract foreign capital are a major cause of the overvalued dollar that drives up our trade deficit.

We will not escape this vicious circle until the President meets Congress halfway on deficit reduction—supporting some tax increases as well as limits on cost-of-living adjustments in Social Security and pension programs for middle- and high-income citizens. Without raising individual tax rates, we could raise at least $60 billion of additional revenue a year by a 30 cent gasoline tax, by a minimum tax on wealthy individuals and corporations, and by eliminating the deductibility of interest payments except for mortgage interest on principal residences.

Second, exchange rates. American leadership and support of liberal trade cannot coexist with an overvalued dollar. While we cannot return to fixed exchange rates, we can strengthen multilateral surveillance over domestic policies here and in other countries that determine the relationship among currencies. In return for accepting some international discussion of our domestic economic management, we could mobilize international pressure on Japan, West Germany and other countries to help our trade position by stimulating their economies. We can also limit extreme fluctuations in exchange rates by coordinated intervention in exchange markets with other key countries.

Third, a national program to enhance our competitiveness, even if we get the dollar down. A liberal trade policy cannot survive in the United States if our Government fails to show the same concern for promoting comparative trade advantages for our industries that our toughest competitors do for theirs. This does not mean half-baked "industrial policies." What it does mean, among other things, is more Government assistance to worker training and to education (especially mathematics, science and engineering); maintenance rather than repeal (as the Administration proposes) of the tax credit and accelerated depreciation for investment in modern plant and equipment; and more Export-Import Bank credit facilities for our exporters.

Fourth, adjustment to imports. Since the whole nation gains from open trade policies, it must be willing to help individuals who lose. We need new programs to assist workers, industries and communities hurt by imports, emphasizing worker training rather than simple income maintenance. If import restraints are required in exceptional cases to avoid personal hardship, they should be selective, limited in time and conditioned wherever feasible on action by management and labor to restore competitiveness.

Fifth, capital flows. One main cause of the United States' trade imbalance is the collapse of historic markets in Latin America and elsewhere because of the debt crisis. The major debtor countries will need at least $10 billion more a year in public and private capital flows, as well as open markets for their exports, if they are to service their debts, make the necessary domestic adjustments and resume their role as healthy trading partners.

The World Bank could assure most of this additional money through direct loans and co-financing with private lenders, but only if the Reagan Administration abandons its opposition to a substantial increase in the bank's capital.

These five changes in President Reagan's policies would encounter political and ideological resistance from members of his Administration. Yet without movement in at least some of these areas, he will not merely see the end of his free-trade policies. President Reagan will be partly responsible for the collapse of what is left of the open-trading system—one of the United States' great postwar contributions to its own and the general welfare.●

TVA: THE REAL ISSUE IS ACCOUNTABILITY

● Mr. HUMPHREY. Mr. President, on Monday, I offered for the RECORD my thoughts on the proposal approved by the Tennessee Valley Authority [TVA] Board of Directors to appoint an inspector general within the Agency. I argued that an inspector general created through statute, rather than one simply appointed by the Board, would be a good first step in addressing the problems which the Agency now faces. However, it is my belief that the problems which have plagued the Agency's Nuclear Construction Program reveal fundamental weaknesses in the TVA structure, weaknesses which, I believe, call for fundamental reforms.

First, let me state clearly, that the TVA power system is self-supporting. That is, the Agency must collect from its ratepayers revenues which are sufficient to cover its expenses. The Congress does appropriate funds for certain nonpower functions of the Agency, but that constitutes less than 5 percent of the total TVA budget. The self-supporting nature of TVA suggests some very important points.

First, the decisions which are made by TVA must be paid for by the ratepayers of the TVA system. Who makes those decisions? A three-member Board of Directors appointed by the President and confirmed by the Senate. Each member serves for 9 years. The Board regularly makes decisions about how to conduct business at this $5 billion Agency—decisions which have a potentially enormous impact on the lives of the people of the Tennessee Valley, their economic livelihood, and the condition of their natural surroundings. Yet, despite the importance of TVA and its activities, no one is provided a voice in the decisionmaking process—not regulators, not the marketplace, not the Congress, and least of all, not the people who will be asked to pay for those decisions. For the fact of the matter is, the Tennessee Valley Authority is not directly accountable to anyone.

Accountability is an absolutely essential element in our democratic society. Businesses rise and fall with their decisions. Elected officials must answer to the public at every election. And yet, in TVA we have an agency of the Government which is uniformly absolved from this principle and endowed with extraordinary power. This arrangement goes right to the heart of what is often called the TVA experiment. As President Roosevelt said when he suggested creating the agency, he wanted TVA to be—

. . . a Corporation clothed in the power of Government but possessed of the flexibility and initiative of private enterprises . . .

Perhaps the issue of accountability would be of less concern had there been no problems with the TVA experiment. But there have been. Nowhere are problems more evident than with the nuclear power program. Founded on what proved to be faulty projections of power demands in the future, TVA vastly overcommitted itself to a massive nuclear construction program and was able to finance this expansion through its access to the Federal Financing Bank [FFB]. When committed to the construction of the free world's largest nuclear power system—which called for the construction of 17 nuclear reactors—there were no regulators to question the need for such an expansion. And because TVA had access to easy financing at the FFB, it

was effectively shielded from the harsh discipline of the marketplace.

Today, the nuclear program is in shambles. Of five completed nuclear reactors, none are in operation. Construction and licensing procedures at four other reactors has been indefinitely delayed.

Moreover, because TVA is not subject to regular oversight in the Congress, another crucial link in accountability is lost. The effects are woefully evident in a nuclear program that is now fraught with mismanagement.

Finally, and most important, there is no provision within the TVA Act for the residents of the Tennessee Valley or their elected representatives to have any formal control over TVA policies and programs, except indirectly through the President, and the Congress. Unlike other publicly owned utilities, TVA's ratepayers do not have a voice in the selection of management of the utility. And ratepayers—those who must pay for the mistakes of management—have no rights under the TVA Act in terms of participation.

These are some of the basic issues which face TVA. The creation of an inspector general through statute would be a first step toward introducing some outside accountability at the agency. Clearly, however, even more is needed. TVA has announced that it will raise the rates it charges to its customers 6.9 percent over the coming year, an increase which is needed, in part, to cover costs stemming from problems associated with the nuclear program. This rate increase, like all TVA rate increases, was approved by the TVA Board without approval by a regulatory commission or the Congress. No such approval is needed under the law. And, tragically, those who will have to pay the higher rates—the people of the Tennessee Valley—were denied a voice in matters crucial to them. In my view, few would stand to lose if the TVA curtain of unaccountability were lifted, and many more would stand to gain.●

TRADE POLICY

● Mr. SIMON. Mr. President, one of the things this country is starting to look at seriously is our whole trade policy. We need a sensible appraisal that is practical and that is not dictated by economic theory.

R.C. Longworth is an economics writer for the Chicago Tribune.

In general, I find myself in agreement with what he has to say. He incorrectly describes the bill that our colleague Senator BENTSEN has put in as a "blanket 25-percent tariff," when, in fact, it is a long way from that. But except for that minor inaccuracy, it is a well-balanced, thoughtful presentation of the reality we have to face.

I ask that the article on trade policy be inserted in the RECORD at this point.

The article follows:

[From the Chicago Tribune, Sept. 26, 1985]

A TRADE POLICY IS OVERDUE

(By R.C. Longworth)

The battle between the free-traders and the protectionists is generating an extraordinary amount of sound and fury, considering that both sides are defending a myth.

The trouble is that the myths hide the real world. Both Congress and the White House are arguing about the wrong thing. As a result, the United States is as far as ever from a rational trade policy that might reduce our record $150 billion trade deficit and enable U.S. industry to compete in a new and baffling world.

There is no such thing as pure free trade, and never has been, despite President Reagan's restatement of this credo earlier this week and his promise to punish violators of the free-trade canon. As free trade does not exist, neither does its ideological opposite, pure protectionism.

Consider: At least half the trade in the world is affected, one way or the other, by some sort of "protectionism"—by tariffs, quotas, subsidies or other measures that distort trade by preventing its free flow. These measures grow daily. Free-traders say this should choke off trade and impoverish us all. Yet trade grew by 9 percent last year and will grow by another 4 to 5 percent this year.

Consider: With the spread of multinational companies, fully 40 percent of the world's trade is not between countries but between branches of companies. In other words, trade flows, not between a German manufacturer and an American buyer, but among the various arms of the same company, often American-owned—its Venezuelan mining arm, Indonesian subassembly arm, Mexican assembly arm and American merchandising arm, all setting their own prices.

Consider: American manufacturers compete less these days against factories in Europe or even Japan, where wage scales are roughly similar to ours, than against factories [often American-owned] in Third World countries, where wages are one-tenth what an American worker makes. No amount of wage-cutting here can match these Third World salaries. Nor should it. The entire U.S. economy is based on substantial income for workers.

Consider: Almost every nation except the United States has a trade policy, and makes it part of its overall foreign policy. They all realized long ago that trade is vital to their livelihood. In these countries, government policies on taxes, industry and investment are shaped to promote trade and to expand industries and jobs. The official American line, that these rational policies are somehow evil, strikes the rest of the world as nutty.

Against these realities, President Reagan's faith in free trade—his belief that all will be well if trade is only allowed to flow freely, with no government interference at all—is touching but silly.

His congressional opponents, frustrated by the President's blind faith in this economic tooth fairy, have responded with blunt instruments, such as a blanket 25 percent tariff, as though all imports are equal and all countries deserve the same treatment.

The free-trade theology stems from the theory of comparative advantage, laid out some 170 years ago by English economist David Riccardo. Riccardo argued that each nation has things it can make better and cheaper than other nations. Thus, it should sell what it makes best, and buy abroad things other nations make better. In this way, each nation uses its "comparative advantage" to its own profit.

Riccardo used the example of British textiles and Portuguese wine. Even then, this probably sounded better to the British than the Portuguese. The theories of free trade and comparative advantage have always been most popular in whatever country happened to be top dog in the trading world—as the U.S. has been since World War II.

The trouble is that "comparative advantage"—the natural superiority of countries in certain lines of work—is meaningless today. The swift transfer of technology means that the most modern factories can be moved around the globe, to take advantage of the lowest wages. The communications revolution means that headquarters in Chicago can direct factories in Sri Lanka as easily as plants in Skokie.

In short, "comparative advantage" is no longer some natural, God-given blessing but can be created by any country willing to go to the trouble.

This, is fact, is the biggest cloud on the U.S. trade horizon. The American trade deficit with Europe will disappear when the dollar weakens. Even the record deficit with Japan can be brought under control when the administration realizes that Japan is more a menace to the American economy than a fair-weather friend in the cold war against the Soviet Union.

But the threat of low-wage competition will be with us for years. As China becomes a manufacturing nation, this threat can only grow. Moreover, there is nothing inherently unfair about this. No simple, single measures aimed at "fair trade" will work here. Only a full-fledged trade policy, based on world realities, will suffice.

Does this imply some "protectionism"? Sure. It only recognizes that some things we have—industries, jobs, communities, a standard of living—are worth protecting. Like military defense, economic defense make sense. The question is not whether, but how.

An arsenal of weapons is at hand: quotas, subsidies, bilateral agreements—whatever works best in specific situations. This is much less tidy and satisfying than a blanket, bright-eyed belief in free trade. But unfortunately, ours is not a tidy and satisfying world.

The free-traders maintain that the real culprit is the overvalued dollar and that the trade deficit will fall when the dollar does. They add that the protective measures enable companies to become fat and slothful behind trade barriers, losing the ability to compete. Finally, they say trade barriers raise prices to consumers by keeping out cheap imports: A recent Federal Reserve study put a $14 billion annual cost on current barriers to imports of shoes, textiles, cars and steel.

First, the dollar is crucially important: Economists blame it for one-third to one-half of the deficit. But when the dollar falls, we'll still have a $75 billion to $100 billion deficit.

Second, many industries have used trade shields to modernize radically. Anyone whose idea of a textile mill comes from "Norma Rae" should go look at a modern mill. But even such modernization is over-

whelmed by competitors paying their workers $1 an hour.

Finally, that $14 billion figure must be put in perspective. It amounts to half of 1 percent of America's $3 trillion gross national product. That still a lot of money, but here is the real question: Is 0.5 percent of our GNP a reasonable price to pay for trade policies that could save millions of jobs?

Some might say yes, some no. But the question, put this way, makes it clear that a set of rational trade policies, deliberately aimed at enhancing American's competitiveness in the new global economy, would not be a ruinous enterprise, igniting inflation and busting our budget.

Such a trade policy is long overdue. It is time to jettison the myths and start dealing with the real world. If "protectionism" offends the ear, we can call it "managed trade" or "organized free trade" or some other fancy name. At this stage, what we call it is less important than whether we do it.

VIETNAM VETERANS OF AMERICA

● Mr. CHAFEE. Mr. President, today I am proud to join my colleagues as a cosponsor of S. 8. This bill will grant the Vietnam Veterans of America, Inc., a Federal charter. This bill will entitle the VVA to the benefits enjoyed by every other nonprofit chartered service organization.

As a fully chartered corporation, the VVA will now be able to adequately provide for the improvement of the conditions of Vietnam veterans, and produce research materials that document the relationships between Vietnam veterans and American society. As a result of this bill, the VVA will also be empowered with the ability to financially assist Vietnam veterans in need, along with their dependents and survivors.

Passage of this bill has been a priority for the VVA for quite some time. It is also long overdue. Vietnam veterans have gone through trying times, and have worked hard to overcome the stigma attached to their role as veterans of an unpopular war.

Recognition of the VVA as a federally chartered corporation will go a long way toward making up the debt we owe our Vietnam veterans.●

SANCTIONS ARE OUR BEST WEAPON

● Mr. SIMON. Mr. President, in USA Today, Nadine Hack, an investment banker from the New York area, had an article describing a visit she made to South Africa. When she went, she was not sure whether economic sanctions were right or wrong, but she came back convinced that sanctions can be helpful.

I urge my colleagues to read the Nadine Hack article, and I ask that her article be printed in the RECORD.

The article follows:

[From USA Today, Oct. 15, 1985]

SANCTIONS ARE OUR BEST WEAPON

(By Nadine B. Hack)

NEW YORK.—I went to South Africa firmly opposed to apartheid but painfully undecided about divestment or strong economic sanctions.

Now, I am convinced that sanctions are an appropriate response and in fact the best leverage we have. Regardless of Afrikaner protests that they will not be influenced by outsiders, they obviously are.

Black trade unionists, who hope divestment will not actually take place, applaud the international divestment campaign as the best influence on their country's direction.

While I was there, a boycott of white-owned businesses by the residents of Port Elizabeth's townships—strikingly similar to the Birmingham boycotts—was having a remarkably similar effect: The white mayor was grumbling that Pretoria ought really to be doing something immediately to make it easier for the blacks.

Economic sanctions are the last remaining non-violent, legitimate, and appropriate means we have to apply force.

A growing number of blacks have become so alienated and radicalized that they are no longer willing to tolerate any process of transition; for them, the revolution is long overdue.

U.S. policy is perceived by both backers and critics of the government as tacit complicity with the system. Out of frustration with the West and free enterprise as "supporters of apartheid," Marxist ideology is taking hold among many who know nothing of Marxism or the implications of a Marxist totalitarian system.

In not more fiercely opposing apartheid, we are creating fertile territory for communist influence. If we don't act quickly and strongly in opposition to apartheid, we will have created the problem we most fear.

As Bishop Tutu told us in Johannesburg, it is truly tragic to see mobs of angry black youths brimming over with pent-up frustration and hostility, robbed of any responsible leadership, left alone to roam the streets of the townships.

Sanctions will not bring about immediate reform nor end all the difficulties. However, sanctions can have an effect; merely debating them has already had an impact. We do not have the luxury of choice whether or not to make an impact in South Africa.●

WANDERING WHEELS

● Mr. LUGAR. Mr. President, I would like to bring to the attention of my colleagues a group which desires special tribute.

Wandering Wheels, a bicycling organization from Indiana, is concluding a 10-month, 12,000-mile cycling trip around the perimeter of the United States. Sixty riders, ages ranging from 18 to 52, will complete their journey November 23, on St. Simons Island, GA, which was also the starting point for the trip that began February 2.

While experiencing the geographical wonders of this great country, the bikers have encountered a variety of lifestyles and traditions unique to different areas of the United States. Along with meeting the physical challenge of the trip, the riders have set aside 1 day a week for church and community work projects. The projects have ranged from clearing land for an inner-city church in Dallas, TX, to painting a nursery school in a ghetto area in Boca Raton, FL, to picking up trash and painting fire hydrants in Davenport, WA. Bob Davenport, Wandering Wheels director, estimates that the Circle America team will have donated over $50,000 in labor, calculated at minimum wage, by the trip's end.

A college curriculum has been incorporated into the perimeter trip, enabling the students who have taken on this challenge to earn college credit as they travel. Imagine the exceptional teaching materials afforded the instructors and students on the trip! The participants are experiencing firsthand on a daily basis the various social structures, differing terrain, and history of the places they visit.

I enthusiastically support the thrust of this excursion. I share Wandering Wheels' concern for encouraging young persons, as well as adults, to involve themselves in healthy spiritual, mental and physical discipline. the Circle America team is to be commended for these fine goals and for accomplishing the most ambitious mass cycling coeducational expedition ever attempted in the United States.●

ORDERS FOR FRIDAY

RECESS UNTIL 8:45 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m. on Friday, October 25.

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

RECOGNITION OF SENATOR PROXMIRE

Mr. DOLE. I ask unanimous consent that following the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President I ask unanimous consent that following the special orders just identified, there be a period for the transaction of routine morning business tomorrow not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

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

ORDER OF PROCEDURE

Mr. DOLE. Following routine morning business, the Senate will begin consideration of S. 1714, the farm bill. I say to my colleagues that I hope all those who agreed to offer their amendments tomorrow will do that

and I am certain there will be rollcall votes throughout the day.

If we start early, we ought to be able to complete what action we do on the farm bill, say, around 4 p.m.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until 8:45 a.m. on Friday, October 25.

The motion was agreed to and, at 9:02 p.m., the Senate recessed until tomorrow, October 25, 1985, at 8:45 a.m.