SENATE—*Wednesday, February 19, 1986*

(Legislative day of Monday, February 17, 1986)

The Senate met at 10 a.m., on the expiration of the recess, in executive session, 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.

Eternal God, history and experience prove the validity of the proverb: "Righteousness exalteth the nation; but sin is a reproach to any people." (Proverbs 14:34).

Help our leaders to remember the truth is a fortress, falsehood a house of cards—integrity is invulnerable, hypocrisy a fragile illusion. Protect the leadership of our Nation against the insidious temptations from without which surround men and women in public life, and the temptations from within common to human nature. Strengthen them in their firm resolve to live privately and publicly in ways which honor God and preserve our national heritage. In His name, Who was "in all points tempted like as we are but without sin." Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. DOLE. Mr. President, I yield to my distinguished colleague from Mississippi, Senator COCHRAN.

Mr. COCHRAN. I thank the distinguished majority leader for yielding to me.

DEATH OF FORMER SENATOR JAMES O. EASTLAND

Mr. COCHRAN. Mr. President, I rise to advise the Senate, as many have heard, that this morning, just before 4 o'clock, our former colleague, Senator James O. Eastland, of Mississippi, died at Greenwood-Leflore County Hospital.

Funeral services have been scheduled to be held at 10 a.m. on Friday at the United Methodist Church in Ruleville, MS. Graveside services will be held at 3:30 p.m. at the cemetery in Forest, MS.

I know that many Senators will want to express themselves with respect to the death of our distinguished former colleague from Mississippi.

Senator Eastland was appointed to the Senate in 1941 by former Gov. Paul B. Johnson, Sr. He served with distinction, as we all know, for many years, and for 22 years was chairman of the Senate Judiciary Committee.

I had come to respect him. I had a great amount of personal affection for him. We will all miss him very much.

I will take time later in the day for a more complete statement on this subject.

I thank the distinguished majority leader for yielding at this time.

SENATOR EASTLAND: FAREWELL TO "BIG JIM"

Mr. DOLE. Mr. President, I am saddened today to hear of the passing of a former Member of this distinguished body, Senator James Eastland of Mississippi. He was a colleague and a friend, a man who rose to great power on Capitol Hill but never forgot his roots.

He was called "The Chairman" out of deep respect for his experience and effectiveness. I can tell you Mr. President, the Senator from Kansas learned a lot from this man from the Delta country. Senator Eastland was a man of few words. When he spoke you did not need to hear a speech to understand what he wanted to communicate. The message was always to the point, especially when it came to fighting for his constitutents. Many a Cabinet secretary, or committee witness, or President, felt the force of the senior Senator from Mississippi when it came time to deliver for the home State.

Mr. President, James Eastland was chairman of the Judiciary Committee for a record 22 years. He was President pro tempore of the U.S. Senate. He was the dominant political force in Mississippi for decades. And he was a true patriot and a defender of the Constitution. But above all he was a public servant who dedicated his life to the people of his State. This Senator and this body will miss "Big Jim."

Having known Senator Eastland, having known members of his staff, and having my office fairly close to the Judiciary Committee, I had a lot of contact with Senator Eastland. He was a friend, and a man of great skill and great power. He delivered for his home State—along with Senator STENNIS. Just as now we have a combination that help their State, Senator STENNIS and Senator COCHRAN. He was a man of few words. But when he spoke, we understood the message. This Senator did, and I appreciated his friendship.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each—or whatever time I have remaining after having yielded to Senator COCHRAN.

Then we have four special orders, for not to exceed 15 minutes each, for Senators WILSON, SYMMS, PROXMIRE, and GORE. It may be that this will be the last special order of the distinguished Senator from Wisconsin on genocide, if we complete action today on that matter.

Then we will have routine morning business, not to extend beyond 11 a.m.

Following that, by consent, at 11 a.m. we will begin consideration of the Philippine resolution, S. 345, with 30 minutes equally divided, and a vote at 12 noon.

Following that vote, we will return to the Genocide Treaty. It is my hope that we can complete action on that piece of business today.

There is an amendment pending by Senator SYMMS. We hope that Senator SYMMS will agree to a time for a vote on that amendment.

It is hoped that after that there would be no additional amendments and that we could have final passage shortly thereafter.

Then there will be a separate resolution which would indicate the hope, I believe, of a clear majority of the Senate that we will address political genocide. We will ask the President to initiate proceedings in the United Nations to read the actual text of the convention.

Then it would be my further hope, if it is not too late this evening and we have reached some general consensus on TV in the Senate, maybe not unanimously, that we might be able to offer a motion to recommit. That motion would be amendable and debatable, and I am not certain what would transpire.

I am more optimistic today about TV in the Senate than I was at this time yesterday morning. I hope that, working with the distinguished minority leader and Senators on both sides, we can come up with some package that would satisfy at least a solid majority of Members on both sides.

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. SYMMS). The distinguished Democratic leader is recognized.

Mr. BYRD. I thank the Chair.

DEATH OF FORMER SENATOR JAMES O. EASTLAND

Mr. BYRD. Mr. President, I was saddened to learn of the death of Senator James O. Eastland this morning.

This long-serving, soft-spoken Mississippi Democrat will be remembered for many things. He doubtlessly will be remembered for his controversial stands and his staunch conservatism. But I believe I and others who served with him will remember him most as a man of his word and a man of deep integrity in his dealings with his colleagues. These characteristics won him the respect of his political foes, as well as the admiration of his personal and political friends. Senator Hubert Humphrey, for example, described Senator Eastland as a great man.

But I personally will always remember Senator Eastland as an integral part of this institution.

He was appointed to a seat in the Senate in 1941 to replace one of the most celebrated legislative leaders in the history of his State, Senator Pat Harrison, who had passed away on June 22, of that year. In 1942, he was elected in his own right, and began serving in January 1943.

Senator Eastland's tenure in this Chamber crossed four decades as he served until his retirement in December, 1978. His 36 years and 3 months in this Chamber make him the sixth longest serving Senator in history. During this period, he served as chairman of a number of important Senate subcommittees including Imigration, Soil Conservation and Forestry, and Internal Security. From 1956 until 1978, Senator Eastland served as chairman of the Senate Judiciary Committee—the longest continuous service as a committee chairman in Senate history.

Senator Eastland was an ardent believer in the rights and freedom of the people. "I hold with Jefferson," he once remarked, "that those who are governed the best are those who are governed least, and if liberty and freedom require the subjection of an individual to the whims and dictates of a totalitarian central government, deliver me from it."

He saw the U.S. Senate—the Chamber he loved and appreciated so deeply—as the chief protector of the rights and freedoms he cherished. In words that are still wise to heed, Senator Eastland once advised Members of this Chamber: "Far from yielding to the pressures and demands of the courts and the executive, it is our duty to resist on every side the encroachment on our power and prerogatives, and to begin here and now to restore to the people of the United States the proper balance of power between the three coordinate branches of the Federal Government."

I served on the Committee on the Judiciary under the chairmanship of Senator Eastland. He was always fair to both sides. He was a quiet, self-effacing, and unpretentious man. Senator Eastland had a sharp, incisive, and judicious mind. Throughout our years of service together in the Senate and on the Judiciary Committee, I enjoyed cordial relations and a warm friendship with him.

His word was his bond. He was a dedicated servant of our country and of the State of Mississippi. He was also dedicated highly to the Senate as an institution.

This body has missed the wisdom and integrity of Jim Eastland since his retirement, and now we will miss him personally. A significant figure has passed from the stage of modern American history.

My wife Erma and I join in extending our condolences and sympathy to his family, his wife Elizabeth, his daughters Ann, Sue, and Nell, and his son Woods.

Mr. THURMOND. Mr. President, will the distinguished Democratic leader yield?

Mr. BYRD. I yield.

Mr. THURMOND. Mr. President, I should like to associate myself with the remarks of the able and distinguished Senator from Mississippi [Mr. COCHRAN] on the death of Senator Eastland and with the remarks of the able Democratic leader of the Senate.

Mr. President, I rise to express my deep sorrow at the death this morning of former U.S. Senator James O. Eastland of Mississippi. To his devoted wife, Libby, and his four children, Nancy and I extend our deepest sympathy at his passing.

The State of Mississippi and our Nation have lost a courageous and dedicated leader, and I know my colleagues join me in mourning his death.

Mr. President, Jim Eastland was a great American, a dedicated public servant of unswerving conviction and integrity. I was privileged to serve on the Senate Judiciary Committee while he was chairman, a post he held for 22 years. During his term as chairman, he set a standard of fairness, competence, and cordiality that earned him the respect of his fellow committee members and his colleagues in the full Senate. Although in high office, he never lost the common touch.

It was during his service as committee chairman that I developed great respect for his ability, patriotism, and devotion to our country. That was best evidenced in Jim's love and respect for our Constitution. He was a man who believed in the absolute sanctity of that great document; that it meant what it said, and said only what it meant.

His love for country was also apparent in his strong support for America's defense. He knew that freedom is a precious commodity and that each new generation of Americans must work to preserve and protect it from those who seek our Nation's destruction.

Today, while we grieve at the loss of Jim Eastland, we also remember his accomplishments in life. He was a true public servant, an outstanding citizen, a loving father and devoted husband, and a distinguished Member of the Senate.

As a close friend of Jim's, I am saddened by his death. However, I am proud to have this opportunity to praise his leadership as a Senator and his qualities as a man.

Mr. President, Mrs. Thurmond and I extend our deep sympathy to Mrs. Eastland and the family in this time of sadness.

I thank the Senator for yielding.

Mr. BYRD. I thank the distinguished President pro tempore.

Mr. KENNEDY. Mr. President, I had a real personal friendship with Senator Eastland, despite the fact that we had some disagreements on issues. He had that same kind of personal relationship with Robert Kennedy and with President Kennedy.

I always respected him for both his knowledge and his civility as a Senator. His service spanned an extraordinary period of change in the life of his State and the Nation. When he retired in 1978, he felt a sense of pride in the way Mississippi had passed through difficult and painful years.

His loss is a personal one for me. On behalf of my family, I extend our sympathy and prayers to his wife and children.

THE DEATH OF FORMER SENATOR JAMES EASTLAND

Mr. LONG. Mr. President, today I was very saddened to hear the news that my dear friend James Eastland has passed on to his reward.

James Eastland was a great Senator and a great American. He provided outstanding leadership on the Senate Committee on the Judiciary that he chaired for 25 years.

It was my privilege to know James Eastland intimately and to support him in his effort to improve the judiciary and to assure a high standard among those appointed to serve in it.

At a later date, I will have more to say about James Eastland. For the moment, however, I will say that he was much beloved by those who knew him best. I list myself in that number. He was a loyal and dear friend to

those who had any right whatever to claim his friendship.

He will be mourned by millions of his compatriots from Mississippi and surrounding States and especially by those of us who enjoyed the warmth of his personality.

My sympathies, as well as those of my wife Carolyn, go to his wife Libby and their four children.

TV IN THE SENATE

Mr. BYRD. Mr. President, I wish to thank the distinguished majority leader for the support that he has given to our efforts to develop a resolution which, hopefully, can be acted upon next week which will bring a test period for television coverage of Senate debate.

With the continuing support of the distinguished majority leader, I have no doubt that the Senate will act, and act soon, to provide for the test period and also for some rules changes which would accommodate television coverage of the Senate.

I will have more to say later. We will be meeting this morning with the ad hoc committee chosen by the able Senator from Kansas [Mr. DOLE] and myself. I am pleased to say that as a result of our previous meetings, I find there is a spirit of cooperation. It gives me hope that there will be action by the Senate soon.

In my judgment, it is time for the Senate to proceed but, of course, a majority of the Senate has to feel the same way, and I believe that that time is rapidly approaching.

Mr. President, if I have any further time I yield it to the distinguished Senator from California if he wishes to have it in addition to his order.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. BYRD. I thank the Chair, and I yield the 3 minutes to the Senator.

Mr. President, if the Senator has any time remaining of my 3 minutes, if he will kindly reserve that for me during the remainder of the day, I will appreciate it.

Mr. WILSON. I am happy to do so.

RECOGNITION OF SENATOR WILSON

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized for not to exceed 18 minutes.

Mr. WILSON. Thank you, Mr. President.

I thank the distinguished Democratic leader for his courtesy.

S. 2077—NONPROGRAM CROP AMENDMENT

Mr. WILSON. Mr. President, on behalf of myself and Senators COHEN, SYMMS, MCCLURE, and RIEGLE, I send to the desk a bill which will correct what can perhaps most generously be described as an "overextension" of Federal farm subsidies—no matter how well-intentioned—and will restore some semblance of restraint and sanity to our Federal farm programs. It is noteworthy that I offer this amendment on behalf of a seemingly rare and to-be-treasured constituency: One that wants neither Federal involvement nor taxpayer assistance influencing their business affairs.

The need for this amendment results from a provision contained in the Food Security Act of 1985—commonly known as the farm bill. As my colleagues will recall, the farm bill was among the priority issues which we debated throughout last November and December and which required our presence here until late in the year. While I can assure my colleagues that I derive no pleasure from revisiting this legislation so early upon our return in 1986, I am compelled to do so because the Department of Agriculture is in the process of implementing a provision of that legislation which, in my mind, defies any logical justification.

For the past 50 years, our Government has offered subsidy programs to farmers who produce what are referred to as either "basic" or "program" crops, including wheat, rice, cotton, and various feed grains, such as corn, rye, oats, and barley. Briefly and simply, these programs presently involve two forms of Federal expenditures: a crop loan and a deficiency payment. Upon harvest, a producer can turnover his crop to the Government in exchange for a 9- to 18-month loan calculated upon a minimal per unit price. This loan allows the farmer to repay his production expenses while retaining some marketing flexibility for his crop.

Regardless of whether the commodity is sold within the loan period, eventually the Government will also provide the farmer with a deficiency payment, not to exceed $50,000, which represents the difference between either the sales price or loan level and the traditionally higher, Government set target price.

In recent years, the high level of payments have become powerful incentives for American farmers to expand production in order to increase their Federal benefits. Consequently, USDA warehouses are awash in millions of bushels and pounds and hundredweights of surplus commodities. During fiscal year 1985, these farm subsidies represented outlays from USDA's Commodity Credit Corporation of nearly $20 billion.

Production surpluses and Federal expenditures were a critical focus of the 1985 farm bill debate and, in my view, could have been addressed most effectively by lowering subsidy levels. Instead, the legislation attempts to reduce overproduction of basic commodities—which clearly results from our Federal subsidies—by offering to extend subsidies to farmers willing to grow nonprogram crops, such as fruits and vegetables or nuts and dry beans. Ironically, in a bill designed to impose some reasonable budgetary limits upon these farm programs, we have inadvertantly—and I hope, only temporarily—expanded the list of commodities subject to Federal subsidies.

Historically, only farmers of the basic crops have been eligible to receive Federal payments and only to subsidize the production of these basic crops. Now, under the 1985 farm bill, these same growers, who will continue to receive Government loans and deficiency payment checks for growing wheat, feed grains, cotton and rice, will also be receiving subsidy payments from growing potatoes or melons or lettuce or beans or alfalfa or any number of these so-called nonprogram crops.

This new subsidy on a subsidy program works like this: A farmer, who is eligible to participate in a Federal farm program, only has to plant the basic crop on 50 percent of his acres in order to receive a full 92 percent of his deficiency payment. On the other 50 percent of his land, he is then free to plant and market any nonprogram crop.

For example, let's consider a 200-acre cotton farmer in my State. In order to participate in the Federal program, he would be required to idle 20 percent of his high yielding land under an acreage reduction program. In the past, he would have had to plant all of the remaining 160 acres in cotton in order to receive a deficiency payment of roughly $48,000.

This year, however, he is free to plant only 80 acres in cotton and will still receive 92 percent of his Federal payment—approximately $44,160. On his remaining 80 acres, he may plant potatoes or melons or any nonprogram crop. Because he has received more than $20,000 from the Federal Treasury for not planting cotton on those 80 acres, that farmer will enjoy a distinct competitive advantage when he markets his nonprogram crop. Indeed, this newly created farm payment program is threatening the livelihood of tens of thousands of farmers who grow only nonprogram crops, who have never sought or received subsidy payments, and whom we in this body have placed at a competitive disadvantage by enacting this subsidy-on-a-subsidy provision.

Nationwide, nearly 110 million acres are planted in these nonprogram crops. They include more than 315,000 Idaho acres and 100,000 Maine acres planted in potatoes; almost 600,000

acres of edible dry beans in Michigan; a total of 450,000 acres of vegetables just in Minnesota and Wisconsin; as well as 660,000 California acres planted in a variety of California vegetables which run the alphabetical gamut from artichokes to zucchini.

Of the nearly 200 million acres on which we grow wheat, feed grains, cotton and rice, the Department of Agriculture estimates that as many as 40 million acres may be diverted from program crop production to participate in this obviously attractive, windfall program. It is not just potentially lucrative. Unfortunately, it is a congressionally sanctioned windfall.

For those of my colleagues who are spared the need or lack the desire to understand the painfully intricate and seemingly antiquated workings of Federal farm programs, allow me to explain this most recent twist through analogies:

This program is akin to reducing the size of Government by passing a statute allowing all Federal employees to work only 4 hours a day, in exchange for receiving 92 percent of their salary;

It is akin to alleviating overcrowded schools by adopting a law asking students to attend only half of their classes, while guaranteeing them a grade of 92 percent on their report cards;

It is akin to easing the paperwork crunch at the Internal Revenue Service by amending the code to permit taxpayers an option of completing only the front side of their form 1040A, in order to qualify for 92 percent of their tax refund.

Obviously, Mr. President, the policies embodied in these examples are absurd on their face. Yet, if such a ridiculously convoluted approach is inapplicable to civil servants, students and taxpayers, why, then, do we impose it upon the American farmers?

The bill which I am introducing today with other cosponsors would prohibit producers of basic commodities from planting nonprogram crops on half of their eligible acres in exchange for Federal subsidies. To the extent that such farmers wish to collect Government checks for not planting program crops, they would be required to devote those idle acres to conserving uses. The adoption of this bill will ensure that a significant segment of American agriculture will remain exactly where it wishes to be: Outside Government subsidy programs. As a result, they can pursue their business endeavors in a free market, instead of one distorted and depressed by inadvisable Government intervention.

For these reasons, Mr. President, I urge the Senate to act promptly and favorably upon this legislation to dispel this inequity.

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. 2077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRODUCTION OF NONPROGRAM CROPS.

(a) WHEAT.—Section 107D(c)(1) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985 (Public Law 99-198)) is amended—

(1) by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (C); and

(2) by striking out subparagraph (K).

(b) FEED GRAINS.—Section 105C(c)(1) of the Agricultural Act of 1949 (as added by section 401 of the Food Security Act of 1985) is amended—

(1) by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B); and

(2) by striking out subparagraph (I).

(c) COTTON.—Section 103A(c)(1) of the Agricultural Act of 1949 (as added by section 501 of the Food Security Act of 1985) is amended—

(1) by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B); and

(2) by striking out subparagraph (G).

(d) RICE.—Section 101A(c)(1) of the Agricultural Act of 1949 (as added by section 601 of the Food Security Act of 1985) is amended—

(1) by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) of subparagraph (B); and

(2) by striking out subparagraph (G).

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall not apply to any agricultural commodity planted before the date of enactment of this Act.

Mr. McCLURE. Mr. President, I rise in support of Senator WILSON'S amendment dealing with the new 92-50 underplanting rule. I agree with my good colleague from California and the other cosponsors of this amendment that this provision, included in the Food Security Act of 1985, the farm bill, is an overextension of Federal farm subsidies. This overextension has the potential of severely damaging several markets in my State, namely dry edible beans, potatoes, peas, and lentils and rapeseed, an oil seed.

Mr. President, the farmers in Idaho who raise these crops have never asked the Federal Government for any income maintenance programs. They have existed on an open and competitive market. The bean industry is just now recovering from several years of very low bean prices. They were beginning to see the "light at the end of the tunnel." Then came the 1985 farm bill and the light at the end of the tunnel became a freight train. The train is about to run them over.

As my colleague from California so ably explained producers of basic or program crops, wheat, rice, cotton, and various feed grains have for many years received Federal subsidies only for these particular crops. Now under the 1985 farm bill, these same growers will continue to receive Government checks for growing wheat, feed grains, cotton, and rice and will also be receiving subsidy payments for growing potatoes or beans or lentils. This is clearly not fair.

The new 92-50 underplanting rules allow any nonprogram crop to be grown on remaining base acres if the farmer plants at least 50 percent of permitted plantings and idle land according to the program rules, and he will continue to receive 92 percent of his deficiency payment. For instance: a 1,000 acre wheat farmer in Idaho, who is eligible to participate in a Federal farm program, would be required to idle 25 percent or 250 acres. In the past he would have had to plant all of the remaining 750 acres in wheat in order to receive his deficiency payment. This year he is free to plant only 375 acres to wheat and will still receive 92 percent of his Federal payment. On his remaining 375 acres, he may plant any nonprogram crop, potatoes, dry edible beans, peas, lentils, sunflowers, rapeseed, and he will be at a distinct advantage because he has already received a payment from the Federal Treasury for not planting wheat on his lands. This results in a threat to those farmers who have for years, traditionally raised these nonprogram crops, those who have never sought or received subsidy payments.

Nationwide, nearly 110 million acres are planted in these nonprogram crops. In Idaho there are more than 315,000 potato acres, 140,000 acres in dry edible beans, 110,800 acres of peas, and 17,000 acres of lentils that could be impacted by this subsidy on a subsidy.

On the nearly 200 million acres on which wheat, feed grains, cotton, and rice are grown, the Department of Agriculture estimates that as many as 40 million acres may be diverted from program crop production to participate in the potentially lucrative and doubly profitable program.

This seems a small issue, however, let me put it in terms that one of my constituents explained it to me: Idaho grower price for beans is currently from $15 to $17 per sack with roughly 1.7 million acres planted last year. If this program would go into effect USDA expects a 10- to 20-percent increase in plantings. The market elasticity is 1:25, in other words, for every 1 percent increase in production the price declines 25 percent. Thus the price of a $15 sack of beans will drop by $3.75. If bean acreages increase 20 percent the price of beans will drop to $7.50. The bean market just recovered from this type of low bean market. The economy of my State cannot stand another loss, it cannot with-

stand the potential damages wrought by this part of the farm bill. It is essential that the Congress take action, that the Senate take action today to amend the farm bill and make the light at the end of the tunnel something other than a train for growers of nonprogram crops.

Mr. COHEN. Mr. President, today Senator WILSON and I and a number of our colleagues are introducing legislation to immediately correct a fatal flaw in the 1985 farm bill, that if allowed to remain, could spell absolute disaster for many thousands of American farmers. I am referring to the so-called underplanting provision included in the wheat, feed grains, cotton, and rice sections of the farm bill which would allow farmers growing these crops to plant only 50 percent of their acreage in the program crop, plant the remaining acreage in a nonprogram crop, and still receive a deficiency payment on 92 percent of their total acreage—in effect, an additional subsidy for these already subsidized farmers to grow fruits and vegetables at the expense of the traditional nonsubsidized growers.

It has always been difficult to explain to the nonsubsidized potato growers in Maine why a wheat or corn farmer in the Midwest should get a guaranteed minimum price for his commodity, while they could not. This year, however, all fairness and equity has disappeared as these same wheat farmers will now receive a de facto subsidy to grow potatoes, dry beans, onions or other nonprogram crops in direct competition with growers who have never asked for nor received a Government subsidy for their crop. The potato growers in Maine have a hard time understanding the logic behind this provision, and frankly, so do I.

It is my understanding that approximately 40 million acres of land could become available for the planting on nonprogram crops this spring. Given the current overproduction crisis facing the potato industry in the United States, any additional acreage planted with subsidized financial assistance from USDA would surely accelerate bankruptcies already occurring in historic potato producing areas. I simply do not see the logic.

I would like to give you an example of how bad things are in the potato industry in Maine. Ironically, the crop size, quality, and yield have never been better in Maine. Unfortunately, the same also holds true for most of the United States and the major producing areas in Canada. As a result, the most recent USDA market news report quotes warehouse cash to growers at 75 cents for a 165-pound barrel of potatoes. It costs that Maine farmer about $9 to produce that barrel of potatoes. It is unthinkable that we could even consider encouraging nontraditional producers to plant potatoes with the benefit of a Federal handout. Again, the logic defies me.

In order to stop this program before it ever begins, the legislation we are introducing today simply removes the option to plant nonprogram crops in order to receive a Federal subsidy. The set-aside land can still be put to conservation use, but the growers of program crops would simply not have the Government-provided financial incentive to plant fruits and vegetables. This language should have never been included in the farm bill, and any standard of fairness dictates that we eliminate it before long-term damage occurs. I urge my colleagues to support swift passage of this important legislation.

The PRESIDING OFFICER (Mr. WILSON). Under the previous order, the Senator from Idaho [Mr. SYMMS], is recognized for a period not to exceed 15 minutes.

AMENDING THE UNDERPLANTING PROVISIONS OF THE 1985 FARM BILL

Mr. SYMMS. Mr. President, I wish to associate myself with the remarks of my distinguished colleague and friend from the State of California who just spoke on this issue on the floor.

Mr. President, I add my voice in support of this legislation introduced today. Failing to pass this legislation would deal a devastating blow to the agricultural economy of Idaho.

Congress recently passed legislation to relieve our severely depressed national farm sector. It was a good-faith effort and probably the best we could do in the final hours of the last session of Congress. Certainly our motivation was to pass a bill, giving some direction for this year's planting. As a result of this urgency, however, some provisions were not openly discussed on the Senate floor. I refer specifically to a provision of that bill which is devastating to the producers of crops for which no Federal price support program exists.

Under the 1985 Food Security Act, program crop farmers may receive Federal income support payments while planting as much as 42 percent of their allotted program crop acreage to a nonprogram crop. A wheatgrower, for example, may receive 92 percent of his wheat deficiency payment, plant only half his permitted wheat acreage to wheat, and convert the rest of his wheat land to potatoes, beans, watermelon, or some other nonprogram crop.

In the past, farm subsidies have been about as effective as clapping with one hand. While we try to reduce our production in the United States, our foreign competitors have increased their production. I do think, Mr. President, that this year's farm bill goes in the direction of putting the United States back in the agriculture market worldwide and gaining back some of those export markets that we have lost. Certainly it puts the pressure on Western Europe, Argentina, Brazil, Canada, and Australia in terms of their plans for future plantings.

Deficiency payments which attempt to maintain farmer income have only encouraged overproduction and lower prices. The farm bill provision in question trys to break the connection between payments and production. While the intention is good, the inequity it permits vastly outweighs the benefit.

Allowing farmers to plant nonprogram crops and yet still receive program payments does not curb production, it merely transfers the area of overproduction from one crop to another. Many nonprogram crops are already at less than break-even prices. So what I am trying to say, Mr. President, is why should we kick these farmers when they are already down? They have not been getting Government subsidies in the first place. These are farmers who suffered through droughts, hail, grasshoppers, and all kinds of disasters—with no benefit from Government price support programs.

In the Magic Valley in Idaho, the biggest single cash crop is dry beans. It just seems unfair to me that we should reward them by subsidizing the same overproduction that plagues the program crops.

In other words, if people plant dry beans in other areas, it will devastate the pricing of those beans, ruining the best cash crop that they have had to grow in the last few years. They are not in a profit position anyway, so it just makes a bad situation worse.

In anticipation of increased bean production resulting from this provision, Idaho bean growers have already seen prices drop $2 per hundredweight. Not even program crop producers in Idaho are enthusiastic about this provision. Lower prices for potatoes, beans, peas, and rapeseed will do no good for the grain producer who relies on these crops for rotation.

The legislation introduced today amends the Food Security Act of 1985 so that program acres planted into nonprogram crops will not qualify for deficiency payments. This change still provides an alternative to the overproduction incentives of the past. Farmers choosing not to plant program crops can maintain their acreage under some conserving cover, and receive a program deficiency payment for it.

This legislation represents the least we can do to maintain a viable and diverse agricultural sector. It helps restore fairness to our national agricultural policy. It frees those who produce farm commodities without Federal price supports from the threat

of subsidized competition. It prevents disruption of an agricultural sector that is already struggling to make ends meet. I anxiously endorse its passage and encourage my colleagues to do likewise.

Mr. President, it is my understanding that the leadership has scheduled the CCC appropriations bill for action in the near future. I would like to appeal to my colleagues on the urgency of the passage of this legislation before the 1st of March. This needs to be passed now and signed into law to stop something that has already started, a devastating rollercoaster downward of prices for nonprogram crops all across the country.

The implications of this will hit every agricultural State. Whether it is water mountain mellons in California, dry beans, peas or rapeseed in Idaho, or other crops in different areas and different parts of the country, remains to be seen. Farmers are a very innovative and entrepreneurial group. If they discover a way to grow another crop, they may try it out of discouragement with the situation with which they are faced.

I urge my colleagues, and urge the distinguished majority leader, to bring the CCC appropriations bill to the floor, so we can make the corrections I have advocated today. It was a well-intentioned farm bill in its general thrust. I believe in the overall it goes in the right direction to try to make America competitive again. It goes in the direction of restoring America's share of world grain markets which we have to do. There is a very aggressive foreign agriculture sales section in the bill. There are other parts of the bill that I think are very helpful to certain sectors of our agricultural economy; sugar and wool to name a couple that are very important in my State.

But this one section, allowing nonprogram crops to be planted on permitted base acres could be so devastating, and could do so much harm that any good that might come from the rest of the bill will be forgotten. This part of the farm bill would destroy major agriculture producing areas such as the Magic Valley, and in western Idaho in Canyon County—in that part of Idaho where there is a great deal of diversity in the crops that are grown, and most of the farmers there are farmers that grow nonprogram crops. Imagine their disappointment in the farm bill to find out that their competition is being subsidized in some other section of the country, driving prices down further than their already low and depressed state. It is most unfair.

So I urge my colleagues to move to immediate rapid action and passage of this bill.

I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

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

THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, at long last the Genocide Treaty is before the Senate, and it looks as if we have at least a strong fighting chance of ratifying the treaty. I earnestly hope we do. I have spoken on that treaty many, many times. In fact, virtually every day I have made a statement on the treaty since January 11, 1967. That is more than 19 years. I hope I do not have to speak another 19 years before we ratify the treaty.

HUMAN RIGHTS IN GUATEMALA AND THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, Amnesty International, the international human rights organization that monitors human rights abuses around the world, recently issued a report on the human rights situation in Guatemala. The report is particularly timely because it comes just after Guatemala elected a new civilian president, Vinicio Cerezo Arevalo, who has promised to stop the numerous human rights violations which have plagued this Central American nation.

The Amnesty International report calls on Cerezo's government to bring an end to widespread torture, disappearances, and political killings that have typified previous administrations, most notably that of the last president, General Mejia. General Mejia was criticized for mass murder and "disappearances" of Catholic Church workers, trade unionists, native Indians, and university staff and students. During an April 1985 visit, Amnesty International spoke with many witnesses who told the organization that government military and security forces were responsible for most of the killings and tortures.

It is difficult to estimate how many people have died in Guatemala because the victims are from all parts of the country and the Government has kept no official records of politically motivated torture and murder. However, documented incidents abound. In a 2-week period in 1981, 171 people from the Chimaltenengo district were reportedly executed by the army; in 1982, the Guatemalan Supreme Court identified 6,870 children in the same district who had lost one parent due to political violence; and the Guatemalan press itself reported that between January and October 1984, 70 members of the university community were killed or "disappeared."

Obviously there is an enormous human rights problem in Guatemala which President Cerezo has promised to correct. Amnesty International in particular calls on Cerezo to ensure that no one is arrested or detained for political activities and to act publicly against the infamous death squads killings.

The election of a democratic government in Guatemala and the appearance of a comprehensive human rights report are hopeful signs that our Central American neighbor is on the road to peace and respect for human dignity. The U.S. Senate, however, must not stand idly by and merely hope that human rights abuses will end in Guatemala. We must do what we can to support this new democracy with humanitarian and moral support. Without a doubt, the strongest moral support we can give to President Cerezo and all Guatemalans is to add our name to the 96 other nations that have signed and ratified the Genocide Convention.

This treaty, which was first proposed nearly 40 years ago in 1948, condemns the worst human rights violation of all—genocide. The treaty defines genocide as the intent to destroy in whole or in part, a national, ethnic, racial, or religious group. It makes genocide an international crime which each signatory undertakes to prevent and punish. In recognition of Guatemala's new democracy and as a gesture of hope for Guatemala's future, let us ratify the Genocide Convention.

HOW TO MAKE ARMS CONTROL SUCCEED

Mr. PROXMIRE. Mr. President, why has there been such pitifully little progress in arms control in recent years, and especially in recent months? In the weeks leading up to the Geneva summit last November, there seemed at least some prospect that the super powers might begin to advance toward some kind of arms control agreement. Until the summit there had been 5 years of almost unrelieved arms control gloom. The arms control atmosphere between the two super powers was poisoned by charges of violations. The administration's fervent push for an antimissile system or strategic defense initiative threatened to doom the Antiballistic Missile Treaty. The second Strategic Arms Limitation Treaty—SALT II—seemed to be on its last legs first because of the administration's decision to apply the principle of proportionate response to any perceived violations of the treaty by the U.S.S.R., and also because the treaty expired on December 31. The summit at Geneva turned out to be a public relations sensation, but an arms control flop. How much

progress was made in arms control at the November summit? Exactly none.

How can arms control get back on the track? Answer: Recognize that the threat of violations of arms control treaties do not have to be met by abolishing arms control agreements, or by refusing to enter into further treaties. Arms control can work between two nations that disagree, dislike, and distrust each other provided the agreements meet these conditions:

First, mutual compliance with the agreement must be in the clear interest of both signatories, and both sides must fully understand that advantageous interest.

Second, the agreement must establish a verification system buttressed with a technology that assures both sides that they can detect violations.

Third, both super powers must vigorously use an agency like the Standing Consultative Commission. The SCC provides an opportunity for representatives of both sides to meet so that allegations of cheating can be either allayed by the alleged offender or terminated.

Fourth, both sides must have a clear understanding that any militarily significant violation of a treaty will provoke a prompt repudiation of the treaty by the other party.

What has gone wrong with arms control? What threatens to destroy it? Answer: The public allegations of cheating by one super power against the other. Of course, some of the allegations against the Soviets are well founded. When they are, they have their place. Where? At the Standing Consultative Commission, where they can be investigated, and action taken.

In the past 5 years, this country has failed to bring most of its charges of Soviet arms control cheating to the SCC. This is a serious mistake. Why has this happened? Because it richly serves the purpose of those opposing arms control to make the charge of cheating without seeking any SCC action. The charges of Soviet cheating poison public and congressional support for arms control. The argument runs: An arms control treaty with the Soviets constitutes an act of unilateral disarmament. They cheat. We do not. They will not keep the agreement. We will. So arms control diminishes our military strength. But not theirs. What is the crux of the answer? Verification. Foes of arms control agreements oppose proposed agreements on the grounds that we cannot verify them. But, Mr. President, we are not giving verification a chance.

Over the years, this Senator has suggested a series of ways to strengthen verification. Today, let me suggest one I have not previously discussed. It is prior notification. The United States has proposed that both NATO and the Warsaw Pact provide prior notification to the other side before undertaking any military maneuvers. Here is a precautionary action all of us can understand. If a few miles across a hostile border one side observes a big movement of adversary troops and tanks or the sudden buildup of warships, or a major and swift assembly of submarines, or a series of fighter aircraft squadrons taking off in rapid fire order, or most of the above, the adversary may easily misinterpret all this as activity preliminary to aggression. Prior notification, supplemented with onsite inspection, can provide a useful safety valve.

Now, why cannot the same prior notification principle apply to other arms control agreements? Would it not be far easier, simpler, and surer to monitor the production or deployment of nuclear weapons or the explosion of nuclear weapons tests if the other side were informed in advance? In the case of nuclear weapons tests, would not this pinpoint the time, the place, and the power of such tests? Any unreported explosions, detected by verification monitoring could be subject to a prompt on-the-spot investigation. If the prior notification were supplemented in this case with an agreement for onsite inspection, verification could advance significantly.

Prior notification as a verification technique illustrates another vital ingredient of arms control. It is the gradual accumulation of progressive improvements in arms control and especially in verification. Both nuclear and conventional arms are extraordinarily dynamic. The range, the speed, the penetration capacity, and many other characteristics constantly change and progress. Sometimes as with nuclear weapons the progress can be swift and dramatic.

Verification must progress, too, to keep pace with the advance in arms. This is why the reduction of funds for arms control verification by the administration is so harmful. This is especially true when at the same time the United States is pouring a huge increase in funds into advancing the efficiency of arms, actually or potentially subject to arms control agreements.

Prior notification, on-the-spot inspection, full funding, and aggressive promotion of new verification technology can all help greatly to reinforce compliance with arms control agreements.

WILL 1986 REALLY BE A BIG BOOM YEAR?

Mr. PROXMIRE. Mr. President, this Senator has been far more pessimistic about the future of our American economy than the administration or even than the consensus of economists. The Reagan administration has been optimistic about economic growth, optimistic about inflation, optimistic about interest rates, optimistic about unemployment. I have not been. In 1984 the administration was right. In 1985 they were wrong.

Now, according to a front page story in the New York Times on Tuesday, February 18, many economic experts say thay have been too pessimistic about the 1986 economic outlook. They are busy revising their forecasts. They now expect 1986 to be a better year than they had previously estimated. The newsletter of one respected Wall Street firm projects a super 1986 GNP growth year of 7 percent after allowing fully for inflation. The chief economist for Drexel Burnham admits that he had thought we might have a recession in 1986. Now he says, "We could have 6 years of growth right through 1988." And the administration's economists who had been warding off criticisms for their rosy 4-percent growth projections for 1986 after the 2.3-percent growth of 1985, now are said to wonder if they have been too pessimistic.

And that is not all the good news outlook. Many economists now expect inflation to fall sharply. They also believe interest rates are more likely to come down than to rise. Why this change? Why this rosy flush of optimism? Answer: It all stems from a single development; the sharp and steadily falling oil prices. Because oil and the energy subsitutes whose price is immediately influenced by oil constitute about 10 percent of consumer expenditures, the sharp drop in oil prices means an increase in the income consumers will have after they pay for their energy costs. That higher income will mean, in the view of many economists, an automatic increase in consumer spending and therefore a multibillion dollar economic stimulus as long as oil prices keep dropping, and that is expected to be through 1986.

So how about this theory? Will the cheaper energy result in more consumer spending on other goods? Maybe it will. But maybe it will not. Why will it not? Here is why: Last year American consumers broke out of a long and stable pattern of saving 5 to 6 percent of their income. The rate of savings as a percentage of income fell throughout the year. By November the savings rate had fallen down to only 2 percent of income. Meanwhile consumers had increased their installment purchases. By the end of last year consumer installment debt as a percent of personal income had broken all records. Mortgage debt and credit card debt also had zoomed out of sight. American consumers are now up to their neck in debt. Consumer debt relative to income has never been so high. American corporations are also more heavily in debt in relation to both their assets and their income than they have ever been. Economists for Fortune magazine recently put

this together: The oil price drop and the fall in savings. What estimate came out? It was that consumer spending will not rise as much as consumer income in 1986. Consumers will return to their pre-1985 pattern of saving. Therefore the economy will only grow at a 1-percent rate in the first 6 months of 1986 and at a 2-percent rate for the 12 months beginning July 1, 1986.

Some economists would disagree with the Fortune forecast because of the recent stock market boom. In the last few months the stock market as measured by the Dow Jones Index has risen by an astonishing one-third. Since there are tens of millions of American stock holders, there are tens of millions of Americans who undoubtedly feel, and in fact are, richer by tens of thousands of dollars. These are in many cases the same Americans who are already up to their ears in debt. Will they plunge deeper in debt? Will they borrow to buy cars? Will they take out a mortgage to buy housing? The drop in the price of gasoline and fuel oil will not stimulate many of these big capital purchases. Continued low-interest rates might help. Certainly a determined effort by the Congress to enforce Gramm-Rudman and slash the stimulating Federal deficit on March 1 and again in October is something the Congress absolutely should do. Here is one Senator who will do all he can to push such deficit reduction. But we should recognize that if the Congress does react with this sense of responsibility, the effect on the American economy in 1986 will surely be to slow it down.

What all this adds up to, Mr. President, is that in spite of the drop in oil prices, in spite of the stock market boom, the coming year probably will not be much different than 1985 and it could be worse.

PRESENTING COMMEMORATIVE GOLD MEDALS TO THE FAMILIES OF THE CREW OF MISSION 51-L OF THE "CHALLENGER"

Mr. PROXMIRE. Mr. President, although I am cosponsoring legislation to authorize the Department of the Treasury to issue commemorative gold medals to the families of the crew members of mission 51-L of the space shuttle *Challenger*, I am not happy about it. It is not a pleasant way to honor the patriotism and dedication of seven men and women. Dick Scobee, Michael Smith, Judith Resnik, Ronald McNair, Ellison Onizuka, Gregory Jarvis, and Christa McAuliffe were people of extraordinary character, and they carried with them the aspirations and dreams of a nation.

The tragedy of this particular mission is a jarring reminder to all of us of the inherent dangers and challenges all astronauts face daily in service to our country's pursuit of scientific knowledge of understanding of the vast environment which surrounds us. Because of our stunning successes in the past we have forgotten, perhaps, that such success is not routine. Exploration of the unknown—whether the Northern-most point of the Earth, or the expanse of outer space—has always involved peril and risk. The crew of mission 51-L faced that challenge willingly, knew the dangers, and accepted the risks. They were all "teachers"—they taught us that the pioneer spirit is not gone, and that the pursuit of knowledge is worth the risk.

MYTH OF THE DAY: THE SENATE HAS A MORE RESTRICTED ROLE THAN THE PRESIDENT IN ASSESSING JUDICIAL NOMINEES

Mr. PROXMIRE. Mr. President, the myth of the day is that the Senate has a more restricted role than the President in assessing judicial nominees.

This Senator has long believed—and has stated many times on this floor—that the Senate must be an equal partner with the President when it comes to evaluating nominees to the U.S. Supreme Court and, indeed, the complete Federal judiciary. To think otherwise is to believe in a myth that can and should be laid to rest.

Prof. Laurence H. Tribe of Harvard has contributed mightily to debunking this myth. In an excellent review of Professor Tribe's new book appearing in the December 16, 1985, issue of The New Republic, Walter Dellinger, a professor of law at Duke University, recounts how Tribe has amply demonstrated that the text of the Constitution, the debates over its adoption in the Constitutional Convention, and the history of senatorial review of Supreme Court appointments all reveal that the Senate has a duty to exercise a totally independent judgment about whether a nominee's judicial attitudes and philosophical views would serve the best interests of the Nation.

Mr. President, I ask unanimous consent that Professor Dellinger's review of Professor Tribe's book, "God Save This Honorable Court: How the Choice of Supreme Court Justices Shapes Our History," be reprinted at this point in this RECORD.

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

[From The New Republic, Dec. 16, 1985]

GOD SAVE THIS HONORABLE COURT: HOW THE CHOICE OF SUPREME COURT JUSTICES SHAPES OUR HISTORY—BY LAURENCE H. TRIBE

(By Walter Dellinger)

Before 1986 is over, we will have the oldest Supreme Court bench in American history: five of the justices will be 80 or older before the next presidential election. It is widely assumed that the president, acting largely at the direction of Attorney General Edwin Meese, may have an opportunity to reshape the Supreme Court and influence the nation's jurisprudence well into the next century. The president and his spokesmen have not been bashful about asserting that the president will utilize his power by appointing known conservatives who may sharply alter the Court's currently precarious moderate balance.

But why should the Senate concur in such choices? Article II of the Constitution, which contemplates, a critical Senate role in selecting justices, reads: "The President . . . shall nominate, and by and with the Advice and Consent of the Senate shall appoint . . . Judges of the Supreme Court. . . ." Some have read this provision to confer only a limited role on the Senate. Richard Nixon, for example, claimed in 1970 that the president has "the constitutional responsibility to appoint members of the Court," a responsibility that should not be "frustrated by those who wish to substitute their own philosophy or their own subjective judgment for that of the one person entrusted by the Constitution with the power of appointment."

Professor Laurence Tribe has entered this fray with a timely and helpful book. Although he fritters away too many pages with a summary recounting of cases designed to demonstrate the obvious point that Supreme Court decisions have been important in the past and are likely to be important in the future (one whole chapter consists of a capsule summary of numerous decisions handed down by a five-to-four vote), he is essentially right on the central point: the Senate is constitutionally entitled and obliged to make its own independent judgment about whether confirmation of a Supreme Court nominee would be in the best interest of the country.

The question of the degree to which the Senate should independently evaluate Supreme Court nominees is necessarily intertwined with another issue: whether either the president or the Senate may properly take into account a prospective nominee's judicial and political views. If a nominee's philosophy is not a proper concern, then the Senate is limited to a rather ministerial review of his or her formal credentials. But why should either the president or the Senate fail to take account of a prospective justice's social, economic, political, or judicial views when determining whether to nominate or to confirm?

Presidents generally have, and should have, taken into account a candidate's general orientation in making appointments. When President Washington nominated the first group of Supreme Court Justices, he chose from those who had supported with some enthusiasm the adoption of a Constitution that created an overarching national government, passing over those who had only reluctantly accepted these incursions on the previous independence of the states. Should Washington have been indifferent as to which side of this great philosophical divide a potential nominee had previously chosen?

When Lincoln debated Douglas, the great constitutional issues of the era concerned the compatibility of the Constitution with the institution of slavery. Stephen Douglas argued that a president should nominate justices with blissful indifference as to how they stood on the fundamental question of the rightness or wrongness of slavery and the power of Congress to control its spread.

Lincoln, on the other hand, made it clear that he would nominate justices who viewed slavery as a deviant institution, one grudgingly granted only limited protection by the Constitution. Similarly, when Franklin Roosevelt chose nominees, he selected from among those who appeared to share his view that the Constitution did not pose insuperable barriers to the ability of the national government to regulate the national economy. The ability of elected presidents (and elected senators) to exert some influence on the future course of the nation's jurisprudence is an appropriate (and appropriately limited) popular check on the exercise of the power of judicial review, without which that institution might not be acceptable in a constitutional democracy.

Appointing justices who assert that they will confine themselves simply to "enforcing the Constitution as the Framers wrote it" may seem an appealing way to avoid social and political considerations in the appointment process—but only to those who have never read the Constitution. The Framers left us no list of what is included in the "privileges and immunities" of citizens, or of the content of the "liberty" that the states may not, without "due process," infringe. Similarly, they left us no definition of the concept of equality that would provide a detailed guide for determining what does and does not constitute "Equal Protection of the Laws." In grappling with these and similar issues, a justice must necessarily draw upon a wide variety of sources. As Charles Black of Yale once wrote:

"It has been a long time since anybody who thought about the subject to any effect has been possessed by the illusion that a judge's judicial work is not influenced and formed by his whole lifetime, by his economic and political comprehensions, and by his sense, sharp or vague, of where justice lies in respect of the great issues of his time."

If the president may take a candidate's philosophy into account in determining whom to nominate, is there any reason why the Senate may not also take this into account in deciding whom to confirm? Nothing in the constitutional text would suggest a more restricted role for the Senate. Surely the agent charged with giving "advice" should take into account the same range of considerations the advisee may consider. By requiring "advice," as well as "consent," the Constitution may even indicate that the Senate, or its Judiciary Committee, could properly suggest in advance to the president the names of those the senators believe should be considered. This would not be unprecedented: after the Senate rejected two of his nominees, Grover Cleveland sought the Senate's advice before successfully submitting a third name.

Although Professor Tribe curiously devotes only a paragraph to the consideration of the Appointments Clause by the Constitutional Convention, those debates lend significant support to the inference that senators should make their own independent judgment, largely unfettered by the president's view, about whether to confirm a nominee. The original Virginia Plan, introduced at the convention on May 29, 1787, provided that all judges would be appointed by the national legislature. By June 19, the convention had decided that the whole legislature was too numerous for the appointment of judges, and lodged that power exclusively in the Senate. Attempts to confer the power on the president to the exclusion of the Senate were solidly defeated. George Mason stated that he "considered the appointment by the Executive as a dangerous prerogative. It might even give him an influence over the Judiciary Department itself." Only near the end of the convention was it agreed to give the president any role in the selection of judges; even then the president's power to nominate was carefully balanced by requiring the concurrence of the Senate. That final language was not seen to dislodge the Senate from a critical role in the process. Gouverneur Morris paraphrased the final provision as one leaving to the Senate the power "to appoint judges nominated to them by the President."

Though he slights the support he might have found in the Constitutional Convention debates, Tribe adds fresh arguments that prudential and institutional considerations counsel an active Senate role. Since a third of the Senate is elected every two years, the Senate reflects the popular will drawn from a series of elections over time rather than the single snapshot that produces the elections of a president. The Senate contains members from every state and representatives of both political parties, and therefore brings to the appointment process a more diverse range of views than is present in the chief executive's acting alone.

Throughout the 19th century the Senate conceived its role broadly, rejecting more than one of every four presidential nominees. It rejected George Washington's nomination of the able John Rutledge, leading to the subsequent appointment of the more strongly nationalist John Marshall, our greatest chief justice. The Senate rejected five of President Tyler's six nominees, and three of Filmore's four. Since 1900, however, only one out of every 13 nominees has been rejected. Many members of the Senate have come to view their role as more restricted than the president's. When voting to reject a nominee, Senators have thought it necessary publicly to rationalize their vote on the grounds of lack of ethics or competence, rather than on the more honest basis of objections to the nominee's philosophy. And even when a majority of the Senate mustered the courage to reject Nixon's 1970 nomination of G. Harold Carswell, nearly half of its members did not. Forty-five senators voted in favor of Carswell, widely considered the least qualified nominee in this century.

Some senators may be confused by an erroneous analogy to the Senate's more limited role in confirming nominees for executive branch positions. The president is entitled to have in his administration persons who agree with his philosophy, since their job is to carry out his wishes. This is decidedly not the case with Supreme Court justices. When asked to confirm a judicial nominee, the Senate should act as it does when asked to ratify a treaty. When voting on a treaty such as SALT II, no senator would assert that the Senate's role is limited merely to determining whether the negotiators at Geneva were corrupt or incompetent. On the contrary, each senator asks whether, in light of all relevant information, he or she believes that voting to "advise and consent" is in the overall interests of the United States.

I do not mean to suggest that a senator should attempt to impose his or her own views on the Court. In deciding whether to consent to a Supreme Court nominee's appointment, a senator certainly ought to probe for evidence of intelligence, integrity, and open-mindedness—a willingness to be persuaded by cogent argument. Whether a senator will also take philosophy into account should depend to a large degree upon whether the president has done so in making the nomination. A president may nominate a person of considerable ability whose prior career does not reveal a sharply defined constitutional view. In such cases the Senate will have little basis for resting its judgment upon the nominee's philosophical views. But when a president does attempt to direct the Court's future course by submitting a nominee known to be committed to a particular philosophy, it should be completely sufficient basis for a senator's negative vote that the nominee's philosophy is one the senator believes would be bad for the country. In making this judgment, a senator should consider the present composition of the Court, and how this appointment would affect the Court's overall balance and diversity. As the contributions of justices with backgrounds as diverse as Hugo Black, John Harlan, and Thurgood Marshall make clear, a thoughtful court should draw upon a rich diversity of backgrounds and experiences.

Those who framed the Constitution recognized that the selection of justices was too important to be left to the discretion of a single individual. A critical question for our time is whether members of the Senate are willing to discharge the responsibility for independent judgment entrusted to them by the Constitution.

RECOGNITION OF SENATOR GORE

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

MIDGETMAN

Mr. GORE. Mr. President, I rise to address issues concerning the Midgetman missile.

Yesterday, one of our colleagues, who is at this moment present on the floor, the Senator from California, annnouced that it is his mission to derail the Midgetman missile by blocking its progress toward full-scale engineering. What my colleague wants instead is a missile more than twice as heavy as the Midgetman, carrying three warheads instead of one. He argues that we can accomplish this without diminishing the mobility of the system and hints that there will be no sacrifice in one of the Midgetman's most important attributes, its survivability.

I rise to dispute the accuracy of his data, and, beyond that, to challenge the wisdom of his undertaking.

The core of the Senator's case appears to be a television tape showing the hard mobile launcher or HML that is under development, being tested with enough ballast—according to him—to "simulate" the load of a 70,000-pound missile. He concludes that because the HML was able to move through heavy mud with the

extra load, there would be no loss of mobility were we to actually redesign Midgetman into a kind of strategic Humpty Dumpty.

I have looked into the matter, and the facts are as follows. The HML was loaded to test its mobility and performance when carrying a 30,000- to 33,000-pound missile, plus operations support equipment. Operations support equipment comprises a number of things including launcher equipment—cannister, erector, "C-cubed" equipment, environmental control equipment, and so on. Hence the total load of somewhat more than 60,000 pounds. In other words, what was being tested was not a load simulating the Senator's MIRV'd 60,000-pound missile, but a load simulating the Midgetman and associated equipment.

Were there to be a test that simulated a 60,000-pound missile, then the total weight involved would have to be proportionally higher than the weight involved in present tests. Here, the Senator correctly estimates a weight of at least a quarter of a million pounds.

Once again, however, he allows himself an engineering judgment to the effect that at this weight, there would still be no sacrifice to mobility. There are several reasons to reject this conclusion. First, an expansion of the missile to 60,000 pounds—and it would probably be more like 70,000 pounds—involves not only more weight, but major changes to the shape of the missile and the HML. For example, if Congress decides to allow the Midgetman to increase from 30,000 pounds to just 37,000 pounds, a 5-foot extension in the first stage of the missile would be required. Clearly, a 60,000- to 70,000-pound missile would require a launcher much longer and wider than presently contemplated.

Even if we stipulated for the sake of argument that a behemoth of this size could move across open terrain with the agility of an object only a fraction as heavy, the changes in geometry alone are important. They would make the launcher too wide for many of the roads intended for it, and too long to corner well.

Mr. President, I could go on for some additional time in this vein, but it seems much more useful at this point to shift from engineering to issues of broad policy and even of politics.

The United States now has two ICBM modernization programs: the MX and the Midgetman. Under the law, the issue of basing the MX remains open, and were the problem to be solved convincingly, then the present cap of 50 missiles might be lifted, especially if there were a demonstrated need for more counterforce capability.

The way to build sheer inventory is to build more MX's, and if not MX's, then the Trident D-5 will be available before much longer. MIRVing the Midgetman will not come anywhere close to serving such a requirement. It will assuredly, however, cost the Midgetman heavily in terms of its primary rationale.

One purpose of the Midgetman is to confront the Soviet Union with a force both impossible to ignore in a first strike, and too costly to attack. Another purpose of the Midgetman is to provide us with a weapon that fits well into the deep reductions concept favored by our Government in its approach to arms control. Midgetman will do these things well, if we do not tamper mischievously with it.

Finally, it is vital to keep in mind that if the Senator actually succeeds in derailing the Midgetman, he may actually also derail ICBM modernization in toto. I cannot imagine that Congress will tolerate two MIRV'd ICBM's at the same time. Either MX would drive out the Senator's Humpty-Dumpty missile, or the Humpty-Dumpty would drive out the MX. Moreover, it is entirely possible that Congress would decide that the age of the ICBM is simply over. I know a few people who might not mind, but in my opinion, that would be a mistake. And it would be a mistake which the Senator, in his eagerness to redirect Midgetman, would be responsible for helping to cause.

Mr. President, the Midgetman concept keeps on proving itself in repeated tests against challenges such as this. One recent reexamination—a study done by the Department of Defense—is already in. It validates the basic design of the missile, though pointing toward a need to upscale to about 37,000 pounds if we want a capability to add penetration aids.

I have never opposed an increase of that magnitude and if the case can be convincingly made for a marginal increase in size of that kind I think it should be supported by Congress.

The second study is the so-called Deutch panel, whose results are still pending. But there have been indications leaking from the Pentagon that this panel also will come through with a ringing endorsement of Midgetman as presently designed.

Mr. President, we do have a decision to make. It is whether we can recognize a good thing when we have it. It is whether we can lay out a sound policy course and stick with it. I believe that we should recognize the Midgetman as a rare good thing, and make it our business to keep it going—and to reject efforts to stop the program and to sow confusion.

Mr. President, I ask unanimous consent that there be printed in the RECORD a recent editorial in the Washington Times strongly endorsing the program as it currently exists.

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

[From the Washington Times, Jan. 11, 1986]

START BUILDING THE MIDGETMAN

The Soviets have begun deploying SS-24 and SS-25 mobile ICBMs, violating SALT II's one-new-missile limit. And they continue research on two new generations of strategic terror, the SS-X-26 and SS-X-27 ICBMs.

Meanwhile, the U.S. squabbles over the American counterforce, the planned 500 Midgetman mobile missiles. Congress limited the Midgetman's size to 33,000 pounds, meaning it can carry only one warhead and no "penetration aid decoys"—devices that help a missile dodge Soviet ABMs. Congressional arms controllers fear that a bigger Midgetman, carrying multiple warheads and decoys, would spook the Soviets.

Other congressional and the Pentagon appear to favor a larger Midgetman, weighing about 37,000 pounds. (Missiles over 40,000 pounds exceed current hauling capacities.) Moreover, the Pentagon and the Reagan administration evidently still hope to double, to the originally planned 100, the 50 MX missiles authorized by Congress—something possible, but unlikely.

The U.S. should get on with building the Midgetman. The 37,000-pound version would help most. Congress should forget about frightening the Soviets and begin worrying about Soviet treaty violations. The Soviets build whatever missiles they can get away with, leaving KGB propagandists to convince the world of the U.S.S.R.'s "peace-loving intentions." Besides, only on-site inspection could verify the number of Soviet mobile ICBMs—something the Kremlin, despite its recent bluffs, is unlikely to allow.

But if Congress won't approve the best Midgetman, the second-best 33,000-pound version is better than more delays. To meet the scheduled 1992 deployment, Congress must approve full-scale Midgetman development by December. And technological jumps probably will let the 33,000-pound version pack in some decoys.

The administration should take charge and push some form of the Midgetman through Congress. We need more than America's rusting nuclear arsenal for the next summit confrontation with Mikhail Gorbachev.

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

Mr. WILSON. Mr. President, while my friend and colleague from Tennessee is still on the floor, I have a question. He has just asked unanimous consent to print in the RECORD an editorial, as he described it, from the Washington Times. My question is, is that the op-ed piece by Representative MCCURDY?

Mr. GORE. It is not, Mr. President. This is an editorial, the lead editorial in the newspaper of the middle of last week. I am sorry I do not have the exact date but the title is "Start Building the Midgetman." It is the lead editorial in the paper, not an op-ed.

Mr. WILSON. I thank my colleague. I thought it might be the op-ed piece which had earlier run in the Times in which there is, in contrast to the en-

lightened view of the Senator from Tennessee, very sharp dispute taken on the wisdom of increasing missile weight from the small missile of 30,000 pounds to 37,000 pounds. Representative MCCURDY has not yet seen the light. I commend my colleague from Tennessee because now he says that he agrees that 37,000 pounds is an appropriate weight because it will permit the inclusion of penetration aids. That is progress. I congratulate him upon it.

Mr. GORE. Will the Senator yield on that point?

Mr. WILSON. By all means.

Mr. GORE. What I said was if that case can be convincingly made, then I am prepared to support it. I believe that the current limitation of 33,000 pounds is appropriate. However, a small increase of a size not necessary to accommodate MIRV's but to accommodate penetration aids may be advisable. I have never opposed a change of that kind. What I have opposed is the change of the kind which my colleague has advocated, to greatly increase the size specifically in order to MIRV the missile.

Mr. WILSON. Mr. President, I say to my colleague from Tennessee that I thought he had gone all the way, but if not we will afford him more time. I think he will discover, as have the members of the Defense Science Board and as have those in the Air Force who performed a classified study into this question, that indeed there is a requirement to enlarge the small missiles to a weight beyond the 33,000 pounds in order to include penetration aids.

But, Mr. President, much more to the point, the basic point that both the Senator from Tennessee and I have addressed in these past few days is the larger question, no play on words intended, of enlarging that small missile so that it represents a real deterrent. The issue, Mr. President, is not mobility, and I hasten to make that point clear because there seems confusion on the point. The syllogism is that stability depends upon survivability which depends upon mobility which depends upon smallness.

Now, the videotape which the Senator from Tennessee mentioned, I did, in fact, show newsmen in order to make the point that far beyond its present requirement loaded with its 40,000 pounds of ballast, the present transporter, the so-called hardened mobile launcher, is capable of performance of all mission requirements at a far greater weight than would be imposed by a 30,000-pound missile. And as he indicated, in my statement yesterday I made clear that enlarging the missile so that it could accommodate three warheads would in fact require some enlargement of the transporter. In fact, our friend and colleague, the chairman of the House Armed Services Committee, seems, in the report that he recently issued, to be in basic agreement. He cites a range of 200,000 and 260,000 pounds as the launcher weight to accommodate a missile weight of 65,000 to 71,000 pounds, so we are, I think, agreed on basic estimates.

But I emphasize the point that what we are talking about are educated guesses; they are estimates, and what is really at stake here, Mr. President, is money. The question is, Are we going to rush to judgment and risk wasting $20 to $30 million over the life of this project in order to build a small missile that is indeed too small and that offers us no advantage because of its high cost in terms of either mobility or survivability?

Now, I say to the Senator and to anyone else who wishes to dispute the point, no one at this point can claim with any certainty that they know the answer to the question, and indeed the evidence points very clearly that increasing the size of the missile will require an increase in the size of the transporter but without a sacrifice in mobility and therefore without sacrifice in survivability.

Mr. GORE. Will the Senator yield on that point?

Mr. WILSON. I will indeed.

Mr. GORE. The Senator has used the phrase "rush to judgment." I do not know of many people who would claim that our ICBM modernization program has been characterized by any rush to judgment. And with specific regard to the Midgetman——

Mr. WILSON. Not the ICBM program, but certainly the Midgetman Program has been very definitely rushed, because the Senator will recall it was not all that long ago that the Scowcroft Commission put out its recommendations which were a combination of three elements, and it is only since that time that we have been hellbent on this path to build these new small missiles. Now, what I say to the Senator, knowing of his enthusiasm, which I in part share because I do agree that survivability makes for stability, there may very well be a place in our arsenal for the right mobile missile but we have got to ask ourselves what it will cost. We cannot ignore that cost consciousness.

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

Mr. GORE. I ask unanimous consent that I be allowed to speak for 3 additional minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee for 3 additional minutes? Without objection it is so ordered.

Mr. GORE. I appreciate my colleagues' forbearance.

I wish to make one point as a result of the colloquy we just had. First of all, it is not just the Scowcroft Commission which has reviewed the engineering policy and technical judgments relating to the design of the Midgetman Program. The Ballistic Missile Office within the Air Force and the Department of Defense has also examined these questions rather extensively. Their conclusions are a ringing endorsement of the program's design as it currently stands.

No. 2, the Pentagon appointed a rather distinguished defense science panel chaired by John Deutch, from MIT. Although their results are not yet public, news reports make it apparent that their conclusions also represent a ringing endorsement of the missile as it is presently constituted.

Mr. WILSON. Will the Senator yield for a question?

Mr. GORE. In just one moment I will.

After the experience of the last 5 years, it is hard for me to imagine anything more damaging to the consensus in this country on modernization or the modernization program itself than to go back and try to reopen a question decided a long time ago, and that is whether or not we should move forward with a single warhead mobile missile.

One other point. My colleague from California reaches an engineering judgment that doubling the size of the missile and increasing the size of the launcher proportionally would not hamper its mobility. Well, there is no basis upon which to make such a judgment. The evidence, to the contrary, points in the opposite direction, as the BMO study makes clear. What we will be faced with later this year is whether or not to put a hold on the modernization program, to say "Stop the modernization program, at least in the element that involves the Midgetman, and go back and study all these questions over again." Even though the Pentagon has studied them, the Air Force has studied them, the Scowcroft Commission has studied them, the Congress has studied them, and there is a bipartisan consensus that we have the right design for the program, but notwithstanding all that we will have a proposal to stop it in its tracks and put the ICBM modernization program on hold again, stop the Midgetman and open up all these questions again. I think it would be a mistake.

I am happy to yield.

Mr. WILSON. Is the Senator aware that the senior U.S. official charged with defense research and development; namely, the Under Secretary of Defense for Research and Engineering, Donald Hicks, had reached exactly the opposite conclusion and is quoted in today's Washington Post: "Hicks said he saw no technical obstacle to saving money through construction of a larger Midgetman." And he also does not see any difficulty with

respect to the mobility of a larger transporter?

Mr. President, I realize our time is up. I look forward to continuing the debate with my friend and colleague from Tennessee. I think we need the time and definitely we need to save the money. I predict that unless we do so this small missile will never be built.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GORE. I ask unanimous consent for 1 additional minute in order to respond to the Senator's question.

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

Mr. GORE. I appreciate it. This will be my last request. The answer to the question is yes, I am aware that this gentleman, appointed within the last few months to this position within the Department of Defense, expressed what he clearly characterized as his own personal view in opposition to the view of the Department of Defense, the National Security Council, and the President of the United States, all of which have expressed support for the design of a single warhead mobile missile. I hope the Senate will endorse that concept and continue on the path outlined by the Scowcroft Commission several years ago. I appreciate my colleagues' indulgence and I yield the floor, Mr. President.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. KASTEN). Under the previous order, there will now be a period for the transaction of routine morning business.

DELAY AGGRAVATES FARM CREDIT CRISIS

Mr. DIXON. Mr. President, at a time when thousands of farmers are involved in a financial crisis, it is absolutely incredible that the administration is dragging its feet on making appointments to the Farm Credit Administration Board. Our farmers are drowning, and the administration refuses to throw them a very much needed life preserver.

I am very concerned that this delay in the appointments may affect the availability and terms of farm loans. We have the responsibility to maintain public confidence in our Farm Credit System.

The Farm Credit System is made up of 37 banks in 12 districts around the country, as well as a variety of other agencies important to farmers. The system holds almost a third of the Nation's $215 billion in farm debt. Farmers look to it to provide short-term loans for spring planting and longer-term loans for purchasing equipment and land.

The Farm Credit System has been hurt by surpluses in the major commodities, which have caused commodity prices and land values to plummet.

The administration has had since December 23 to appoint a three-member Board of Directors for the Farm Credit System, which is farmer-owned and the largest source of loans for farmers. Spring planting will be here before we know it, and time is of critical importance.

Further delay in making the appointments means that many important features of the 1985 farm bill cannot take effect. Farmers have enough to worry about already, without having the additional aggravation of not knowing when and how they can qualify for loans for spring planting.

In a letter addressed to President Ronald Reagan, I have urged that the Board members be appointed immediately. It is vital that our Farm Credit System be fully staffed and prepared to handle the present serious farm credit crisis. Making these appointments will be an important first step in revitalizing and restoring confidence in the Farm Credit System.

I ask unanimous consent that the text of my letter to the President be inserted at this point in the RECORD.

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

U.S. SENATE,
Washington, DC, February 18, 1986.

Hon. RONALD W. REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to you today to urge the immediate appointment of the new three-member Board of Directors for the Farm Credit Administration. Congress authorized the creation of this Board, and you signed the legislation on December 23, 1985.

Record numbers of farmers left agriculture in 1985, and this year, as spring planting approaches, the agricultural sector of our nation faces another serious credit crisis. It is vital that our Farm Credit System be fully staffed and prepared to handle this crisis.

I am very concerned that this delay in the appointments may affect the availability and terms of farm loans. We have the responsibility to maintain public confidence in our Farm Credit System. The immediate appointment of the members of this Board will be a first step in revitalizing our Farm Credit System.

Thank you very much for your serious consideration of this matter.

Kindest personal regards.

Sincerely,

ALAN J. DIXON.

Mr. DIXON. Mr. President, I ask unanimous consent that an article from the Washington Post, dated February 19, 1986, entitled "Farm Lender Posts Record Loss," be printed in the RECORD at this point. It states that:

The Farm Credit System, the Nation's largest agricultural lender, said yesterday that it lost $2.69 billion last year because declining land values and low commodity prices, continued to batter the farm economy.

This is the largest loss on record for this financial institution since the Great Depression.

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

[From the Washington Post, Feb. 19, 1986]

FARM LENDER POSTS RECORD LOSS

(By Ward Sinclair)

The Farm Credit System, the nation's largest agricultural lender, said yesterday that it lost $2.69 billion last year because declining land values and low commodity prices continued to batter the farm economy.

The loss, the largest on record for a U.S. financial institution, was the first for the farmer-owned cooperative lending network since the Great Depression. It compared with a 1984 profit of $373 million.

The Federal Farm Credit Banks Funding Corp., which raises money for the system through the sale of bonds, said in a prepared statement that the 1985 losses were in line with a third-quarter report to shareholders that warned that 1986-1987 loan losses could surpass $3 billion.

The report said that most of the 1985 loss came during the fourth quarter as system members began adding millions of dollars to their reserves to offset expected losses from the ongoing financial stress in the farm sector.

"Numerous factors, including changing governmental agricultural policies, reduced agricultural exports resulting from a strong dollar and expanded foreign agricultural capacity, high real interest rates, abnormal weather patterns and low commodity prices have led to a near-record number of farm and ranch insolvencies," the FCS report said.

James Roll, an FCS official in New York, said that yesterday's report did not list fourth-quarter losses separately because the agency's reports included, for the first time, its 37 member banks as well as about 700 affiliated production credit associations and other units of the FCS.

Because the farm credit system lost $426.3 million in the first three quarters of the year, its annual total of $2.69 billion indicates a loss of more than $2.2 billion in the fourth quarter. Roll said the fourth-quarter loss clearly was the largest ever for a financial institution. Prior to yesterday's report, the $1.16 billion loss recorded by Continental Illinois Corp. in the second quarter of 1984 was the largest quarterly loss in U.S. banking history, the Associated Press reported.

The FCS statement also said that, by the end of last year, net loans outstanding in the system were $66.6 billion compared with $78.5 billion at the end of 1984. This is another reflection of the deterioration in the farm economy as some loans were written off and others paid off by farmers who found other financing more attractive and left the FCS.

Another indicator of stress within the system was in nonaccruing loans, which rose to $5.323 billion by the end of 1985 from $1.84 billion a year earlier. At the same time, the value of property taken over by the FCS went from $505 million in 1984 to $928 million.

Troubles in the Farm Credit System, which holds about one-third of the country's $214 billion agricultural debt, led to

passage last year of legislation that directed a reorganization of the FCS and held out the possibility of last-resort federal financial assistance in an effort to restore investor confidence in FCS bonds.

FEDERAL TAX AMNESTY

Mr. DIXON. Mr. President, the President and I were talking on the phone this morning about tax amnesty. I have a clipping from the New York Times of today indicating that the State of New York has realized $334 million from tax amnesty.

I have a bill pending that I have talked to the President and others about. Illinois had a very successful tax amnesty. When we are considering Gramm-Rudman, and other things, and that the President does not want a tax increase, we ought to have a Federal tax amnesty. I will elaborate later on my bill.

Mr. President, I ask unanimous consent that the clipping from the New York Times, dated February 19, 1986, be printed in the RECORD, at this point.

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

$334 MILLION BROUGHT IN BY STATE TAX AMNESTY

(By Isabel Wilkerson)

ALBANY, February 18.—New York State's 90-day tax amnesty has yielded $334 million in back taxes from nearly 145,000 individuals and corporations, the largest amount raised and the highest turnout of any tax amnesty measure in the country, officials announced today.

The money figure, which is expected to rise slightly as the last few payments trickle in, was 60 percent higher than the $200 million officials said they had expected originally.

Of the total receipts, $186 million was already on deposit in the state's general treasury, an additional $126 million in checks was awaiting bank clearance and $22 million was interest that the taxpayers agreed to pay once the state had billed them.

Personal income taxes accounted for 42 percent of the payments on deposit, sales and use taxes made up 40 percent and corporate taxes made up 16 percent.

The second largest amount brought in by a state tax amnesty was $152.4 million in Illinois in 1984.

NO ADDITIONAL PENALTIES

New York's amnesty, which took effect Nov. 1 and ran through the end of January, applied to individuals and corporations that had failed to file state income-tax returns, had filed returns understating income, or had evaded other state taxes such as those for sales and motor fuel.

The program allowed a person or company to pay the back tax, plus interest, without being subject to additional financial penalties or prosecution. Taxpayers had to file applications for amnesty, tax returns for delinquent years and checks for the taxes due. The papers were to be postmarked by 11:59 P.M. Jan. 31 or delivered to a state tax office by that date.

Nearly two-thirds of the money, or about $200 million, arrived after the deadline, in the last two and a half weeks, said Karl Felsen, a spokesman for the State Department of Taxation and Finance.

At one point, checks were arriving at a rate of more than $5 million a day because of last-minute payments and mail delays. "We just couldn't open it all," Mr. Felsen said. "We had stacks and stacks and stacks. It was just a physical problem. I think we have opened it all now."

PROGRAM HAD BEEN OPPOSED

Seventeen other states have undertaken or are putting together amnesty programs, Mr. Felsen said. Of those that have completed programs, including California and Massachusetts, half the total taken in arrived in the final week.

Roderick G. W. Chu, the State Commissioner of Taxation and Finance, made the last amnesty figures public today at a joint budget hearing of the finance committees of the State Senate and the Assembly. "We have just completed the largest and most successful amnesty program in the nation," he told the legislators.

The Cuomo administration originally opposed the amnesty program, arguing that it was unfair to citizens who had paid taxes on time. But it agreed to the program when the State Legislature coupled the amnesty with more stringent penalties for those who continue to evade taxes.

The amnesty arrangement is a "once in a lifetime" break, Mr. Felsen said, because the state does not want people to stop paying taxes on time.

GENOCIDE CONVENTION

Mr. MITCHELL. Mr. President, I strongly support Senate ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide. I regret that in order to travel to an important public hearing in Maine, I will be necessarily absent from the vote which will occur today.

The United States is a Nation in which men and women live together under the rule of law. Just as we must live together as one Nation under God, under laws based on fundamental moral principles, so too must the nations of the world live together in an international order committed to those same principles.

World history has born sad witness to crimes of genocide in the past. And we still have a long way to go in ensuring human rights and harmony among nations. But the United States shall go forward in pursuit of those goals. We shall not forget the genocide victims of the past, and we must not waver in the future in preventing—or punishing—any repetition of such crimes.

I welcome ratification of this treaty, as a reaffirmation of the moral principles which guide us, and as a commitment: "Never again."

AMERICAN AND RUSSIAN FISHERMEN EXCHANGE VIEWS

Mr. DECONCINI. Mr. President, one of my Arizona constituents has recently returned from the Soviet Union with a startling tale which I believe should be shared.

This man, who in midlife has taken the trouble to learn the Russian language, is an ardent fly fisherman and is the conservation director for Trout Unlimited in Arizona. On his own he traveled to Moscow as an emissary from Trout Unlimited and the private sportsmen of the United States and, somehow, made contact with the organization which runs hunting and sports fishing within the Russian Republic. In his halting Russian he conveyed a simple message which only American outdoorsman could have considered significant.

It was:

That the political leaders of our two countries can shout at each other forever over the points which divide our two countries, but that in the meantime the fishermen can sit down and discuss the truly important subjects—such as how better to catch fish—and now to develop friendships between the two peoples.

Mr. President, this fisherman tells me that the effect of these Russian words coming from an American was startling and the response was immediate and enthusiastic.

During the next 3 weeks, many discussions followed and several programs for trade and exchanges of visits by Russian and American fishermen are now in planning stages. My Arizona friend has even been invited back later this winter to introduce the sport of fly fishing on Soviet television.

Of most interest to me, however, is the final memorandum of understanding signed by the Russian Sports Organization. In it they pledge to encourage the exchange of private contacts between the sportsmen of both countries and this is significant. Until now, unofficial contacts have been discouraged and if this policy is being relaxed for the hunters, fishermen, and conservationists, we may be witnessing an evolution in Soviet policy which is very significant.

Their final memorandum says that sportsmen are natural friends who by their example of friendship and cooperation can provide leadership for both countries to resolve their differences. Judging by this beginning, they just may be right.

The posturing and rhetoric of the Politburo and this administration are getting neither of us anywhere. Perhaps we should follow the lead of the American and Russian sportsmen and start emphasizing and developing those areas of agreement which unite our two countries instead of dwelling on those areas of disagreement which drive us apart.

I am told the head of the Russian hunting and fishing organization is a bright and pragmatic young biologist who is an ardent conservationist, and that Alexander Ulitin, in his concern for the environment and its wildlife, is anxious to share and exchange infor-

mation with his American counterpart. I commend him and I personally plan to provide whatever assistance I can to aid in this professional interchange. I urge all of my colleagues to do the same.

And I say "hats off" to Trout Unlimited and the American sportsmen and to the Russian friends they will soon be making. Maybe you will indeed show the politicians how to prepare a peace.

TRIBUTE TO ST. VARTANANK

Mr. DECONCINI. Mr. President, as cochairman of the Democratic Council on Ethnic-Americans, whose aim is to bring traditional values to the forefront of the Democratic Party, I would be remiss if I did not call to the attention of my colleagues the recent commemoration of the Armenian holiday, St. Vartanank Day, on February 6.

In America today, we all cherish a society where people of every faith can practice their religions free from the intervention of government or opposing forces. Indeed, we acknowledge the right of all people to freedom of religion. In other times, in other places, however, things have been different. In the past, many people, including Armenians, have sacrificed their lives to preserve this freedom.

February 6 marks a date in A.D. 451, when many Armenians, led by the great St. Vartanank, or Vartan, fought valiantly against the Persians in the battle of Avarayr so that they might preserve their belief in Christianity. Vartan, a descendant of a long line of heroic army leaders of the Mamigonian dynasty, was commander of the Armenian Royal Army. For several centuries, Armenians were attacked mercilessly by Persians who sought to impose their own religion, Zoroastrianism, on the Armenian people. The battle of Avarayr was the culmination of long years of struggle and sacrifice.

Prior to the battle, Vartan traveled to the Persian capital, where he was captured and forced to renounce his faith in Christianity, in return for his release. Upon his return to Armenia, however, Vartan prepared his forces for the coming invasion by the Persians. An Armenian priest, Ghevont, blessed Vartan and his men. Tragically, Vartan's forces, greatly outnumbered, were overwhelmed in a battle that lasted just 1 day. Many Armenians, including Vartan, perished on that day, but the Armenian people persevered. In the face of tragedy, they triumphed. The Persians, despite their victory, learned that it was impossible to convert the Armenian people from their undying faith in Christianity.

Mr. President, Armenians have struggled for centuries against foreign enemies, including the Ottoman empire, in their search for freedom. As Father Kalajian, of St. Mary's Armenian Apostolic Church of Washington, DC, so eloquently states:

> Vartan underlined the yearnings of national freedom, the freedom of conscience, the natural instinct of human behavior to have independence.

All of us, as Americans, can appreciate their quest.

Again this year, Armenian-Americans join with Armenians all over the world, not only to honor those heroes who lost their lives in pursuit of religious freedom, but also to celebrate the strength and vitality of a people. Vartanank has become a symbol of their struggle and the mighty will of the Armenian people to resist the attacks of those who would destroy them.

S. 426, HYDROELECTRIC RELICENSING

Mr. BURDICK. Mr. President, President Theodore Roosevelt acted vigorously and on many occasions to protect the people's interest in the water in the Nation's rivers and streams. In 1909, as a part of the James River veto message, speaking about investor-owned electric utilities, he commented:

> They are demanding legislation for unconditional grants in perpetuity of land for reservoirs, conduits, powerhouses, and transmission lines to replace the existing statute which authorized the administrative officers of the Government to impose conditions to protect the public when any permit is issued. . .

In January of 1909, he transmitted the report of the Inland Waterways Commission to the Congress with these words:

> It is especially important that the development of water power should be guarded with the utmost care both by the National Government and by the States in order to protect the people against the upgrowth of monopoly and to insure them a fair share in the benefits which will follow the development of this great asset which belongs to the people and should be controlled by them.

Thanks to the diligence, vigor, and foresight of Theodore Roosevelt and a small cadre of wise and public-spirited men of his time, the people's interest in water power was recognized and protected. As a result of their leadership, licenses for private, for-profit development of the country's hydroelectric power resources expire at the end of 50 years. At that time, title effectively reverts to the United States—and potentially for the benefit of all the people—unless and until the United States acts to renew or extend the license.

At the end of 50 years a private licensee has had the opportunity to use and secure financial rewards from a resource that belongs to all of the people. In almost every instance, the licensee has recovered its entire investment and during that 50-year period it has received a generous return on that investment for the benefit of its stockholder.

Now in many instances the 50 years are over and the original resource and all improvements potentially belong to the people of the United States. Not satisfied to have had the beneficial use of a people's resource for 50 years, the investor-owned utilities are lobbying Members of Congress to reconsider decisions made in the first decade of this century and renew their licenses to use a people's resource in perpetuity.

I speak today because I am convinced that S. 426 warrants further examination. I urge each of you to study the matter further.

As I stated earlier, at the end of the 50-year license period the property potentially reverts to the United States, to be used for the benefit of all our citizens. The licensees accepted these terms when they were granted the license originally. They have recovered all of their investment from their ratepayers—and made profit on that investment for 50 years.

The Senators who have indicated their support for S. 426 have been told by the investor-owned utilities and FERC that the legislation is necessary to clarify the law. That is just not so. S. 426 completely reverses Federal policy established in 1920. The Court of Appeals for the District of Columbia made that clear in the Merwin Dam decision issued October 22, 1985.

I quote a portion of the final paragraph of that decision:

> Congress labored long and often to establish a public power policy for this Country. The monumental political battles which took place over this issue reflected the willingness and determination of powerful adversaries with strongly held views. Every aspect of the statute that finally emerged was repeatedly and hotly contested . . .

If Congress grants their request and acts favorably on S. 426, we will be taking a tremendously valuable resource from the people by transferring title in perpetuity to giant corporations that alarmed Theodore Roosevelt 80 years ago. It will be the largest giveaway of the people's resources in the history of the republic. I urge my colleagues to examine the legislative history regarding hydroelectric relicensing and review the recent Merwin Dam decision. In so doing, I believe my colleagues will be convinced that we must oppose S. 426.

BRIG. GEN. BILLY MITCHELL

Mr. STEVENS. Mr. President, when Brig. Gen. Billy Mitchell died 50 years ago today, the Nation lost not only a hero, but a pioneer whose vision became reality only after his death.

An early advocate of a separate U.S. Air Force and of greater preparedness in military aviation, he did not live long enough to see that many of his

prophecies were fulfilled in World War II.

His experiences as the outstanding U.S. combat air commander in World War I convinced him that one day the airplane would eclipse the battleship, an idea akin to heresy in the early part of this century.

Billy Mitchell, flying his own plane, led the largest concentration of air power ever assembled up to that time, when almost 1,500 Allied planes participated in the Battle of San Mihiel.

As a young man, not long after serving in the Spanish-American War, Billy Mitchell spent 2 years in my State, which was then the sparsely populated territory of Alaska.

As he helped complete a military telegraph line across Alaska's vast wilderness, he understood that Alaska and the polar regions would be of growing strategic importance in our country's defense, and he continued to say so as long as he lived.

He was born in 1879, the son of a U.S. Senator from Wisconsin, and enlisted in the Army at the age of 19. Later, he went on to graduate from George Washington University, and had a distinguished military career with the Army's ground forces before he became a pilot in 1916.

Billy Mitchell's foresight was not universally appreciated in his own time, but it is well understood today.

As we mark the 50th anniversary of his death, we salute the memory of a man who stood by his beliefs and fought for a strong, autonomous Air Force. Billy Mitchell's vision has made us a stronger nation.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

THE PRESIDENTIAL ELECTION IN THE PHILIPPINES

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now proceed to the consideration of Senate Resolution 345, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 345) expressing the sense of the Senate that the recent presidential elections in the Philippines were marked by such widespread fraud that they cannot be considered a fair reflection of the will of the people of the Philippines.

The Senate proceeded to consider the resolution.

Mr. LUGAR. Mr. President, it is my understanding that there is 1 hour of debate, the time to be equally divided between the majority and minority sides.

The PRESIDING OFFICER. The Senator is correct.

Mr. LUGAR. I yield myself such time as I may require.

Mr. President, it is timely that we consider, as our first order of business, the election in the Philippines.

I appreciate that many Members have already had opportunities to visit the Philippines in recent days, to visit with those persons who are involved in that election.

For some time, the Foreign Relations Committee has been studying the possibility for an increase of democratic activity in the Philippine Islands. Indeed we had anticipated that an election would be held in the Philippines, according to their constitutional situation, in 1987, at the end of the 6-year term of President Marcos. We noted that the President of the United States had sent one of our colleagues, Senator PAUL LAXALT, to visit with President Marcos in November of last year. We understood that a portion of that mission had to do with the efficiency of the Philippine Army—specifically, its ability to take on the NPA, the National People's Army, and to bring about greater security for the Filipino people and, likewise, for Americans who are at two vital bases and Americans who are involved in many other aspects of Philippine life.

It was a surprise to us that President Marcos, on an ABC television program, the Brinkley show, on a Sunday, called for an election in his country. Indeed, it was a surprise to many Filipinos who anticipated that, under the constitution of the Philippines, a 6-year term is a 6-year term.

The Philippine supreme court finally ruled, by a close vote, that President Marcos could continue in office through the election and would only need to resign upon the conclusion of that election and the declaration of his successor, and that in fact the election was constitutional.

The reasons for the election being called are apparent, in my judgment—namely, that President Marcos felt that he would be given a mandate by the people of the Philippines, and he was sufficiently confident of that. At the time he declared the election, he invited international observers to come to the Philippines. Specifically, he asked the President of the United States to send observers to witness a free and fair election and the size of his mandate.

Early in the election campaign, he indicated that his mandate might be 80 percent upward—in fact, such an embarrassing total that American observers might feel that he had not obtained the result fairly and he would almost be constrained to manufacture votes for the opposition.

As events turned out, the opposition coalesced and in due course came forward with a strong ticket. A campaign of some 57 days' duration transpired in the Philippines; and by the time of election day, it was apparent that the election had been well contested, with strong points of view and very strong party structures, producing large crowds for the final rallies.

Mr. President, in due course, the Acting Foreign Minister of the Philippines came to the United States. He met with members of the Foreign Relations Committee who were deeply interested in the laws promulgated by the Parliament of the Philippines with regard to this election. Many of us were satisfied that the election laws had been well drawn.

The point we made to the Acting Foreign Minister was that we had some anxiety about the will of the Philippine Government to enforce those laws—in fact, to carry them through to conclusion. Our anxieties were created, in part, by our own common sense as people in political life and specifically by an excellent report by Prof. Alan Weinstein of Boston University, the executive director of the Center for Democracy, and an excellent panel, including Republican and Democratic election experts who went with Professor Weinstein to the Philippines.

They drew up a number of items which we asked the Philippine Government to consider. They included designating UNIDO as the official opposition party, so that poll watcher rights at all phases of the election would be guaranteed; that NAMFREL, the citizens' watchdog committee, likewise be given these watchdog privileges which we felt were vital to be the eyes and ears of any observation system. We asked if the equal time provision was being enforced so that electronic media time was available to both sides. We asked that the COMELEC get together its own house, with two more independent members who had not been appointed to date, so that independent citizens of the Philippines might be represented in that situation.

We asked for the ability to observe, if we were to send a delegation of observers, precisely what was occurring close at hand. There was a ruling, which we found unusual, that observers would have to be 50 meters from the poll.

During the visit of the Acting Foreign Minister, he said he was certain that the flexibility could be found for our ability to observe, and two members of the COMELEC were appointed 2 days before the election. Some movement in the equal time situation was observed. UNIDO was declared the opposition party and had the rights and privileges. and NAMFREL did have the watchdog privileges. So that by the time our observer delegation met with the distinguished Speaker of the Parliament of the Philippines, a good number of provisions we had suggested for a free and fair election had been accommodated.

Under those circumstances, President Reagan indicated that we would have an official delegation. He asked Representative JOHN MURTHA of Pennsylvania and me to serve as cochairmen. He named additional Members of Congress—three from the Senate, four from the House—and 11 other distinguished Americans. We went to the Philippines to observe the election. Let me say concisely that we went in a spirit of friendship and we were received that way.

The first and most important conclusion from that experience, as I told President Reagan on Tuesday, after we returned, is that from the very first poll we visited, the Philippine people rushed forward to shake our hands, to embrace us, to take pictures of us. It was almost as if we were individuals campaigning for office.

We came as observers and we tried to maintain that role strictly. We were met with friendship. People wanted American observers. They saw our badges. They did not know who we were individually. They knew we were Americans. For that reason, their attention was obvious and constant, and they prayed that we would stay at the polls; furthermore, that we would keep at the polls the people from the media whom we brought with us.

They felt a sense of protection so long as we were there. There were reasons for anxiety. We saw, in various conditions, persons already injured in the preelection activities. We were to see other persons injured on that day.

At the time of the election, 93 persons had lost their lives in election-related activities. A part of the reason for this is that many persons were courageous in trying to exercise their rights.

The citizen watchdog committee people, estimated at 500,000 volunteers, did not take their task lightly. They attempted to go to provinces where watchdogs had not been allowed before. In many cases they were rebuffed. In five Provinces of the Philippines no NAMFREL observers were allowed.

In various other instances our observers found cases where the opposition party was not allowed.

In due course, Mr. President, two or three basic things occurred. We have often been asked, "Did you see a person attacked, did you see a person buy a vote, did you see a person abuse the privilege firsthand?"

There were instances in which our observers saw these instances of what might be called retail fraud, retail in the sense of one vote at a time, one precinct at a time, serious indeed, but an overall observer might ask did it change the election? Hard to tell.

What did change the election was in our judgment a systematic process during the period of registration of the omission of a significant number of names from the rolls. We have staff of our observer group still in the Philippines. They are still accumulating data which we will make a part of our final report. But they have observations from members of the Government that as many as 1 in 10 names were dropped from the rolls during the copying period this year.

The names that were dropped were significantly in the area of Manila and in other provinces that gave the opposition fairly heavy vote in 1984. We observed firsthand tens of voters disenfranchised, unable to find anyone involved in the election procedure who could be helpful and thus they were not able to vote at all.

Mr. President, first of all, it would appear at the stage of registration that there were significant omissions, significant particularly in those areas where there had been opposition problems for the Government in the past.

Second, at the time of the voting, intimidation of voters coming even in the heart of Manila in the Mekati district in which a school which had numerous precincts, persons with clubs rushed in to chase away the election volunteers. Nuns actually clutched ballot boxes and defied these persons with clubs to go after them, and those ballot boxes, protected by the nuns, were saved. The others were lost. They are gone from the election altogether.

Mekati was not unique. In Cebu and other opposition territories, 47 boxes were stolen simply out of the audit trail in an area of significant opposition.

So intimidation occurred, and it was a very tough business for those who were victims of this, random as it may have been.

When it came to the counting situation, I observed at midnight on the first night that less than 3 percent of the vote of Manila, all of them counted by 5 o'clock that afternoon, 7 hours before, were showing anywhere on the tote board. There was literally a village of counters behind computers and thousands of international press with big screen up there but no figures coming in.

It was apparent that the governmental registrars who had to collect the NAMFREL ballot counts simply were unavailable to do so.

In my judgment, and I stated at the time, someone wants to delay the count, someone wants to know how many votes he needed at that state. In terms of the provinces, I was blithely assured the telex machine were simply shut down at an early hour and would not open until the morning, whether there people there ready to punch in the figures or not. There were barely any returns from Manila, none from the provinces, in essence, a dead count.

Our committee had indicated to the acting Foreign Minister if there was delay in the count, we thought that would be trouble with a capital T.

It was not only a delay, but almost a total breakdown, and it appeared deliberate on the part of the Government.

Ultimately, things were to get worse. Unido people checked out canvassing. The canvass results, as an article dealing with the NAMFREL report in the Washington Post this morning indicates, there were vastly different results in specific provinces between votes already recorded by NAMFREL that we witnessed as valid and the final results on the canvassing.

In short, there was no check and balance in the canvassing, and I indicated to the President of the United States, and these are words I used, "Given this situation, you can cook the results any way you want to." No check and balance there, no stoppers. You can elect anybody President, anybody Vice President; as a matter of fact, at this point, nobody knows any way to determine the vote since many of the votes have been destroyed. Almost all of the tally sheets that came to the Parliament had irregularities. With but two exceptions, all were challenged for lack of signatures, lack of seals, no validity whatever, in a count which was presented to the world with a declaration almost immediately of Mr. Marcos as the winner.

Under those circumstances, Mr. President, the President of the United States declared on Saturday and the resolution before us quotes our President as saying, "The elections were marred by widespread fraud and violence, perpetrated largely by the ruling party." That is absolutely correct, and the President could have added chapter and verse and may do so as the report of the commission he sent to observe comes in.

For these reasons, Mr. President, we have difficult foreign policy problems. We will not try to solve those in the resolution offered by the distinguished Senators today and I am proud to be a part of that list. We, I think, must take some care in our responses and many Members will offer them. But I would hope all Members could agree with the draft resolution that we have today because it simply expresses the sense of the Senate that the recent elections in the Philippines were marked by such widespread fraud that they cannot be considered a fair reflection of the will of the people of the Philippines.

I believe that to be true and I commend this resolution to my colleagues.

I yield the floor.

Mr. PELL. Mr. President, over recent years, and then more intensively over recent months as the crisis in the Philippines deepened, the administration has sought to place increasing pressure on the Marcos government to

bring about needed reform—in the military, in the economy, and most importantly in the political process. Above all, the Philippine people need democracy—for in the democratic process lies the only real hope for an end to military and economic corruption and a dissipation of the violent insurrection that is rapidly leading to full-scale civil war.

In this push for democratization, Congress joined in full accord with the administration. Responding, and apparently in the belief that he could deflate American pressure with a quick referendum he could dominate through traditional techniques of fraud, President Marcos called an election. What he had not anticipated was the ability of his countrymen to overcome their own differences, and their own well-founded fears, and to muster an overwhelming demonstration of support for Mrs. Aquino.

For an American who has long lamented the evils of the Marcos regime, this national political uprising by the Philippine people was an inspiration. And for an American who has long feared that the Philippine people would someday hold the United States accountable for complicity with Mr. Marcos, the constructive role played by the administration and Congress in supporting the push for democracy was a source of gratification and reassurance.

But now the election has been held, and against high odds the Philippine people have clearly expressed their demand for an end to the Marcos regime. The challenge now—Mr. Marcos having stolen the election through blatant fraud—is to shape an American response.

Here an argument could conceivably be made that the United States faces the dilemma of choosing between its strategic interests, which would mean accepting the outcome and retaining access to American bases, and its interests in promoting justice and democracy, would mean dissociating ourselves from Mr. Marcos and pushing for his immediate retirement. But in fact no such dilemma exists. For a dramatic, historic change has occurred in the Philippines—an upheaval of public expression which we can proudly claim to have supported—and the surest path to damaging American strategic interests would be to accept the Marcos fraud and resume business as usual.

In supporting the democratic process in the Philippines, the United States made a wise and fateful decision. And in using that process—against forces of brutal intimidation—to express their will, the Philippine people also made a decision of fateful consequence. Mr. President, by both the American Government and the people of the Philippines, the choice has been made. And the task for American policy now is to act accordingly—with a clear determination that matches the courage of the Philippine people.

The resolution before us is bipartisan in origin, and is what we might call an interim response. We hope it has an effect. If it has no effect, there will have to be discussions about the withholding of military aid or the sending of civilian aid through nongovernmental channels and questions of that sort. But for the moment, this is an excellent interim response, and one that I hope our colleagues can support universally as a very significant message to the Philippine people, and more importantly still, to the Marcos regime.

I would be incorrect in not mentioning the debt we owe to our observers headed up by our colleague, Chairman LUGAR, and the work they did in watching the election and confirming the fact that it was a fraudulent election.

Mr. President, I now yield the floor to the Senator from Massachusetts for 7 minutes.

Mr. KENNEDY. Mr. President, I know we have a time limitation and this came through last night. The majority leader asked for an hour evenly divided. I ask my colleague for 7 minutes of that time if that is all right and agreeable with him.

Mr. President, I rise in strong support of the resolution before us, and it is my hope that the Senate will adopt this resolution unanimously.

No one, except perhaps Mr. Marcos himself, can dispute the fact that the Presidential elections held in the Philippines were a complete and audacious fraud, a mockery of the democratic process which once again demonstrated Mr. Marcos' contempt for justice and the rule of law.

Cory Aquino won that election lock, stock, and barrel. It is time that the United States called a spade a spade. It is time for the Senate to say it, the House of Representatives to say it, and the President of the United States to say it. She is entitled to be inaugurated President of the Philippines.

Last November, when President Marcos announced these "snap" elections, the world hoped the Filipino people would at last have the opportunity to decide for themselves who should lead them through what is fastly becoming some of the most critical years in the history of the Philippines. We held out the hope that a corrupt leader who, for 20 years, amassed a great wealth for himself and his family and close circle of friends while devastating his country's economy, whose corrupt friends in the military have demoralized the lower ranks, who invested hundreds of thousands of dollars in real estate abroad and ensured the acquittal of the murderer of his leading political opponent, we thought Mr. Marcos at least saw the need to change his ways and return the control of his country to the people of the Philippines. But the so-called elections on February 7 once again proved that Mr. Marcos refuses to submit to the will of the people. He and his cronies so flagrantly violated the most basic rules of a free and fair election that no advocate of justice and democracy can possibly accept the rigged outcome.

The American people are outraged and dismayed by the rampant fraud and manipulation that pervaded the Presidential election in the Philippines on February 7. The National Assembly, a Marcos organ, has now declared President Marcos the winner of the election, but by all other accounts, the official tally was a fabrication designed to cheat the people of their right freely to choose their leader. The losers in this charade are many—including opposition candidate Corazon Aquino, the Philippine people, and the future of democracy in the Philippines.

I spoke with Cory Aquino this morning, and we discussed the resolution before the Senate today. Despite the exercise in deceipt she has just undergone, that champion of freedom has not forsaken hope for her country. She has vowed to continue to fight for democracy in her country, the cause for which her husband, and my friend, Ninoy Aquino gave his life.

Cory thanked me and my colleagues for acting on the resolution before us. She said it will be regarded by the Filipino people as a major statement of American sentiment. This resolution sends a signal to Marcos, and to the Filipino people, that America will not stand idly by in a time of crisis. This resolution shows the people of the Philippines that the American people join with them in their struggle for justice and freedom.

The United States cannot assure fair elections in the Philippines, but we must not wink at an election that is so infected with violence, intimidation, and fraud as to make a mockery of the electoral process. The people of the Philippines want and deserve democracy in their country. None of us will ever forget the pictures of the Philippine people struggling to protect their ballots; their courage as they worked to make their elections fair and honest. And it is the responsibility of the United States to make it clear it cannot continue to support an illegitimate regime that attempts to legitimize itself by stealing the election.

The Catholic Bishops' Conference of the Philippines has declared that "the polls were unparalleled in the fraudulence of their conduct." Specifically, the bishops have condemned the systematic disenfranchisement of voters through scrambling of voter lists and

other improprieties; the exploitation of poor Filipinos through massive vote-buying schemes; ballot tampering; and the use of intimidation and brute force to influence voters to refrain from voting or change their votes.

The official United States congressional observers returned from the Philippines to report significant irregularities in an election some termed fatally flawed. And President Reagan has acknowledged that the election was "marred by widespread fraud and violence perpetrated largely by the ruling party."

As Americans, we have special reasons to denounce the rigged election in the Philippines. First, we share a special relationship with the Filipino people, many of whom fought and died side by side with Americans during the Second World War in the cause of freedom and democracy. We must stand with and support those individuals inside the Philippine nation who are working to translate those values and principles into reality and distance ourselves from those who refuse to allow democracy to return to the Philippines.

Second, the nation of the Philippines is at a moment of real crisis in its history. The economy is in shambles, and there have been widespread and increasingly credible reports of corruption at the highest levels of the Filipino Government as well as of a transfer of enormous quantities of the country's wealth abroad on behalf of President Marcos and his cronies.

Third, a Communist guerrilla insurgency seems to be gaining strength with each passing day and Mr. Marcos' continued hold on power appears to be its best recruiter. Unless the Philippines have an honest, fair, and legitimate government in place, conditions in the Philippines will continue to slip toward disaster.

Finally, the United States provides hundreds of millions of dollars in economic and military assistance to the Philippines each year, and we rely upon Clark Air Field and Subic Bay Naval Station as integral parts of our national defense. Yet, we cannot maintain those strategically important facilities without the support of the Filipino people. The surest way to lose those bases is to continue to prop up a corrupt regime that so flagrantly rejects the will of the people. Distancing ourselves from President Marcos and making clear our allegiance to the Filipino people is the best way to ensure we can keep those bases.

We all know the nature of the recent elections in the Philippines. We have all heard the reports by our party institutes, the official U.S. delegation and our own President on the massive fraud that occurred. We are all aware of the repudiation of democracy that has just taken place and we all know that we can no longer support Mr. Marcos. We must begin, and begin today, to distance ourselves publicly from the illegitimate regime that continues to cling to power in the Philippines.

Mr. President, all Americans have been following the events in the Philippines with close interest. We have read the reports of intimidation, repression, fraud, and violence with trepidation and uneasiness but rarely do such reports of events affect us personally. A recent brutal murder in the Philippines, however, has brought home to me the terror associated with political life in the Philippines—that of Evelio B. Javier.

Evi was a courageous opposition leader in the Philippines whom I had met while he was earning a master's degree at the John F. Kennedy School of Government at Harvard University. A former Governor of Antique Province, Evi had left the Philippines in 1980 when he realized he could no longer cooperate in good conscience with the Marcos regime and forfeited a promising political career in the Philippines. He returned to his country in 1984 after the assassination of Benigno Aquino to fight for the cause for which Ninoy had given his life. Since his return Evi has undergone political and physical intimidation by the members of the Marcos ruling party. Last Tuesday, February 11, six gunmen tracked him down and shot him dead in San Jose de Buenavista.

My son, Teddy, Jr., who was in the Philippines for the elections, visited Evi 3 days before he was killed. Evi knew his life was in danger, never going anywhere alone and never staying too long in one place. Evi even told my son that he did not expect to live out the week. His commitment to democracy, despite the extreme risk to his life, his dedication, and commitment to democracy in the Philippines never waivered as he courageously continued to campaign vigorously on behalf of the opposition Presidential candidate, Corozan Aquino throughout his home Province of Antique. That commitment cost him his life, but Cory won in Antique Province.

The Government of the Philippines has begun to investigate this ruthless act of terrorism. It is my fervent hope that those responsible will be brought to justice. I would like to put the Filipino Government on notice that the world will be watching those judicial proceedings and we will not rest until the murderers of this brave man are duly prosecuted.

I would like to call the attention of my colleagues to a recent article by Elliot Richardson regarding Evelio Javier for whom we both shared a great admiration. Mr. Richardson also knew Evi while he was at Harvard and recognized the strong convictions and faith in the people and in the future of this young Filipino leader. As he writes, Evelio Javier's "death will inspire with his vision countless countrymen who might otherwise never have heard his name. They will remember his decency, honesty, compassion and love of liberty. The directed energy and tenacity that were so much a part of him have not died, and they will not. His assassins have given him immortality."

Mr. President, I urge my colleagues to read Mr. Richardson's eloquent words and ask unanimous consent that his article be printed in the RECORD following my remarks.

This resolution puts the Senate clearly on record against the fraudulent elections that occurred last February 7 in the Philippines. Its text is simple:

The February 7, 1986 Presidential elections and Vice-Presidential elections in the Philippines were marked by such widespread fraud that they cannot be considered a fair reflection of the will of the people of the Philippines.

No one in the Senate can dispute such a statement and I urge a quick and unanimous adoption of this resolution. Democracy will return to the Philippines—we are not sure how soon, or how many lives will be lost in the process, but we all know President Marcos cannot maintain his facade of popularity much longer. And this resolution takes the first step in saying to the Filipino people "we are with you and will not abandon you in this critical moment."

I hope that the Senate will act favorably on this resolution and urge its immediate adoption.

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

[From the Washington Post, Feb. 16, 1986]

A CAUSE WORTH DYING FOR

(By Elliot L. Richardson)

It happens from time to time that the promise of a life is fulfilled in death.

Let it be so with Evelio B. Javier. Born in Antique Province in the Philippines on Oct. 31, 1942, he was murdered there scant days ago—brutally, callously and deliberately gunned down. It was a mindless murder. His assassins could not have calculated the power of the force that they would thereby set in motion. Someday, somehow, it will overwhelm them.

I know this because I knew Evelio Javier. I know the qualities that made him admired and loved and that will now make him a legend.

We met in June of 1981. He had just received a master's degree from the Kennedy School of Government at Harvard. He was looking for a job. Listening to him talk about his 10 years of service as governor of Antique Province—elected in 1971 at the age of 29, he became the youngest governor in the Philippines—I was as much impressed by the way he spoke as by what he said.

His description of the upland development program he started and his pride in its support by the U.S. Agency for International Development and the Ford Foundation were

expressed with modesty, charm and humor. He had faith in people and faith in the future; he had faith in his own ability to make a difference. His genuineness was unmistakable. During the next several days I was moved to write or telephone a dozen people on his behalf.

After the assassination of Benigno Aquino, Evi Javier decided that he must go back to the Philippines and join the forces of democracy. Talking to him shortly before he left, I could sense his exhilaration. His eyes shone. He embraced the task ahead with joy and courage. Going back would be better than trying to help from a distance. Here was a cause worthy of total dedication. For him it went without saying that it was worth giving his life for. He exuded the kind of gallantry that I associate with Lee's Lieutenants and with Winston Churchill's generation of British subalterns. I had known officers like that in Normandy.

He did go back. He joined a law firm. He made plans to start a counterpart of the Kennedy School in the Philippines. He ran for parliament in Antique Province, lost narrowly, and brought proceedings in the Supreme Court of the Philippines charging fraud in the vote count. Seven of his supporters were ambushed and killed on election eve, and he filed multiple murder charges against his opponent, Arturo Pacificador. The charges were still pending when he himself was killed.

The last time I saw Evi was in April 1985. He had come to the United States with Sen. Eva Kalaw of Manila, the president of the Liberal Party, Evi was her deputy. He was also chairman of the party's platform committee. He was full of his plans to hold meetings on the platform in all parts of the Philippines. It would, he told me, be "a platform that we can truly call the people's platform."

At the close of a speech in Manila a month earlier he had said:

"Let politics then be the concern not only of the politicians but also of the citizens. Let us no longer leave politics to the corrupt and the abusive.

"My hope is that out of this partnership will merge leaders of the country who, like Cincinnatus and Garibaldi, after leading the call of their country, shall not be tempted to perpetuate themselves in power. My hope is that we shall see more leaders who shall not be afraid to go back to the farm, plow the land and milk the goats again. Then more and more citizens can take their turns at the reigns of political leadership.

"My friends, our democratic processes and institutions, our liberties have long been hanging in peril. And time is running out on us if we are still to save whatever is left of our liberties."

Evelio Javier is now a symbol of the things he stood for. A hero in his lifetime, he is now a martyr. His death will inspire with his vision countless countrymen who might otherwise never have heard his name. They will remember his decency, honesty, compassion and love of liberty. The directed energy and tenacity that were so much a part of him have not died, and they will not. His assassins have given him immortality.

Mr. DOLE. Mr. President, I wish to thank the managers of the bill for the resolution and all others who participated in putting it together.

I joined with the minority leader and a large number of other Senators to introduce the resolution which we will vote on at 12 o'clock, which will express the Senate's deep concern about the reported widespread fraud which marred the recent Philippine Presidential elections.

Declarations and certifications of electoral victory mean little if they are not accepted or believed by the people of the Philippines. In such a situation, there are no winners.

The United States has had a special relationship with the Philippines, based on a long history, a common desire for democracy and shared strategic interests. It is a relationship that has very much served our own national interest. We are determined to maintain it.

But let me stress: We do not seek to interfere in the internal affairs of the Philippines. It is not our right, and not in our interest, to tell the Philippine people or the people of the world who won or who lost the Philippine election or who should be their leader. That is not the intent of the resolution.

But, as the resolution noted, our interests in the Philippines are best served if there is in place in Manila a stable, democratic government. The resolution seeks to encourage the process by which such a government can emerge.

Mr. President, the stakes in the Philippines are high, for us and for the people of that troubled country. We have critical military installations there, which are the subject of a bill which I will introduce in just a moment or two. It is vitally important for all of us that the Philippines return soon to its tradition of stable, democratic government. I am convinced that passage of this resolution by a large majority will be a step in that direction, and I urge all of my colleagues to support it.

S. 2078—EXAMINING THE FEASIBILITY OF RELOCATION OF MILITARY FACILITIES IN THE PACIFIC REGION

Mr. President, I am introducing at this time legislation dealing with two of the most important military facilities we maintain overseas, the installations located at Clark Air Base and Subic Bay Naval Base in the Philippines.

ELEMENTS OF BILL AND COSPONSORS

This legislation is brief and to the point. First, it reaffirms our desire and our intention to maintain the facilities at Clark and Subic, as long as safe and stable access to them can be guaranteed under the terms of our bases agreement with the Philippines.

Second, in light of the currently unsettled situation in the Philippines, it directs the Defense Department to undertake, on a priority basis, a study of the feasibility and cost of relocating the facilities to other sites in the Pacific, should that be necessary. The results of that study are to be transmitted to Congress no later than June 30 of this year.

I am pleased that a number of distinguished Senators with special expertise on defense and foreign policy matters have joined in cosponsoring this bill: Senator GOLDWATER, the chairman of the Armed Services Committee; Senator COHEN, the chairman of Armed Services' Seapower Subcommittee; Senator MURKOWSKI, the chairman of Foreign Relations' Subcommittee on Asian Affairs; and Senator MCCONNELL, a member of the Intelligence Committee.

U.S. HAS VITAL STAKE IN THE PHILIPPINES

All of us are aware of the situation in the Philippines. None of us know for sure how events will evolve there. But one thing is clear—the United States has a vital stake in the way things work out.

We have a stake because the Philippines is one of our oldest and closest allies. Indeed, it was once a part of this country, and we can take justifiable pride in having helped instill in the people of the Philippines a real commitment to democracy—a commitment so visible in much or what has transpired recently.

And we have a second, and equally important, reason for being concerned about the future of that country—the military installations at Clark and Subic which are the focus of this bill. Those facilities, or facilities like them, are essential to our ability to carry out our security responsibilities in the Pacific, particularly in the face of a menacing Soviet military presence in that region.

NO INTENTION TO CLOSE INSTALLATIONS

At the outset, let me reiterate one essential element of the bill: We expect, and we are planning, to maintain our presence at Clark and Subic. To date, events in the Philippines have not affected our access to the bases in any way, and we do not expect that they will.

Most of the Philippine people understand full well the reason those bases are there, and they support the continued presence of our facilities. There is a consensus, in the Philippines as well as in the United States, that the bases and the American installations on them are essential to the peace and security of the Pacific and that they serve the interests of both governments.

Our access to the base facilities is secured in an agreement with the Philippines which runs at least until 1991 and which can be continued with the consent of both governments. We intend to live up to that agreement, and we expect the Philippine Government—any Philippine Government—will, too.

Both candidates in the recent Philippine election pledged to abide by the bases agreement. Whatever final decision the Philippine people make about a new leader, we have the right to

expect the winning candidate to live up to his, or her, promise.

UNITED STATES MUST BE PREPARED FOR ANY CONTINGENCY

Yet, at the same time, we cannot close our eyes to reality. More than at any time since World War II, the Philippines today is a nation under siege—from a determined Communist insurgency, internal political strife, and serious economic problems. I believe these problems, all of them, can be overcome. But I cannot promise you—and no one else can, either, not the President of the United States and not Mr. Marcos or Mrs. Aquino—that they will be overcome. With so much at stake and the future, as always, uncertain, we must be ready for any eventuality.

Some very useful work is already being done on aspects of the basing issue. In their conference report on the fiscal year 1986 military construction bill, the Appropriations Committees asked the Defense Department to do a study of physical security at Clark and Subic and the construction costs of relocating their facilities elsewhere. Senator COHEN's Seapower Subcommittee has planned hearings which will look at some aspects of the bases situation. The Pentagon, of course, has already done some contingency planning on its own, too.

QUESTIONS TO BE ANSWERED

The time has come, though, to bring all of this work together, on a priority basis, into a single, comprehensive study, which will thoroughly cover all the complex questions involved. I think there are a number of questions that need to be answered. I hope they will be addressed by the appropriate committee.

What are the military and political implications of any move?

Where else could the facilities be located?

Can we obtain and assure secure and stable access to those sites?

Could that access be guaranteed over time?

How soon could relocation be implemented, should it become necessary?

How much would it cost?

Is there anything we should be doing now, beyond this initial study, to lay the groundwork for possible later operational decisions?

PLANNING FOR OUR SECURITY

Mr. President, all of us wish for the best in the Philippines. We want to see that country return to its stable, prosperous, and democratic tradition. It has been one of our best and most important allies. We want it to stay that way.

But we must be prudent. And prudence dictates that we explore all of our options and prepare for any eventuality.

That is the intent of my bill. I urge all of my colleagues to join me in supporting it, so that we can get on with the vital work of assuring our Nation's strategic posture in the Pacific for the days, and the decades, ahead.

Mr. President, I send the bill to the desk and ask unanimous consent that the text of the bill be printed and that the bill be appropriately referred.

I thank my distinguished chairman, Senator LUGAR.

The PRESIDING OFFICER. Without objection, the bill will be received, printed, and appropriately referred.

The bill follows:

S. 2078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby reaffirms the intention and determination of the United States to maintain close and cordial relations with the people and Government of the Republic of the Philippines and reaffirms the desire of the United States to maintain, under the Military Bases Agreement currently in effect with the Republic of the Philippines, the military facilities of the United States at Clark Air Force Base and Subic Bay Naval Base as long as safe and stable access to and use of such facilities can be guaranteed under the agreement.

SEC. 2. (a) For the purposes of sound contingency planning, the Secretary of Defense, in consultation with the Joint Chiefs of Staff and the heads of appropriate departments and agencies of the Government, shall conduct a comprehensive study and investigation to determine the feasibility and cost of relocating the military facilities of the United States located at Clark Air Force Base and Subic Bay Naval Base in the Republic of the Philippines to an alternative secure, stable site or sites in the Pacific region.

(b) The Secretary shall submit the results of such study and investigation to the Congress not later than June 30, 1986, together with such comments and recommendations for legislation as he determines appropriate.

Mr. COHEN. Mr. President, I rise in support of the important legislation introduced today by the distinguished majority leader. I concur with his comments regarding the important role played by the United States military facilities at Clark Air Base and Subic Naval Base in the Philippines and the need for us to examine the future of these facilities. The study requested by this legislation will serve to focus critical examination on the difficult issues that are involved in this matter.

I congratulate the majority leader for taking the initiative to ensure that this question is fully examined and that the Congress plays a role in determining how the United States should proceed. The events of the last month have demonstrated how urgent it is to come to grips with the difficult issues involved. I believe that this legislation can be an important element in doing so.

Mr. President, let me also comment on the efforts of the chairman of the Foreign Relations Committee. I believe that the strong leadership that has been displayed by Senator LUGAR over the last few weeks has been admirable and has been key to ensuring a sound and measured posture toward the Philippines. In my view, United States policy in the Philippines is far more likely to remain productive if the administration and the Congress can work together to develop a coherent approach. I think that the efforts of the Foreign Relations Committee chairman, together with the initiative of the majority leader, will significantly advance this objective.

In addition to the efforts of my two distinguished colleagues, I would note that the Armed Services Committee's Subcommittee on Sea Power and Force Projection, which I chair, has scheduled a series of hearings on this matter.

These hearings, currently scheduled for next month, will examine the need for the United States forward deployment posture and presence in that region of the world in order to defend the Philippines and help maintain peace and stability in the Pacific, Asia, and the Middle East.

The subcommittee will look at how our facilities at Clark and Subic and elsewhere in the Philippines help to fulfill that role and what the prospects are for continued access to these facilities. We will also examine the need to develop options for alternatives to these facilities and the cost and ramifications of developing, and possibly exercising, such options. Finally, in light of ongoing developments, we will examine planned upgrades to U.S. facilities in the Philippines to determine which upgrades would be prudent at this time and which are inadvisable.

Mr. President, when addressing these matters, it is essential to note that while our national interest in our facilities at Clark and Subic is important, it is far from being the only consideration in formulating U.S. policy toward the Philippines. The United States has made its views clear on this matter. Testifying before the Senate Foreign Relations Committee in October, Assistant Secretary Wolfowitz stated:

> Strategic access to the naval and air force facilities at Subic and Clark . . . are of crucial importance in maintaining our forward deployment posture in the Pacific and Indian Oceans and offsetting the expanded Soviet military presence in Asia. Alternatives to our present facilities exist but would be much more expensive and considerably less desirable and effective.
>
> As important as these facilities are, however, let us be clear that our policy toward the Philippines cannot be, and is not, hostage to our interest in the bases. There is no conflict between our interest in the bases and our interest in democratic reform. We are not afraid of democratic change. To the contrary, we believe that reform is essential to prevent a communist victory that would end, at one and the same time, both our hopes for democracy and our access to these important military facilities.

I find this an excellent summation of the situation we face. Our interest in the bases will be best served if this interest is not, and is perceived to not be, the principal driver of our policy toward the Philippines. I believe that there is strong support among Filipinos for continuing the U.S. presence in the Philippines. However, this support will be undermined if the people of the Philippines come to believe that we, out of a fear of losing access to the bases, are buttressing individuals or institutions whose legitimacy they do not accept.

One of the means by which we can avoid such an erroneous and possibly damaging perception of U.S. interests and intentions, or being caught dangerously unprepared by a precipitous turn of events, is to study and develop options for continuing our vital role in the region through the use of military facilities other than those in the Philippines. This does not suggest that we are preparing or planning to move our forces from Clark and Subic to other sites. Rather it reduces the leverage that might be attempted to be exerted over us through the issue of base access. By placing the base question in its proper perspective, it will free us to contemplate economic and political options from which we might otherwise shy away.

At the same time, it is important to dispel the notion that the exercising of any option to reduce our reliance on these facilities would be easy or without consequence. It would, among other things, cost many billions of dollars; probably produce a need to increase U.S. forces; possibly create difficult political issues with some nations in the region; and, even with all these costs, result in a likely diminution in U.S. military capabilities. While this prospect is not pleasant, it would be irresponsible and dangerous to not develop options for alternatives to these facilities.

The legislation that Senator DOLE has introduced today and the efforts of Senator LUGAR's committee and the Sea Power Subcommittee can play a complementary role in furthering the discussion of these critical issues and forming a consensus on how best to proceed. It is important that there be public consideration of the actions to develop basing options already undertaken by the administration and how they might be furthered, the many costs involved in the development and potential exercise of such options, and the larger context of United States-Philippine relations in which these matters must be addressed.

In summary, Mr President, the present situation poses significant risks but also offers some new opportunities. Actions and statements coming out of the United States in the coming weeks are likely to attract unusually significant attention among our friends in the Philippines and elsewhere, and so it is particularly important that we proceed with care. At the same time, we must not hesitate to speak out on behalf of those objectives for which we have worked in the Philippines, including the advancement of democracy in the face of authoritarian and Communist threats, economic and military reform, and peace and stability in a region facing a growing Soviet presence.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield approximately 2 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, even as the U.S. Senate debates this resolution, prospects for peaceful change in the Philippines are rapidly waning. Ferdinand Marcos seems poised to reimpose martial law under the pretext of preventing violence. Once that happens, the bright beacon of democracy, for which the Philippine people have already sacrificed their lives, will be extinguished. And the aspirations of a brave nation for free and fair elections, democratic revolution through the ballot box, a market economy, political stability and modest prosperity will have been crushed.

The shame of it, the overwhelming and inexplicable shame of it, is that the United States of America is effectively paralyzed. Platitudes are not enough. We must demonstrate our solidarity with the Philippine people and our support for the democratic process now, or be mere spectators on the wrong side of history.

How will we explain to future generations why we hesitated to champion the cause of Philippine democracy? After all, Filipinos inherited their yearning for democracy from America. We were their mentors. And it was United States' pressure that finally pushed a reluctant Marcos into holding this election. We watched aghast as he and his cronies stole the election from the people. And now, as the Philippines teeters on the brink of martial law, we must not became accomplices in a perversion of democracy and therefore of our own finest values.

It is not enough to declare the election fraudulent. The time for that was a week ago when the corruption was first known. Instead, President Reagan obfuscated the truth. When the going got tough, Mr. Reagan equivocated, trying to buy more time. This emboldened Marcos to defy the express will of the people and to hold democracy in high contempt. This resolution, although better than nothing, is not enough.

For Filipinos are refusing to be silenced and Americans must heed their voice. Once again the Philippine people are risking their lives. This time not for the right to vote but to have their political mandate made law. How is Marcos reacting to this peaceful and legitimate civil protest? By threatening them with the full force of martial law and demonstrating once and for all, that democracy for him is merely a word—not a deed.

There should be no mistake about who stands to gain most from this travesty. Not Marcos. No matter what he does, his time is almost up. Not the people. Civil disobedience is rarely a match for soldiers with orders to shoot. Did not the world just relearn that lesson in Poland? No, the real winners are the Communists, the New People's Army. For they will take advantage of the economic and political chaos that will be Marcos' legacy. They will exploit the demoralization and disillusion that Marcos' betrayal will induce. And yes, let us face it, our betrayal too, unless we do a lot more soon, than is contemplated in this resolution.

What must we do? We must pass legislation to terminate economic support for the Marcos regime while continuing food and humanitarian aid through private relief agencies and the Catholic Church.

We must:

Suspend the allotment of sugar import quotas to the Philippines.

Disqualify the Philippines from preferential trade treatment accorded by the General Schedule of Preferences [GSP].

Direct the U.S. bank regulatory agencies through the Inter-agency Country Exposure Risk Committee, to classify new commercial bank loans to the Philippines as "value-impaired" or otherwise to raise reserve requirements against new Philippine loans.

Direct the Overseas Private Investment Corporation to refrain from further programs in the Philippines.

Instruct U.S. representatives to multilateral lending and financial institutions, including the World Bank, the Asian Development Bank and the International Monetary Fund, to vote against the imposition of all new lending to the Philippines.

Such legislation should remain in effect until the President certifies to Congress that a government that represents the express will of the Philippine people has replaced the Marcos regime.

For the moment, the legislation should preserve the option of uninterrupted assistance to the Philippine Armed Forces so long as they protect the civil protesters and resist the imposition of martial law. But should the military betray the people by becoming the instrument of dictatorship, that assistance should also terminate.

Mr. President, we hear a lot of concern about the American bases. I share

that concern. (Those bases are an important element of United States power projection in Asia and the Pacific.) But the best, perhaps the only, way to protect them over the long haul is to manifest our unflinching support for democracy. If we renege on our pledge to the democratic process, we will lose those bases to the Communists.

Too often, the central dilemma of American foreign policy is that our moral and our security interests diverge. Here is one place where they coincide. We can further our security interests by heeding the moral imperative to support the Philippine people.

And in the final analysis, we must heed that moral imperative for our own sake. We cannot turn our backs on this struggle for democracy without betraying our own heritage, our own most cherished values, and our stature in the world. The time for fence-sitting is past. The time has come to act.

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, the government and the people of the Philippines are being tested as we speak, but so is the Government of the United States. There are those of us who in our personal lives claim to hold values and principles. Quite often those values and principles are never tested or rarely tested in our everyday lives. But nations, like people, occasionally face the circumstance in which their values and their principles are tested. The values and the principles of the United States as a democracy, and as the world's leading democracy, are being tested by the occasion of the Philippine elections.

Mr. President, the Senator from Massachusetts has eloquently laid out a bill of particulars, a bill of indictment of the present Government of the Philippines. It is long and it is devastating. For too long this country and its Government under various administrations have winked, have temporized, and have practiced expediency for those violations for human and civil rights and democratic values which have occurred in our sister nation. We have been a camel upon which load upon load of undemocratic practices have been laid. Finally has come this election which, not as a straw but as a ton of bricks, has broken the back of the camel of the U.S. Government.

Mr. President, democracy survives in this world because of the miraculous flexibility of its form. Democracy will prevail around the world because its principles will not be denied.

Mr. President, this resolution is not a test of what kind of government the Philippine people will have. We know what kind of government they will have. They have spoken. It really is a test how strongly we feel about our own values and our own principles.

I hope by a solid, overwhelming vote by both parties of the U.S. Senate that we will send a signal not only to the freedom loving democratic people of the Philippines, but to all the people of the world that the U.S. Government, its Senate, and its people stand solidly behind the values and the principles we claim to hold for ourselves, and intend with ever-greater vigor as days go by to apply to our conduct around the world.

I hope, Mr. President, that this is the test of the world's leading democracy, and that this is the test and the lesson that we will learn from the tragic experience in the recent days in the Philippines.

Mr. President, through our action today and in the coming weeks we can dispel any illusions Mr. Marcos may have that the United States will support him in the dangerous course he is apparently bent on pursuing. We will also be showing the Philippine people, who have trusted in America's fairness and democratic sentiments, that we will not be a party to their government's corruption.

Mr. President, it is not news to anyone that the Philippines is in a state of escalating crisis. There is at this point no government with legitimate claims on the allegiance of the Philippine people. The clear evidence of fraud, delay, and intimidation in the recent election has destroyed hopes around the world that the democratic process would be allowed to go forward. Gone are hopes that free elections would restore stability and credibilty to the Government of the Philippines. Now thousands of Filipinos, especially young people, face a critical choice about how they will respond to the wholesale disenfranchisement they have just experienced.

We must stand up for the moderate and democratic forces that have demonstrated their broad base of support among the Philippine people. We must do so not only because of our principles but also because democracy is the only mechanism that can peacefully solve the country's economic and political problems. If democratic means fail to produce change, as we have seen elsewhere, violent change and radical control will be the likely outcome.

The United States has a critical role to play. We can no more sanction the corruption we have just witnessed than we can abandon our critical interest in the future of the Philippines. This is not a time for indecision, apologies, or hindsight. It is a time for us to stand up for our ideals, to stand in solidarity with all those who seek the basic freedoms which the manipulation of the Philippine election has so cynically denied.

Mr President, our strategic and political concerns in the Philippines do not conflict—they are mutually reinforcing. A strong, stable Philippines is of vital importance to our country because of that country's location, our historic ties, and the presence of important U.S. bases there. What threatens both our strategic and political goals in the Philippines is the performance of President Fedinand Marcos's regime—its corruption, discrediting of peaceful change, mishandling of the election, mistreatment of democratic forces, and incapacity to defeat the Communist guerrillas.

The United States and the Philippines have a unique historical relationship, one founded on United States-Philippine cooperation and democratic ideals. If the representative leaders of that country are ready to move forward, they can be certain the United States is prepared to move with them. We stand ready to provide the support and assistance necessary to resolve the present difficulties and restore the Philippines to its strong democratic traditions.

I thank the Senator from California.

Mr. PELL. Mr. President, I yield 7 minutes to the Senator from Montana.

Mr. MELCHER. Mr. President, there is indeed a special relationship between the Philippines and the United States. There is a tendency by us to meddle in their affairs, but we should be careful that U.S. interference is not damaging to them or to us.

After a week in the Philippines in December of 1983, which was a few months after the Aquino assassination, I publicly stated that the administration's policy was one of benign neglect toward the Philippines. That was our fault. On the other hand, at the same time I asked President Marcos to modify or repeal the extraordinary Presidential powers of amendment No. 6. He responded with the discourse on the Philippine Constitution.

I also asked Marcos to replace General Ver, to add independent members to the Commission on Elections, the COMELEC, and to accredit NAMFREL—the citizens election movement. On these points Marcos did not directly respond. Perhaps he felt I meddled too much.

But the points are of vital interest to the election process of the Filipino people. And in the case of General Ver as Philippine Armed Forces Chief of Staff, U.S. interests in Subic Bay and Clark Air Force bases and our mutual defense alliance are at stake.

In the days prior to the February 7 election, I made a friendly dinner bet with a staunch member of President Marcos' KBL party. His bet was for a Marcos-Tollentino victory; mine for Aquino-Laurel as the victors. He believed the KBL would carry Marcos, I anticipated a strong shift away from

Marcos augmented by the NAMFREL movement.

The NAMFREL operation is necessary to counterbalance the strength of the KBL party. Just as the KBL is staunchly for Marcos so, too, is NAMFREL staunchly for Aquino. That is understandable.

Before the campaign began, the State Department and the CIA decided that the ticket against Marcos should be Aquino at the top and Laurel second on the ticket, and, with NAMFREL and Cardinal Sin in the front of this ticket, the second largest party, Unido, accepted the decision and the campaign was underway.

With the State Department-NAMFREL-CIA planning, election day vote counting did not go as they had hoped.

They cite four broad areas of dissent:

First, vote buying, violence, and intimidation.

Second, disenfranchisement by deleting voters from the voting lists.

Third, fraud in tabulation of the precinct voting results.

Fourth, improper canvassing of the results by the Batasan Pambansa, the parliament which is heavily dominated by the KBL.

The vote count by that canvass result was Marcos 10½ million, Aquino 9 million votes.

This Senate resolution before us today infers, if it does not assert, that Aquino had more votes than Marcos.

It is an action in haste and one which I shall vote against.

There has been no time to collect evidence of the four serious charges.

There has been not one precinct voting list presented to us to show the posted list prior to the election and the list of election day with names deleted. Before we determine the vote count in the Philippines, we should evaluate the evidence. And should we not know the effect on the outcome? Likewise, the tabulation results are now available and can be compared between those tabulations in the Batasan used and NAMFREL's tabulations. Yet we have not had a chance to review them. Without that how would we know the cumulative vote totals to give Marcos fewer votes or Aquino more votes and would the cumulative changes amount to the 1½ million vote majority the official canvass credited to Marcos?

I have no doubt that the delegation from Congress to witness the election observed irregular, illegal election practices, violence, intimidation, and vote buying.

While it is understandable that our observers were principally with the State Department and NAMFREL, both of which groups were ostensibly for Aquino, have we convinced ourselves that the pro-Aquino voters, party workers, poll workers and NAMFREL and its backers were innocent of election abuses?

What is the cumulative effect in the total vote count? Some may conclude that that would be difficult to determine. But is the Senate's haste to act so urgent that we are not to evaluate the relevant facts as to the vote count before we condemn the result?

My friendship and respect for the Filipino people cautions me against determining their vote count based on allegations without facts. These facts are not before us at this time.

To name the victor of their election is not within the Senate's prerogative and, if it were, we have no basis in fact to make the determination.

For that reason, I shall vote against this resolution.

I shall remain a friend to the Filipino people. I shall continue to seek their consultation, and seek to further our friendship, and enhance our alliance in cultural exchange, in trade, and in mutual defense. I value their kindness, loyalty, and friendly humor. I respect their pride, their sense of family, the high value they place on every girl and boy pursuing education into adulthood, and I recognize and applaud their zeal for democracy.

We can help them and we should. It is a special relationship between the United States and the Philippines. But to dispute their election outcome on allegations unproven and on random observations predominantly from the Aquino viewpoint, is not wise at this time.

Mr. President, I yield the floor.

Mr. ROCKEFELLER. Mr. President, I am pleased to be a cosponsor of this resolution because I am deeply concerned about the recent elections in the Philippines and what they portend for the future course of political events in the Philippines.

It is clear to the Philippine people and to the American people that Mrs. Aquino was the legitimate victor in the recent elections. Widespread fraud and intimidation by President Marcos and his political cronies effectively stole the election from Mrs. Aquino. The United States has a moral obligation to support democracy in that country—and to speak out when it is being grossly violated.

There will be those who suggest that we should continue to support Marcos—regardless of the fraudulent election—because he is our best bet against Communist insurgency in the Philippines and growing Soviet military presence in the Pacific region. The widespread and courageous participation of the Philippine people in the recent election suggests to me that the choice is not between Marcos and communism—but that a genuine desire for national reconciliation which avoids the extremes of the left and the right is very much alive in the Philippines today. This may not be the case for long.

Our country now has an enormous reservoir of good will among the Philippine people. If we do not speak out clearly and authoritatively to condemn the recent Philippine elections, we will inevitably lose the respect and good will that we enjoy there. And if the Philippine people view the United States as propping up a corrupt dictator, we will almost certainly be contributing to the polarization and violence in that country. This in turn would jeopardize our security interests there.

The growing Soviet air and naval presence in the Pacific theater—including their access to Cam Ranh Bay in Vietnam—requires our continued forward deployment in the Pacific if we are to deter political and military adventurism by the Kremlin. The continued maintenance of our two largest military bases in the Pacific theater—Clark Field and Subic Bay—would clearly be threatened if the Philippines deteriorates into escalating violence and civil strife.

For these reasons, I think it is vitally important that the President of the United States make a clear and public statement to Marcos condemning the illegitimate elections which took place on February 7. To remain silent in these circumstances would be to acquiesce in the gross abuse of power which Marcos has weilded in rigging the Philippine national elections.

Overwhelming support in the Senate for this resolution will constitute a very loud message to the Philippine people that the United States stands with them in their struggle for democratic freedom—and against autocratic repression.

Mr. THURMOND. Mr. President, I have now had the opportunity to review Senate Resolution 345 which was introduced yesterday and comes before the Senate today for approval.

Senator LUGAR and those Members of Congress who accompanied him to observe the recent Philippine elections should be commended for their outstanding service to this country. There is no reason to doubt our colleagues when they report that this election was plagued with fraud. Furthermore, I agree with the provisions of this resolution which states that our national interests are served by having a democratic Philippine Government. Nevertheless, I believe that the passage of this resolution by the Senate, at the time, is inappropriate.

The President has dispatched Ambassador Habib to the Philippines to conduct a factfinding mission. The resolution acknowledges that Ambassador Habib will be reporting to the President on how our Nation "might assist the Philippines to return to a stable political situation based on

democratic principles." I am confident that the President will recommend appropriate action based on Ambassador Habib's mission as well as all other information available to him. Subsequent to that time, we will have sufficient opportunity to either reject or support the President's recommendations. According to our Constitution, this is the appropriate procedure in matters concerning Foreign relations. We should give our President an opportunity to review all the facts. We should avoid making improvident decisions. We should allow the executive branch of our Government to fulfill its traditional role in foreign policy before we vote on this resolution.

Although I repeat that the passage of this type of resolution may be appropriate in the future—I do not believe it is appropriate today. Accordingly, I will vote against this resolution.

Mr. D'AMATO. Mr. President, I rise today in support of the majority leader's sense of the Senate resolution expressing our grave concern over reports of widespread fraud in the Philippine Presidential election of February 7. President Marcos' victory, which was tainted by violence and subterfuge, is widely discredited. It is vitally important that the Senate show our distress and displeasure over the way this supposedly free and democratic election process was tampered with. The election has caused more problems than it was intended to solve.

The United States relationship with the Philippines is long and friendly. It is one of our truest allies in the entire Pacific basin. We are, and must continue to be, committed to honor our treaties and agreements with the Philippines. Although I am concerned about the fraudulent election, we should not withdraw from our bases and we should not cut off all aid. Indeed, our aid to the Philippines is tied directly to our agreement for use of Subic Bay Naval Base and Clark Air Base.

Thus, balancing our policy toward the Philippines is difficult; we must show our commitment to the Filipinos and to democracy by demonstrating our extreme concern and displeasure with the tainted electoral victory of President Marcos, yet, at the same time, we must show our commitment to strategic military installations which help provide for the security needs of the Pacific basin region. I am worried that the situation in the Philippines will deteriorate significantly. If this does happen, it is my sincere hope that President Marcos will see the wisdom of stepping down before his country's political unrest evolves into something far more serious.

This bipartisan Senate resolution serves an important function by registering U.S. displeasure over the election results. We must impress upon Marcos that increasing repressive measures to quell domestic unrest now would only be counterproductive. The situation has a disturbingly good chance of degenerating into chaos. Under such circumstances, the United States should clearly express its views that President Marcos is providing an absolute disservice to the Philippine people and to that nation's relations with the United States by remaining in office.

Unfortunately, it will be the New People's Army that benefits most from the impending instability. Some Filipinos who are discouraged from peaceful, democratic means of changing the government will turn to other, more violent, means of political action. I expect the situtation in the Philippines to get worse before it gets better.

I sincerely hope, however, that the U.S. Special Envoy, Philip Habib, will be successful in his mission. In the meantime, Congress must voice its disapproval of the widespread fraud of the February 7 election and let the Philippines Government know that we will be looking closely at the aid we provide them for fiscal year 1987.

I urge my colleagues to join me as cosponsors of this important resolution, and I urge its quick passage.

Mr. DODD. Mr. President, I rise in support of the pending resolution, which is designed for one purpose and one purpose only. It is designed to let Mr. Marcos know that we know what he knows—that he retains the position of President of the Philippines in name only; that he retains it against the will of the Filipino people; and that he retains it as a result of massive electoral fraud and the expressed willingness to use force and violence against all political opponents.

While Marcos stays in the Presidential Palace, at least for the moment, we have a responsibility to let him know that he does so with neither our approval nor our blessing. Quite the contrary—as this resolution makes abundantly clear.

It could not be otherwise, Mr. President. The U.S. Senate could not meet its responsibilities in the foreign policy arena and remain silent about the Philippine elections. So we are sending Marcos and his cronies a message, a strong message as they say, to make it unmistakably clear that he does not have our confidence or support.

And at the same time, we are sending another message, one which is equally clear, to the people of the Philippines—the voters, the workers, the peasants, the students, the church people—to all of those in the democratic opposition who are struggling to make democracy work. They have our confidence and support; they have our approval and our blessing. Thanks to them the democratic spirit in the Philippines is alive and well.

The task before us, Mr. President, is to do all we can to evidence our determination to keep faith with the Filipino people in their quest for democracy. The resolution before us is an important step in that direction. It puts Marcos and company on notice that the Senate of the United States rejects the election results and is prepared to take additional action to uphold democratic processes and procedures in the Philippines.

I should hope that such additional action would not be necessary. But let me make it clear for the RECORD that I, for one, am prepared to exert whatever pressure is necessary to ensure an honest election result. If it requires a freezing of Marcos' assets in the United States, I am prepared to support such a step. If it requires a termination of our economic and military aid programs, I am prepared to support such a step. Or if it requires moving our military bases at Clark and Subic, I am prepared to support that step as well.

I am prepared to take these steps, Mr. President, because of the commitment we have made to the Filipino people. The importance of that commitment outweighs all others, for if we can't be true to them we can't be true to ourselves. That is what this resolution is all about. I hope it will receive the unanimous endorsement of this body.

Mr. BOREN. Mr. President, in light of recent developments in the Philippines, we would do well to reflect upon an article written by our colleague, Senator PATRICK LEAHY, of Vermont, published in the Los Angeles Times on February 2. Senator LEAHY writes with the clarity and insight that those of us who serve with him have come to expect from him. He continues to make a thoughtful contribution to important policy debates.

I ask unanimous consent that the article be printed in full in the RECORD.

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

[From the Los Angeles Times, Feb. 2, 1986]

PREPARE TO PULL OUT OF PHILIPPINES

(By Patrick Leahy)

Each Administration since 1964 has been crippled by a major policy crisis that it could not overcome: Vietnam, Watergate, Iran. Now there is a looming foreign-policy disaster in the Pnilippines.

The United States has major interests at stake in the Philippines. It hosts the two largest U.S. overseas air and naval bases in the world, at Clark Field and Subic Bay. While defense experts differ on precisely how critical these facilities are, their loss would require billions of dollars to establish bases elsewhere. If Clark and Subic were to fall into Moscow's hands, almost overnight the Soviet Union would become the predominant military power in Southeast Asia.

More than security is at stake. The Philippines was this country's only true colony and the model for American democracy in Asia. A growing number of Filipinos live in the United States. There is a unique rela-

tionship between our two countries. Finally, the Philippines is a member of the Assn. of Southeast Asian Nations, a grouping of non-communist countries with the highest economic growth rate of any region in the world.

Much has been said and written about the recent deterioration of conditions in the Philippines—the venality and ineptitude of President Ferdinand E. Marcos' regime, Marcos' failing health, the rapidly growing communist insurgency and the growing toll in human misery. The Philippines' presidential election, scheduled for Friday, has received extensive attention in the press and in Washington.

But there has been a near silence on what U.S. policy should be after Feb. 7. The reason is obvious: No one knows what to do. Present U.S. policy is to keep our fingers crossed and hope for the best. The "best" would be a victory by the popular but unproven moderate opposition candidate, Corazon C. Aquino. A much more likely outcome is a Marcos "victory" through electoral fraud and intimidation on a grand scale. This will mean a further, perhaps fatal, rupture of the fabric of Philippine politics as moderates give up on democracy and the poor and the angry throw in their lot with the communist insurgents.

If Marcos stays in power, what should the United States do?

We have, I believe, two broad choices. We can stick with the Administration's policy of formal economic, political and military support for the regime while exerting public and private pressures for serious reform. Unfortunately, despite the efforts of the Administration and Congress, this policy of pressure has yet to work. It has failed because Marcos rightly views reforms as the death knell for his regime, and has refused to make them.

Heavy U.S. pressure for reforms involves an overt interference in domestic affairs of another nation, which usually generates a hostile nationalistic reaction. The American track record in trying to exert influence of this kind does not inspire confidence—particularly if the target is a master politician like Marcos.

Meanwhile, the insurgency grows, and the Administration has proposed increased assistance to the Philippine armed forces. The logical outcome of this course would be the introduction of U.S. troops as Manila's counterinsurgency effort sags. First, the Marines will come to protect the bases, and eventually the Army and Air Force will be conducting counterinsurgency operations throughout the country. We have been down that road before.

A second option involves systematic disengagement to reduce U.S. involvement in a no-win situation. This would require openly breaking with Marcos and cutting back U.S. aid, particularly in the military, which many Filipinos associate with human-rights abuses. Economic aid could be redirected, where possible, through international agencies such as the Asian Development Bank, thereby minimizing opportunities for misuse by the regime.

We would maintain a diplomatic presence to keep whatever ties we can with the non-communist opposition to Marcos and remain as knowledgeable as possible. We would proceed with alternatives to Clark and Subic. The objective would be to reduce U.S. exposure if the insurgency triumphs.

If, contrary to all expectations, Marcos embraces serious reforms, or if his regime is replaced by a non-communist leadership, the United States could reinstitute its economic and military assistance programs on a major scale.

This is not a very satisfying policy option, but it is the best available. It cannot promise success. But it accepts the hard truth that our capacity to shape events in other countries—even a former colony—is severely limited. It recognizes that America can help the regenerative forces in the Philippines, but it cannot create or replace them.

The Roman Catholic church, a cadre of professional and reform-minded military officers, a sophisticated middle class and a literate citizenry devoted to democratic values and friendship with the United States do offer hope and a real basis for a non-communist future in the Philippines. But these are wasting assets. In the absence of a government in Manila seriously committed to reforms, they will mean little more than an opportunity lost.

Mr. BOREN. Mr. President, this regulation is a step in the right direction. It makes it clear that the recent election in the Philippines was flawed by fraud. The Marcos government was clearly responsible in large part for the irregularities, according to all impartial observers. The longer President Marcos attempts to stay in power without a legitimate mandate from the people, the more the Communists and those who oppose democratic government will be strengthened. We can only hope that Mr. Marcos will realize that he can best serve his country by voluntarily stepping aside and making way for an orderly transition of power to those who have the support of the people. This is not only in the best interest of the people of the Philippines, it is also the action that is most likely to preserve American bases there, which are vital to our own national security.

Mr. CRANSTON. Mr. President, I support the Philippine resolution.

It is my conviction that our national interests—and those of the Philippine people, will not be well-served until Ferdinand Marcos leaves power and leaves the Philippines.

His staying on illegitimately by fraud and force can only serve to promote violence and the cause of communism.

So I say to Marcos as Churchill said to Chamberlain in the dark days that preceded World War II: "Go. Depart. Leave. There is no more that you can do except to serve evil ends. Go."

Mr. KERRY. Mr. President, the recent Presidential elections in the Philippines have brought American policy to a critical turning point. By blatantly stealing that election by a combination of violence, intimidation, and outright fraud, Ferdinand Marcos has made a mockery of the process of democratization that the United States has tried to support for the past year. The consequences of this electoral debacle for the future of the Philippines are obviously far reaching, and they force the United States to make dramatic changes in its policy toward that country.

Mr. President, this solution puts the Senate on record for the first time officially as clearly rejecting the results of those elections as fraudulent and therefore illegitimate. It is a necessary first step in the fundamental readjustment of U.S. policy that must begin immediately. I am happy to be a consponsor of the resolution.

Those of us who have been following the preparations for the Philippine elections certainly had forebodings of cheating by the Marcos administration in the weeks preceding the election. Last November a congressional resolution focused on the importance of an impartial Commission on Elections and the recognition of NAMFREL as COMELEC's citizens arm in monitoring the vote-counting nationwide. But President Marcos steadfastly refused to name new members to COMELEC who were recognized as independent and impartial. And even more ominous, his administration carried on a nationwide campaign to discredit NAMFREL as an opposition organization, which was obviously aimed at justifying steps to limit NAMFREL's access to some polling places.

So when I went to the Philippines to document what happened in the election, I fully expected a good deal of intimidation and cheating in the counting of the ballots. But I did not anticipate the degree of violence and fraud that the Marcos administration perpetrated in that election. It is now clear that there was not only cheating on a massive scale in those areas where the Marcos party exercized virtually unlimited control over the process; there was also massive disenfranchisment of voters in areas of opposition strength.

According to Jose Conception, the president of NAMFREL, whose integrity and honesty with regard to the election results are beyond reproach, an estimated 3.3 million people were deprived of the right to vote by various means. Even if that estimate is much too high, there can be no doubt that by this strategem alone, Marcos stole the election. The official tally announced by the National Assembly had Marcos winning 10,807,197 votes to 9,291,716 votes for Aquino. That is a margin of 1,515,481 votes, or less than half the number of voters deliberately disenfranchised by the Marcos administration.

What the Marcos administration did was to arbitrarily and systematically prevent people from voting in areas where they knew Cory Aquino's popular support was greatest. In the 10 cities where the voter turnout was lowest, 8 were won by Mrs. Aquino. The results in these cities were simply ludicrous. In the province of Ifugao, which Aquino won, only 22 percent of the registered voters cast ballots. But

in the 1984 election, despite a well-organized boycott effort, 93 percent of those registered to vote cast their ballots.

Mr. President, this disenfranchisement of millions of voters was only the beginning of the outrages perpetrated by the Marcos political-military machine. In Cory Aquino's hometown of Concepcion in Tarlac Province, armed men approached the schoolroom where the ballot boxes were kept and retreated only when they found Western reporters were present. They were then driven in jeeps with Marcos stickers on them to another barrio where they seized the ballot boxes by force. It was in that barrio that Marcos was credited with winning 184 votes to 0 and 183 votes to 0 in two precincts.

The most morally reprehensible aspect of this illegitimate exercise, Mr. President, has to be the brutal killing of people in the Aquino campaign either to terrorize campaign workers or simply to eliminate those who were a thorn in the side of Marcos administration. There were dozens of martyrs to the cause of democracy in this election, but the killing which best exemplifies the unmitigated evil of the Marcos regime was the gunning down of Evelio Javier 4 days after the election in Antique Province. In the May 1984 parliamentary elections, Javier had opposed Arturo Pacificador, who became Marcos' assistant majority floor leader in the assembly, and seven of his supporters had been shot on the eve of those elections. The governor of Antique Province, who is not allied with Marcos, has charged that the men who shot Javier were driving a vehicle belonging to Pacificador.

Mr. President, after this blatant exercise in fraud, terror, and murder, we can only conclude that Marcos and his regime will stop at nothing to remain in power, regardless of the consequences for the future of the country. This tragedy leaves the United States with no choice but to disengage itself politically from the Philippine Government. To continue to deal with him as though he were the legitimate Government of the Philippines would make a mockery of our own claims to stand for democratization in the Philippines.

What we should be trying to do right now, Mr. President is to give the maximum moral support possible to the movement for democracy led by Cory Aquino. She and her followers have now embarked on an effort to force Marcos out of power by a nonviolent campaign of resistance. If the U.S. does not make it clear that it supports that movement, Mr. President, it will lose whatever remaining moral standing it has in the Philippines. The loss of our credibility as a supporter of democracy in the Philippines would be far more serious, in my view, than the loss of our bases in the Philippines, as serious as that would be.

This is a time when we must beware of false pragmatism that asserts that we should focus narrowly on our strategic interests and support whatever government in the Philippines will agree to allow us to continue using those bases. Nothing could be clearer today than the bankruptcy of a policy that ignores the aspirations of the people of the Philippines in order to maintain our own strategic interests. Mr. President, if we continue to try to do business with the Marcos regime in the belief that we are serving our strategic interests, we will be insuring an even more ignominious defeat later on. Ferdinand Marcos can no longer govern the Philippines effectively. He has lost all credibility with the Filipino people, and it is now; widely recognized that every day he stays in power more and more Filipinos will be pushed into the arms of the New People's Army.

Mr. President, the idea that we can still somehow get Marcos to carry out the very reforms that he has so brazenly rejected in this election is a discredited idea. We cannot now go back to the policy which was tried unsuccessfully for the past year. We need a new policy appropriate to the new conditions in the Philippines—a policy which clearly divorces the United States from the Marcos dictatorship while continuing to show our concern for supporting popular institutions and development in the Philippines. We best stand for our own values and interests under the present circumstances by channeling our economic aid to institutions in the Philippines that are directly connected to the people and have no connection with the Marcos dictatorship. For that reason, I intend to introduce, along with Senator LUGAR, legislation that would create a Philippine American Foundation to further the aims of Philippine development without supporting the Marcos regime.

Military aid can no longer serve U.S. interests under the present circumstances. There is not a shred of realistic hope for reform of the military as long as Marcos remains in power. It is not a neutral political institution, but an extension of the Marcos dicatorship. Moreover, counterinsurgency as practiced by the present military leadership is not only an abject failure but serves the interests of the Communist insurgency it is supposed to help reduce.

Mr. President, I urge the adoption of this resolution as a clear signal to Ferdinand Marcos that the U.S. Senate will no longer consider him the legitimate President of the Philippines. This is the first step toward what I hope will be a reconstruction of United States policy toward the Philippines.

Mr. RIEGLE. Mr. President, I rise today as a cosponsor of Senate Resolution 345, expressing the conviction of this body that the recent Philippine election was severely damaged by Government-supported fraud, in clear violation of democratic principles.

Over the past few weeks, Americans have paid close attention to the proceedings of the Philippine Presidential election. Their anxiety at the disturbing reports of election corruption is shared by many of us in this body, as the overwhelming passage of this resolution demostrates.

A shared sense of history, coupled with our mutual belief in democratic principles have bound the American and Philippine people together. Our country has important political and strategic interests in the Philippines, whose democratic system of government is patterned closely after our own. As a result, Americans identify closely with the Philippines.

Because of these close ties, Americans want to support the Philippine people in their efforts to guarantee the survival of their own democratic system. Today, that system is threatened by a growing Communist insurgency, which may have been strengthened by the widespread fraud which marred this past election.

It is my hope that this resolution, which expresses the Senate's dismay over the actions of the Marcos government in the past election, will encourage the strengthening of the democratic processes in the Philippines. The Philippine people have clearly demonstrated that they care deeply about preserving the democratic framework and making the democratic process work. We must support them in that quest.

Mr. HELMS. Mr. President, in my opinion, the Senate is about to make a dangerous misstep if it approves the resolution condemning the Philippine elections. I do not condone fraud. No rational person does. But neither do I condone the enthronement of an unknown, untested regime without a free and fair election. Fraud, which evidently occurred on both sides in the Philippine election, does not automatically prove that one party or the other would have won if there had been no fraud.

The maxim applicable here is: Look before you leap. Because the Aquino machine may be an aggrieved party in the election doesn't mean that Mrs. Aquino is herself a leader who will show respect for human rights, freedom, or the American interest. We know what happened in Zimbabwe. We know what happened in Iran. We know what happened in Nicaragua. In every one of them a supposedly corrupt regime was replaced with a left-wing regime which proceeded to de-

stroy human rights and advance the cause of communism in the world.

Mr. President, if we are so concerned about free and fair elections, what about El Salvador, when the United States itself intervened to defeat the pro-U.S. candidate of the Arena Party, Roberto D'Aubuisson, and install a Socialist regime. Now that this regime has failed to control the Communist uprising, now that it has destroyed the vigorous two-party system in El Salvador, now that it has destroyed the economy of El Salvador by imposing more Socialist nostrums upon the people, we know—too late—what we have got. If we are going to set aside the Philippine elections because of fraud, why do we not set aside the Salvadoran elections where we know all the details of the fraud? After all the United States organized and promoted the fraud, using millions of the U.S. taxpayers' money.

And what about Mexico? Does not everyone recognize that the ruling PRI party in Mexico is a one-party dictatorship, whose corruption at least equals any dreams of avarice that may be present in the Philippines. Why do we not unseat President Miguel de la Madrid while we are at it?

The fact is, Mr. President, that the Philippines happens to be on the agenda of the Socialist world right now. It is on the agenda of the major news media in the United States. And it is clear that the aim is to establish yet another Socialist tyranny in the Philippines. We will regret this day.

Mr. President, I am deeply concerned that we in this Chamber do not have all of the facts before us on the present situation in the Philippines and the true nature of the radical opposition to the Marcos government.

I am also deeply concerned about actions taken in a climate of emotion here in Congress which could lead to a fatal destabilization of the situation in the Philippines. Frankly, I am dismayed by what amounts to an almost unprecedented intervention in the internal affairs of the Philippines by those in Washington who want to install Mrs. Aquino in power whatever the consequences. This same type of manipulation led to the establishment of a terrorist regime in Iran and a Communist regime in Nicaragua. Is that really what we want for the Philippines? An uncritical and emotional approach by Washington can lead to this even though many may believe that they are acting in a progressive and constructive manner.

Senators may recall that I took a negative view of CIA intervention in the El Salvador elections which helped place Duarte in power there. Reports reaching my office from Guatemala indicate that a similar CIA financed intervention may have taken place in the recent elections which brought Mr. Cerezo into power.

Mr. President, since World War II, the CIA has been pushing the line that the best way to stop communism is to install Socialist regimes. It is a fact that this was our policy in postwar Europe and it is a fact that this same line of thought and action has been applied to Latin America for decades. Of course, there is little careful analysis of the extent of Soviet penetration of the Socialist International organization in Europe and its satellite parties around the world. Facts about KGB manipulation of the Socialist International are conveniently swept under the rug.

Mr. President, I submit that this line of thought and action merely serves to place Kerensky-type regimes in power, an action which opens the door still further to eventual Communist takeovers. Of course, this provokes joy in Moscow. After all, Lenin developed the theory of the two-stage revolution. In the first phase, orthodox Communists would make tactical alliances with so-called moderate opposition groups in order to impose what the Communists refer to as the bourgeois democratic revolution. The second stage in Leninist theory is the real Communist revolution which occurs after the vanguard Communist elements consolidate power and purge their opposition. A textbook example of this is the fate of Nicaragua since the overthrow of the Somoza regime.

In the Philippine case, it appears that our policy is to work to displace Mr. Marcos and bring Mrs. Aquino and the so-called moderate opposition into power. The administration has a track record in Latin America over the last 5 years. No doubt, the State Department and the CIA have been persuasive in pushing their pro-Socialist line of thought and action in the White House and National Security Council. This is unfortunate because it will not be long before we reap the whirlwind in Latin America. The Kerenskys will fall and communism and its attendant terrorism will loom increasingly over the Latin American world. This process, it appears, is being set into motion in the Philippines.

Mr. President, I well remember how my friend Bishop Muzorewa fared after he won an election in what was then Rhodesia. Because he won, the international left and the State Department decided that the election was a fraud. So what happened? Another round of elections was forced down the throats of the Rhodesian people. We have seen the consequences of the bloody rule of the Marxist Robert Mugabe in Zimbabwe. Of course, the massive butchery of the Ndebele people in the western part of the country by Mugabe's Shona-based forces trained by the North Koreans has been swept under the rug.

In the case of the Philippines, it appears that rather than run through another election the State Department and the international left has decided it is easier just to force President Marcos to step aside. The fraud issue is just an excuse and cover for the operation.

As for fraud in elections in the developing world, I think that we can all agree that it is a way of life. I certainly do not condone this immoral and unethical behavior and I do not doubt that there was fraud in the Philippine elections on the part of both sides. How often have we confronted fraud in elections in Latin America or in Africa? If a left-of-center government wins an election there are no complaints. But if a right-of-center government wins that is another kettle of fish. I wonder whether or not this is the case before us today with respect to the Philippines. We have to deal with the world as it is.

I do not think that the American people want us to be continually meddling in the affairs of foreign nations any more than they want the bureaucrats in Washington meddling into their affairs back home. Are we to be continually entangled in the most intimate internal affairs of foreign governments? Are we to continue playing the "Sorcerer's Apprentice" around the globe? Let us reflect on the consequences of our activities in Iran and Nicaragua.

While I had my differences with the thoughts of our distinguished colleague Senator Fulbright, I cannot forget the phrase that he used in reference to American foreign policy. His phrase was, and I quote, "the arrogance of power." Irrespective of the meaning that our distinguished colleague may have given to this phrase, I believe it is a useful point of reference not only for the situation that we confront in the Philippines but also in other cases around the world. Who are we, after all, to impose our standards of conduct on the rest of the world?

When the issue is communism, the situation is entirely different, since communism is totally incompatible with freedom and justice. But when we are dealing with other regimes, we should recognize the sovereignty of other nations, and restrict our role to that of persuasion and leadership. Can we expect that developing countries will immediately have the standards that the developed nations have achieved after many long years of work? Can we insist that every nation evolve exactly in our pattern?

Is this even possible given the vast cultural differences between the peoples and nations of this Earth? Is this desirable? Does it contribute to an ethic of a peaceful world? I submit that nonintervention and toleration might be more appropriate than intervention and intolerance, particularly

when the nation involved is an ally and willing to work with us.

As for fraud in elections, I might ask are we squeaky clean here in the United States? If we look back into our history we have any number of examples of big city machines cranking out votes from nonexistant people or people who have been improperly registered and so forth. I doubt that anyone in this Chamber can deny that there has not been fraud in American elections over the last 200 years.

In terms of Presidential elections, I can remember the controversy over the 1960 elections in which it was demonstrable that President Kennedy gained office owing to some 10,000 votes cranked out by the Daley machine in Chicago. There was no phenomenon of the Government of the Philippines or other governments, asking that President Kennedy step down from office to make way for Richard Nixon. I think all Americans would have recoiled in revulsion and contempt for any foreign governments trying to meddle in our internal affairs over the 1960 situation.

Since the imposition of martial law in 1972, a highly effective coalition of Filipino expatriate intellectuals, sustained by funds provided by anti-Marcos emigres, and linked to leftist elements in the academic and journalistic worlds have produced and disseminated massive amounts of misinformation and disinformation that has negatively influenced public opinion in these United States with respect to the situation in the Philippines. Unfortunately, this activity has extended into the Halls of Congress and an unbalanced view of the actual dynamics of the situation in the Philippines has emerged.

Mr. President, while I cannot go into detail because I do not wish to disclose classified information, it can be stated that our Government has extensive information on the activities of elements of the Philippine opposition based here in the United States. It is a fact that certain elements based in California, for example, have been under investigation for illegal activities involving the laundering of funds and the illegal supply of weapons and explosives to radical elements in the Philippines.

I would also note that information exists about the contacts that Mr. Aquino personally made with radical Islamic forces during his travels in the Middle East. It is no secret that the Libyan Government and the Iranian Government have been supportive of the activities of radical Islamic guerilla groups in the Philippines.

The Communist-backed National Democratic Front organization in its "Ten Point Program" advocates, among other things, the repudiation of the Philippines' external debt obligations, the immediate abrogation of the United States-Philippines military bases agreement, and the immediate abrogation of the military assistance agreement and the Mutual Defense Pact with the United States.

The Communist National Democratic Front organization has established substantial and influential ties with almost every segment of the so-called moderate anti-Marcos opposition including labor, clerical, student, and urban poor organizations. The so-called moderate opposition elements have entered into tactical alliances with the Communists assuming that the Communists could constitute only a minority faction in any coalition government that would succeed the current Government.

Mr. President, where have we heard this scenario before? I am sure Senators will recall that this was the same thinking of the so-called moderate opposition to the Somoza regime in Nicaragua. As is clear today, the Communist revolutionaries swallowed the so-called moderates in Nicaragua and that is why we have spent about $100 million over the last 5 years trying to help the freedom fighters in Nicaragua. Of course, orthodox Marxist-Leninist strategy calls for just this sort of tactical alliance with moderates until a regime is overthrown. Then orthodox Communists seize power and purge the so-called moderates. For Communists, this is a good strategy. It works. For those who believe in real freedom, however, this strategy is devastating.

I would call Senators' attention to the fact that the brother of Benigno Aquino, Mr. "Butz' Aquino, who is a leader of the so-called moderates has stated that any future coalition government, and I quote, "must include the CPP [Communist Party of the Philippines] as a minority member." You cannot get much clearer than that. If the history of this century is any guide, we shall see the same process of the Communist vanguard swallowing the so-called moderates should an effective destablization of the current Government occur.

Mr. President, we should reflect on the composition of the opposition in the Philippines. Unfortunately, accurate information on the nature and structure of this opposition has not as yet been presented to Congress in a detailed fashion.

The major moderate anti-Marcos opposition organization is called UNIDO which stands for the United Nationalist Democratiac Organization. It is under the leadership of former Senator Salvador Laurel. In mid-1983, this moderate organization announced its official opposition to the American military presence in Subic Bay and Clark Field. Laurel stated at that time that he had changed his position on the bases from a willingness to respect the agreement until it expires in 1991 to insistence that the treaty be abrogated.

Many of the key leaders of UNIDO have made their positions equally clear. These leaders include Jose Dionko, Lorenzo Tanada, Raul Manglapus, Jovito Salonga, and Jaime Ongpin. They have all advocated an immediate abrogation of the United States-Philippines bases agreement.

Mr. President, in December 1984, the leaders of the so-called moderate opposition groups reaffirmed their decision to demand a removal of U.S. military presence in the Philippines. This position was embodied in a "Declaration of Unity" signed on December 26, 1984. The widow and the brother of Benigno Aquino signed this document. The document states that, and I quote, "foreign military bases on Philippine territory * * * be removed."

Mr. President, I submit that the so-called opposition in the Philippines is deeply penetrated by the Philippine Communist Party. I submit further that elements of the opposition, including the late Benigno Aquino, have working contacts with Middle Eastern regimes engaged in state sponsored terrorism. The central theme that the so-called moderate opposition has been pushing is anti-Americanism and the removal of our military presence in the Philippines.

It is obvious to anyone willing to examine the facts that the prime beneficiary of this type of thinking is the Soviet Union. This Senator need not remind his colleagues of the massive and growing Soviet naval presence in the Pacific basin. History shows that the main beneficiary of the fall of free Vietnam has been the Soviet Union.

Should the United States be forced out of our naval and air bases in the Philippines, our ability to defend the vital sealanes of communication and strategic air spaces in a critical area of the Pacific basin will be called into question. This will have not only psychological consequences but also very real practical consequences for the security of the free countries of Asia.

How would we replace these critical naval and air facilities and at what cost? Do we spread our fleet around to facilities in Taiwan or South Korea or Australia or New Zealand or Malaysia or Thailand? If we were to spread our fleet around in this manner, what are the strategic consequences? Do we construct major new facilities in Guam or Tinian? Or do we simply retreat back to Hawaii to Pearl Harbor?

Mr. President, should we retreat back to Pearl Harbor, we have then lost what cost us so much in blood and treasure to secure in the Pacific during World War II. Will we have to go through these same tremendous sacrifices again should a conflict break out in the future with a Soviet Union emboldened by our collapsing global posture? If World War II and the fall of free Vietnam are any strategic les-

sons, we shall see the eventual creation of a Soviet coprosperity sphere in the Pacific. We shall simply see the replacement of the aggressive and expansionist Japanese empire of days gone by with the ruthless Soviet empire that we confront today.

Mr. President, this resolution is a mistake, and I cannot support it.

Mr. BAUCUS. Mr. President, I am cosponsoring this resolution because it condemns the corrupt government of Ferdinand Marcos for making a sham of everything that "democracy" stands for.

The jury is in and the evidence is overwhelming: the elections held by President Marcos were a fraud, a sham.

President Marcos did not play by the rules. He bought votes and destroyed ballot boxes. He failed to give real democracy a chance.

President Marcos may have "won" the election, but not through a fair, democratic process.

As Americans, we pride ourselves in honesty and freedom. Those are the hallmarks of a democratic society.

The actions of Marcos in this election have made a mockery of the word "democracy."

For the good of democracy, for the good of the Philippine people, and for the good of the United States interests, I believe that President Marcos should step aside.

I urge President Reagan to take the appropriate steps to defend the principles of democracy in the Philippines.

The President should encourage a transition from the Marcos government, and cut off foreign aid, or put America's contributions to the Philippines in a trust fund, until either a fair election has been held, or President Marcos has stepped aside.

The present path of the Philippines is full of uncertainty. Corazon Aquino is taking a courageous stand in leading a campaign of nonviolent protests, but her skill in guiding a nation is untested.

Even so, the longer President Marcos stays in power, the more likely it is that the Communists will gain control of the Philippines and the greater the risk of civil unrest and a civil war.

For the sake of democracy and the principles that free peoples everywhere cherish, I urge President Reagan to communicate, with urgency, the need for President Marcos to step aside.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I yield 1½ minutes to Senator COCHRAN and 1½ minutes to Senator MATTINGLY, which will exhaust our remaining time of 3 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I appreciate the distinguished chairman yielding to me at this time. I was honored to be a member of the President's delegation to observe the elections in the Philippines. I rise to commend the chairman of the Foreign Relations Committee and the senior Democratic member of that committee for working with the majority leader in crafting this resolution and bringing it to the floor of the Senate. It does reflect the sentiments that I think are appropriate for us to express at this time.

Mr. President, what has not been said in the debate, and what I have not heard, is the fact that there were thousands of people in the Philippines who worked very hard and conscientiously to make this election a fair and accurate reflection of the will of the people of the Philippines. It is they who have been betrayed in large measure by those who have manipulated the results to serve their own selfish political interests.

I am delighted to be a cosponsor of the resolution and I urge the Senate to adopt it.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MATTINGLY. Mr. President, I intend to support the resolution. I hope all of my colleagues do so as well. The resolution accurately conveys the Senate's collective frustration and disappointment—indeed, its sorrow—at the fraud and violence that marred the recent presidential election in the Philippines.

As noted in the resolution, President Reagan has sent Ambassador Philip Habib to the Philippines on a fact-finding mission and his report to the President will no doubt be of significant value as the future course of United States-Philippine relations is charted.

These are difficult times for the people of the Philippines and it is entirely appropriate for our Nation, both for moral and strategic reasons, to do all we can to encourage the rule of law in that nation.

I am hopeful that the current crisis can be resolved and that democracy and stability will return to that land. The interests of the United States will be served in that case. However, we cannot ignore the fact that future events may require alternate locations for the critically important U.S. military installations located in the Philippines. It is for that reason that the Military Construction Subcommittee of the Committee on Appropriations proposed that the Department of Defense last October to begin preparation of an analysis of the costs involved in relocating the military facilities now in place at Clark Air Force Base and Subic Bay Naval Base in the Philippines. The full committee endorsed that recommendation.

As chairman of that subcommittee, it was my belief that such a report would be useful to the Congress as it weighed policy and budget issues this year in relation to the Philippines. That report is due to be submitted to the Congress not later than March 1 of this year.

It is my sincere hope that we will never need to execute such contingency plans, Mr. President, but a rational caution demands that we recognize the possibility that we may have to. However, I prefer to believe, and hope and pray, that the efforts of the American people and our Government working with the forces of democracy in the Philippines, will result in the will of the Philippine people being reflected in a government established through free and fair elections.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. PELL. Mr. President, I ask unanimous consent that the time for debate be extended for 20 minutes, to be equally divided.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. Objection!

The PRESIDING OFFICER. Objection is heard.

Mr. PELL. Mr. President, whatever time I have remaining I yield to the Senator from Michigan.

Mr. LEVIN. I thank the Senator.

Mr. President, President Reagan's comments after the election, equivocating on the question of Marcos' election fraud, deeply hurt the Filipinos.

A half million Filipinos volunteered at great peril to defend democracy as poll watchers, nuns physically embraced "sacred ballot boxes" against government instigated goons, and by all independent accounts people voted for a change in governments.

The United States preached democracy to the Filipinos when they were a U.S. possession. A democratic government was our legacy to them at the time of their independence. That is why they felt so terribly let down by the wishy-washy response to Marcos' attempted murder of democracy in the Philippines.

Now we must tell Marcos we support his people in their exercise of the precious rights we taught them.

Being associated with Marcos any longer will undermine more than our moral position—dealing with this doomed dictator threatens our important bases at Clark and Subic in the Philippines.

Those bases are most secure when the Filipino people believe in freedom and democracy and know that we believe in them too.

The Marcos government has no credibility or legitimacy, and President

Reagan should now urge Marcos to step down.

The stakes are high in the Philippines.

The Communists urged the Filipino people to boycott the elections. Now they are saying, "See, elections don't work—only violence works."

If we do not make our position clear, and if Marcos is brought down by a Communist-backed insurgency, instead of by democratic processes, then the Filipino people's faith in democracy and in the United States may go down with them.

Mr. BIDEN. Mr. President, will the Senator yield me 10 seconds?

Mr. PELL. If I have any time left, I am glad to yield it to the Senator from Delaware.

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

Mr. BIDEN. I ask unanimous consent to proceed for 10 seconds.

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

Mr. BIDEN. Mr. President, there is strong bipartisan consensus in the Congress that the recent elections in the Philippines were not free and fair. Widespread fraud, intimidation and violence were perpetrated by Ferdinand Marcos and his supporters. President Reagan's waffling statements have only served to reinforce Marcos and to anger and disillusion those in the Philippines who look to us to provide moral support for democratic institutions and principles.

We cannot afford to choose between our interests in the Philippines. We have important military installations there, and we have a commitment to the survival of democracy. The two are inseparable. The only way our strategic interests will be safeguarded is if there is a stable political situation in the Philippines, and one that is responsive to the needs of the Philippine people.

If we are totally identified with a corrupt, discredited regime that does not have the support of its people, we may be able to hold on to our bases in the short term but we will so alienate the people that we will lose them in the long run.

The ultimate test of any democracy is whether the incumbent, having lost a bid for reelection, yields to the verdict of the voters. President Marcos has failed that test, and we all stand to lose.

The messages we are sending are clear. The administration must resolve its conflicts over dealing with the disintegrating Marcos regime and must make evident our displeasure with the electoral process and its outcome. Marcos must recognize the genuine commitment of the United States to the survival of democracy in the Philippines.

Mr. MURKOWSKI. Mr. President, I support Senate Resolution 345, on the Philippine election. As a member of the U.S. observer group that witnessed the Feburary 7 balloting and the events that followed, I agree that the will of the Philippine people was not fairly reflected in the election results.

My experiences during the election lead me to the conclusion that the vast majority of the people of that economically and politically troubled nation avidly want democracy to work, and they want change. Yet, my experiences also force me to conclude that the desires of the people were not realized because the democratic process was not allowed to work.

During election day, my team of observers traveled extensively in metro Manila, watching voting activities in nine polling places, representing over 430 precincts. We saw thousands upon thousands of Filipinos standing in line to vote. We saw dedicated teachers manning the polls, together with representatives of the political parties, KBL and UNIDO, and the citizen watchdog group NAMFREL. All this activity was impressive, and suggested that the Filipinos were indeed taking this election seriously, and wanted to be heard.

During election day, our group learned of various irregularities at specific polling places, and we attempted to sort out the facts from the emotions that were running high. We did see some election violations by both political parties. For example, sample ballots were handed out too close to the voting areas in a number of precincts. We also heard that representatives of NAMFREL were not permitted to participate in a polling place. However, when we investigated this incident, we were told by all concerned that the problem was resolved satisfactorily.

All in all, our observer group did not see major examples of election fraud during election day. Nor were we naive in thinking that we would be exposed to obvious fraudulent activities.

In fact, Mr. President, I was truly impressed with the spirit of the people who were exercising their democratic rights to vote throughout the day of February 7.

However, my positive reaction changed dramatically during the evening of February 7 when the crucial counting process was supposed to have taken place. At various municipal centers, which were designated as the collection places for tally sheets and ballot boxes, confusion reigned. Polling officials—schoolteachers for the most part—were physically unable to present their tally sheets to municipal officials at such key areas as Quezon City and Makati. Counting that was supposed to have begun around the city at 6 o'clock in the evening, was delayed in some places, and stopped altogether in other places. In fact, 2 days after election day, counting at Makati had not begun at all.

My observer team went from the NAMFREL counting center to the Government's counting center, [COMELEC] throughout the evening of February 7 and the following day. It became obvious that the Government's election commission was not processing the tally sheets. In short, the vote was being held.

Mr. President, our suspicion that massive irregularity was taking place was reinforced Sunday evening, when 30 COMELEC data processing workers walked out of the COMELEC center, claiming that they were being asked to input fraudulent information.

When the Philippine National Assembly took over the counting of the ballots, it became even more obvious that the ruling party was going to give President Marcos his victory.

Mr. President, after observing the election in the Philippines, I cannot say that the will of the people was heard. The once high spirits of the voters will now likely be redirected to demonstrations against Mr. Marcos, and prospects for the peaceful application of democracy in the Philippines are dim indeed.

I urge the Senate to adopt the sense-of-the-Senate resolution.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HEFLIN (when his name was called). Present.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent because of illness in the family.

I also announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

I further announce that, if present and voting, the Senator from Ohio [Mr. GLENN] and the Senator from Nebraska [Mr. EXON] would each vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 9, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—85

Abdnor	Gore	Moynihan
Andrews	Gorton	Murkowski
Armstrong	Gramm	Nickles
Baucus	Grassley	Nunn
Bentsen	Harkin	Packwood
Biden	Hart	Pell
Bingaman	Hatch	Pressler
Boren	Hatfield	Proxmire
Boschwitz	Hawkins	Pryor
Bradley	Heinz	Quayle
Bumpers	Hollings	Riegle
Burdick	Humphrey	Rockefeller
Byrd	Johnston	Roth
Chafee	Kassebaum	Rudman
Chiles	Kasten	Sarbanes
Cochran	Kennedy	Sasser
Cohen	Kerry	Simon
Cranston	Lautenberg	Simpson
D'Amato	Laxalt	Specter
Danforth	Leahy	Stafford
DeConcini	Levin	Stennis
Dixon	Long	Stevens
Dodd	Lugar	Trible
Dole	Matsunaga	Warner
Domenici	Mattingly	Weicker
Eagleton	McClure	Wilson
Evans	McConnell	Zorinsky
Ford	Metzenbaum	
Garn	Mitchell	

NAYS—9

Denton	Hecht	Symms
East	Helms	Thurmond
Goldwater	Melcher	Wallop

ANSWERED "PRESENT"—1

Heflin

NOT VOTING—5

Durenberger	Glenn	Mathias
Exon	Inouye	

So the resolution (S. Res. 345) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 345

Whereas, the Presidential election held in the Philippines on February 7, 1986 was plagued by widespread fraud on all levels;

Whereas, international observer groups, including a United States official observer delegation, appointed by President Reagan, witnessed numerous instances of such fraud;

Whereas, President Reagan stated on February 15, 1986 that "the elections were marred by widespread fraud and violence perpetrated largely by the ruling party";

Whereas, the Catholic Bishops Conference of the Philippines judged the elections to be "unparalleled in the fraudulence of their conduct," including systematic disenfranchisement of voters, widespread and massive vote-buying, deliberate tampering with the election returns and intimidation, harassment, terrorism and murder of the citizens of the Philippines;

Whereas, the vote totals reported in the Philippines National Assembly were inconsistent with figures tallied by the citizen poll watching group NAMFREL; and

Whereas, the President has dispatched Ambassador Philip Habib on a fact-finding mission to help determine how best the United States might assist the Philippines to return to a stable political situation based on democratic principles; Now, therefore, be it

Resolved, That it is the sense of the Senate that:

SECTION 1. America's interests are best served in the Philippines by a government which has a popular mandate;

SEC. 2. The February 7, 1986, Presidential and Vice-Presidential elections in the Philippines were marked by such widespread fraud that they cannot be considered a fair reflection of the will of the people of the Philippines; and

SEC. 3. The Senate requests that the President of the United States personally convey this concern to President Ferdinand Marcos and Corazon Aquino of the Philippines;

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

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

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, the issue before the Senate today centers around the question: Why is the Philippines important to the United States? We can all condemn the fraud and violence which undermined confidence in election results. Many would argue depriving the Filipino people of their democratic right to freely elect a President is consistent with President Marcos governments' history of corruption.

But why are we so absorbed by the drama which has unfolded over the last several weeks? Why have the elections captured our national attention and conscience?

As politicians, we all recoil from accusations of fraudulent elections. We really understand the potential and significance of being cheated of a hard-won victory. But in this case, our concern is not for the politicians, but the Filipino people. The United States has enjoyed a long, rich, and warm association with the Filipino people. The ties are personal and strong. The American people share the Filipino commitment to democracy. We applaud the strong voter participation in the elections and the courageous efforts of many to protect the sanctity of the ballot. Although hundreds of thousands of people were disenfranchised by having their names dropped from the polls, turnout was exceptionally high with nearly 90 percent of eligible voters participating. Obviously, the spirit of democracy is healthy and alive in the Philippines.

Beyond our personal, historical ties, the United States has critical strategic interests at stake in the Philippine islands. Our naval and air bases provide an important anchor to U.S. and allied strategic security in the Pacific. There may be other options but, at present, they have not been fully explored and, more importantly, relocation will undoubtedly be expensive.

Our enduring friendship and critical strategic interests demand the U.S. protest the outcome of the recent elections. In spite of the turnout, the will of the Filipino people has been ignored. All independent estimates suggest, at best, fraud makes an accurate count impossible and, at worst, Mr. Marcos has falsely claimed victory. Whatever the case, it is clear Mr. Marcos no longer has the popular mandate imperative to continue to govern the Philippines.

Mr. Marcos demonstrated his commitment to the best interest of the people by calling for elections. He launched an important process of transition and change. It is now time for him to accept the consequences of that political process, to accept and embrace democracy for the good of 8 million people.

I was pleased to learn the President sent Phil Habib to the Philippines. He is a tough-minded, fair, capable, representative of U.S. concern. The bill we have just passed by a wide margin urges the President to add to this effort and bring the exceptional weight of his personal credibility to bear on the difficult decisions Mr. Marcos must make in the coming days.

DEATH OF FORMER SENATOR JAMES O. EASTLAND

Mr. STENNIS. Mr. President, I wish to speak at this time about my close friend and former colleague, the late Senator Eastland. I was detained on a personal matter this morning and did not get the news early about the passing of Senator Eastland, otherwise, I would have been here to announce that fact to our colleagues.

Senator Eastland and I sat right here on this floor, very near each other, for a long time, almost within touching distance, and we acted on a world of important matters. We disagreed on some, but we never had any trouble getting along; and that is worth a whole lot in this Senate, worth a whole lot to me. We understood each other.

Someone down home once said:

> They don't even have to ask each other about how they are going to vote or how they feel about a certain matter, because they can look at each other and tell how the other is going to respond.

You always knew where Jim Eastland stood, because he would say what he thought. Senator Eastland had many fine qualities that are highly valued in this institution and those qualities gave him great influence here.

I want to gratefully acknowledge my years of service with Senator Eastland. His wife is a very fine lady, indeed, and I extend sympathy to her and other members of the family. I am proud to have been associated with them.

IN MEMORY OF A DISTINGUISHED PUBLIC SERVANT: WILEY T. BUCHANAN, JR.

Mr. WARNER. Mr. President, the majority and the minority leader established the hour of 12 noon today for the vote on the Philippine resolution, and at that very time, in this Capital City of our Nation, funeral

services were being held for the late Wiley T. Buchanan, Jr., former U.S. Ambassador to Luxembourg and to Austria.

Mr. President, it is with a note of sadness today that I rise to pay tribute over the loss of one of the Nation's most distinguished public servants, Wiley Thomas Buchanan, Jr.

Mr. Buchanan served our Nation with great distinction in a number of important positions during his long and dedicated career of public service.

From 1955 to 1957, Mr. Buchanan was U.S. Ambassador to Luxembourg. From 1957 to 1961, he was our Nation's Chief of Protocol with the rank of Ambassador. And, in 1975, Mr. Buchanan served as our Ambassador to Austria and Australia.

During his career, Ambassador Buchanan was recognized by many nations for his distinguised service and received decorations from Belgium, Luxembourg, Denmark, Thailand, and France.

Ambassador Buchanan also held a number of important positions in the private sector and served on the board of directors of the National Savings & Trust Bank of Washington and the Mutual Broadcasting Corp.

Mr. Buchanan held degrees from Southern Methodist University, George Washington University, Alma College, and Dickinson College.

In 1940, he married Ruth Elizabeth Hale who was his full partner in public life and a devoted wife and mother throughout his life. His three children were richly endowed with his wisdom and dedication. They are among my closest friends.

In some ways, Mr. President, he had a second career—the Republican Party. He was a respected leader and regular advisor to Presidential and congressional candidates. Once elected to office they would readily seek the advice of Wiley Buchanan. I was privileged to be among those he inspired to seek public office and then helped.

It had been my strong desire to be with his family today at noon to pay my last respects. However, the vote on the Philippine resolution came at 12 noon and precluded my joining, a decision this former diplomat would have likewise followed.

Mr. President, the career of Ambassador Wiley Buchanan was exemplary and our Nation is indebted to him and his family for their unselfish, dedicated service.

INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The PRESIDING OFFICER. The clerk will report the pending treaty.

The assistant legislative clerk read as follows:

Executive O 81-1, International Convention on the Prevention and Punishment of the Crime of Genocide.

The Senate resumed the consideration of the treaty.

Pending:

Symms Amemdnent No. 1585 to Article II, to add political groups to those protected from genocide under the definitions of the treaty.

Mr. LUGAR. Mr. President, the situation on the pending business boils down to this: An amendment has been offered by the distinguished Senator from Idaho [Mr. SYMMS] so that debate proceeds on the Symms amendment.

I inquire of the distinguished Senator if he wishes to give additional argument in behalf of his amendment.

Mr. SYMMS. I will, but if the Senator wishes to be heard on the amendment, I will be happy to wait.

Mr. LUGAR. I know of no other speakers, and I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of my amendment: Senators HECHT, HUMPHREY, DENTON, THURMOND, EAST, and WALLOP.

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

Mr. SYMMS. Mr. President, I spoke to this issue yesterday; but for the benefit of some Senators who may not be completely aware of what I am trying to do here today, I wish to go over some of the highlights of my amendment.

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

Mr. SYMMS. I am happy to yield to the distinguished chairman of the committee.

Mr. LUGAR. I ask the Senator if he will entertain suggestions for a unanimous-consent request for various time frames in the debate this afternoon. I know that the Senator has not had an opportunity to consider it in detail, but I visited with the majority leader; and in the event that it struck some chord, I would be in a position to offer this unanimous-consent request.

I ask unanimous consent that at 3 p.m. today, the Senate proceed to vote in relation to the Symms amendment No. 1585, to article II, and that time on the amendment be equally divided in the usual form.

I ask unanimous consent that immediately following the disposition of the Symms amendment, the Senate proceed to advance the Genocide Treaty through its various parliamentary stages, up to and including the presentation of the resolution of ratification, and all committee-reported reservations, understandings, and declarations be considered agreed to.

Then I would ask unanimous consent that the vote occur on the resolution of ratification at 4:30 today, and that no further action take place on the resolution, other than debate; and finally, I would ask unanimous consent that after the vote on ratification the Senate resume legislative session, proceed to recognize the distinguished Senator from Idaho [Mr. SYMMS] to offer a resolution on behalf of himself and Senators DOLE, LUGAR, and perhaps others, expressing the sense of the Senate regarding the crime of genocide, with no amendments or motions to commit; and that a vote occur on the Symms resolution no later than 5:30 p.m. today, and no further action occur on the resolution other than debate.

Mr. SYMMS. Mr. President, is the Senator putting that in the form of a request now?

Mr. LUGAR. I would wish to do so in the event it had the consent of the distinguished Senator from Idaho and his approval.

Mr. SYMMS. At the present moment the Senator from Idaho is not prepared to accept that. I have to object to that now. I might not object to it later on in the afternoon.

I would say to my distinguished colleague and the distinguished chairman of the committee that I do not expect a long, extended debate on the current pending amendment, and if we bring this to a vote rather rapidly this afternoon, maybe I could discuss this with some other of my colleagues to determine what they would like to do. I have two or three other amendments that I may wish to offer. But, I do not believe they will take much time to dispose of. They will require record votes, but they would not require a great deal of debate as far as I would be concerned. They deal with genocide in Cambodia, genocide in the Ukraine, genocide in Afghanistan, and some related issues.

Once that is accomplished, if there is no further opposition to this treaty, then I see no reason why the Senator would need a time agreement.

I can only speak for this Senator, just coming back from a long recess. I do not know what my colleagues' attitude about it is. But I do know there was before Christmas a hold letter to the majority leader that had some 15 signatures of Senators, and I do not know what the disposition of all those Senators on the hold letter is.

But if the Senator could withhold it until after we dispose of this amendment, maybe we could then come to some agreement on it.

Mr. LUGAR. Very well.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I believe this amendment is an absolutely necessary prerequisite to the ratification of the Genocide Treaty.

As my colleagues know, I have opposed the U.S. participation in this convention for some time. I believe it is essential that we make some structural changes in this treaty. This is the purpose of my amendment.

My main objection would be removed by the adoption of this amendment which would simply add "political" groups to those protected from genocide under article II of the treaty.

If this simple change is made, I think much of the opposition to this treaty would disappear instantaneously.

Most of us, whether we oppose or support this treaty, know that its effect is primarily symbolic. Obviously, any nation so diseased as to be predisposed to commit genocide is not going to be prevented from doing so because of its lack of respect for international law. Those who commit genocide do so out of a desperation to hold power. They use genocide as a tool to eliminate political opposition to their rule. The base motivations of these tyrants are not going to be altered by our ratification of a treaty.

The ineffectiveness of this treaty has been demonstrated repeatedly since the treaty was first proposed and nations began to sign it. A quick glance at the list of signatories to the treaty reveals that it includes the leading practitioners of post World War II genocide. The signatories include: Albania, Bulgaria, Red China, Cuba, Czechoslovakia, Vietnam, and most cynically of all—the biggest butchers and murderers of all—the Soviet Union—have already signed this treaty.

It is obvious that our ratification of this treaty will not stop genocide in these nations. It is equally obvious that our purpose in ratifying this treaty is not to restrain ourselves from the temptation to commit genocide.

We don't commit genocide, and our society is structured to make it impossible that we ever will. We certainly do not need the Genocide Treaty as an addendum to our Constitution or civil law. Our intent, then, is to engage in symbolic opposition to this loathsome crime.

Proponents of United States ratification argue that we must ratify the treaty before we can criticize Cambodia, Vietnam, Red China, or the Soviet Union for the barbarity of their genocidal actions. This is nonsense. Our criticisms are strengthened by the fact that we have nothing to hide.

These nations have made a cynical hoax of this treaty and in so doing have contamined it, despite its admittedly noble intent. By ratifying the treaty as it is now worded we will be acquiescing in the crimes of these nations and the demeaning of intenational law.

Supporters of Senate ratification argue that the United States has lost respect in the world because of our failure to ratify this document. I disagree. The free nations of the world respect us for our actions, for the example which we provide by our concern for human life and liberty. On this issue, as in all foreign policy, actions speak louder than words. No one can convince me that despite their blatant and frequent genocidal acts, the Soviets enjoy more respect in the world than we, simply because they have signed the Genocide Treaty and we have not."

I mentioned yesterday the example of my good friend, the late-great Congressman Larry McDonald, who the Soviets murdered along with 268 other innocent people on an international civilian airline flight that drifted off course.

Murder by the government of political opponents is an everyday occurrence in that country. They killed 269 people on that day, and as George Will said in a column in the Washington Post shortly after that, they were still far below their average for the day.

An average of 500 people a day have been killed by the dictators in the Kremlin since 1917 in order for them to be able to stay in power. Yet they are so brazen that they have signed the Genocide Convention and come to the United States to say, "Look what we have done. We have signed it and you have not. The Soviets have tried to put us on the defense on this issue. And we have let them.

The United States of America should go on the offense with its foreign policy. One way of going on the offense is to amend this treaty so that "political" genocide is included in the list in article II.

We truly will deserve to lose respect in the world if we ratify a treaty which has not even addressed the central problem of genocide in today's world.

Article II of the Genocide Treaty is silent on "political" genocide. Here is what article II currently says:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

My amendment adds "political" right after the word "national." With my amendment, then, the treaty would read:

Genocide means any of the following acts committed with intent to destroy a national, political, ethnical, racial, or religious group, as such:

I know the arguments against this amendment. The State Department's argument is that if we do this, then we will have to renegotiate the treaty.

This is not true. We will simply send the treaty out with the message that the United States of America has ratified the Genocide Convention with one amendment.

The other 96 nations who have signed the treaty would have the opportunity to either ratify our amendment or reject it. For 36 years this treaty has languished here in the U.S. Senate. And if we adopt my amendment, then it can languish in the Soviet Union in the halls of the Kremlin for 36 more years, because the practitioners of political genocide in the Kremlin will surely look upon our amendment with a great deal of disdain. This would put us on the offense.

Again, we would truly deserve to lose respect in the world if we ratify a treaty that does not even address the central problem of genocide in today's world. This treaty would be fine if the only concern was Nazi Germany. But this is not the concern today. That was the concern in 1948 right after that terrible Holocaust which we all abhor.

The Genocide Convention was drawn to speak specifically to that tragedy. This treaty must be construed as a deterrent to today's genocide, not merely a condemnation of yesterday's.

If the treaty is to have any symbolic value, it must be a firm and clear statement against all genocide. I cannot for the life of me understand why those of us in the U.S. Senate would want to ratify a treaty that would define genocide as the murder of a national, ethnical, racial, or religious group but not a political group. To me it begs the imagination and it does not do justice and credit to the foreign policy of the United States. It does not make the United States look like a beacon of liberty and hope nor like the one place in the world where people recognize human rights and people's sovereignty to run their own system of government.

We are getting ready to ratify a treaty that turns our back on the genocides of Cambodia, Afghanistan, Mozambique, Ethiopia, and that committed against certain tribes in Angola where the Cubans and the Soviet troops, along with the Luanda government, are trying to annihilate members of certain tribes, including the tribe of Jonas Savimbi.

The genocidal nations of today do not wipe people out because of their national, ethnical, racial or religious affiliations, but because of their political views and activities. That is, at least, the claim they make when attention is called to their atrocities. "Don't meddle in our internal politics," they say, "that's a political question." Even if these claims are true, even if these nations only commit acts of genocide against political groups, can we engage in a treaty which contains such a gaping loophole? Can this Nation which holds the right of free speech and dissent in such esteem condone

another nation's genocide of political nonconformists?

I believe we cannot. I believe we cannot ratify a document which is silent on this crucial issue. We certainly cannot without my strongest opposition.

My amendment merely adds "political" to the list of protected groups which now includes national, ethnical, racial and religious. My amendment is an amendment to the treaty itself. And it is so for two very important reasons:

First, only by being integrated into the treaty itself will this amendment strengthen the symbolic statement we intend to make by ratifying this document. Its adoption will ensure that we are not a tacit partner in the alibi used by Communists and totalitarians to excuse their crimes against humanity. A definition of a crime which specifically excludes the most practiced form of that crime is more than slightly flawed—it is an indication to the criminal that there is no commitment to bring him to justice. As the great British author Oliver Goldsmith said, "Silence gives consent."

The adoption of this amendment will signal to the world that the United States does not consent to any form of genocide.

Second, only by becoming part of the treaty will this amendment place the nations guilty of genocide on the defensive. A great part of the motivation behind the recent Senate push for ratificaiton is the belief that the United States is at some moral disadvantage because it has not formalized its oppposition to genocide.

By ratifying a genocide treaty which includes a prohibition on "political genocide," we will force each of the 96 other signatory nations to adopt or reject our amended version. I am confident that the enormous bulk of them will adopt it, because most of these 96 are civilized nations and do not use genocide as a political tool. There will be some very notable exceptions, though, with the Soviet Union leading the pack. By refusing to ratify our simple amendment preventing political genocide, these nations will show their true colors. Those of my colleagues who do not enjoy it already will have the luxury of attacking this hypocrisy with an entirely clear conscience.

This amendment will put the United States on the propaganda offensive, while the Soviets will be forced to go on the defensive, unless or until they agree to our "political genocide" amendment. Civilized nations will be appalled at the unwillingness of the Soviet Union and its puppets to give up their right to slaughter people because of their political beliefs.

Thus, my amendment accomplishes the goals of the proponents of the treaty more effectively than the current treaty they so eagerly support.

I must say that I find it hard to believe that this body, the State Department and the most conservative and outspoken President of my lifetime are so reluctant to support this amendment.

How can so many prominent, responsible and intelligent U.S. citizens desire to ratify a treaty which lacks a protection Americans regard as a fundamental human right? I find this particularly distressing because that protection is so easily restored.

I have been encouraged to acquiesce in the passage of this treaty because so many of my colleagues support it. But I find no comfort—I said this yesterday and I will repeat it today—I find no comfort in being wrong en masse, especially when the blunder I am asked to overlook affects the law of our land.

It has been suggested that the Senate should pass this flawed document and then seek to have this amendment added through the United Nations. I appreciate the willingness of the distinguished majority leader and the distinguished chairman of the committee to offer that resolution. But I, personally, have problems with that approach.

First, this approach would have us ratify an unacceptable document in the hope that we could make it acceptable after ratification. That is a backward approach.

I would prefer to ratify a good treaty in the first place. One that speaks to human rights, and that addresses the prevalent form of genocide today.

This convention was negotiated in 1948, right after the United States had liberated Western Europe and Asia from totalitarianism of the right. We were at our peak power in the world. We were not as aware then as we are now of the goals and methods of the Soviet Union. At least that was the excuse we could give for the poor negotiating done in 1948 that allowed political genocide to be omitted from this treaty.

My other objection to the majority leader's suggestion is that this amendment would never get through the United Nations. Certainly the Soviets would veto or they would bully somebody else into vetoing it.

In conclusion, I would like to assure my colleagues who support this treaty that I sympathize with their motives and applaud their goals. I would like to see genocide forever removed from this planet. Unfortunately, it is not in the power of this body or this Nation to accomplish this most noble goal. The United Nations, because of all its necessary weaknesses, is similarly impotent to enforce such a ban. Thus, the only weapon left to us is our freedom, as individuals and as a nation, to speak out against these atrocities. Through the exercise of this freedom we can offer some hope to those who have no freedom. Symbolic acts are occasionally powerful. I have often supported legislation because of its symbolic value. But it is important to choose our symbols carefully, because they communicate to the world that our Nation stands for. The present form of the Genocide Treaty is a distorted statement of our values, because it does not protect the very right which allows us to speak out against injustice. If we are to be a party to this treaty we should make sure that it accurately addresses our concerns and fairly represents our ideals.

In my view, as it stands today, it does not. With the addition of this amendment, a very simple one-word amendment, this treaty could be a powerful statement of the principles of the United States of America, a statement which all Americans could be proud to make.

Without this amendment, I have to say with all due respect to my colleagues, this treaty should be relegated to the ash heap of history.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, in response to the distinguished Senator from Idaho who offers this amendment, let me say at the outset that he has cited correctly a large number of political violations of human rights perpetrated in many countries, with a special focus upon the Soviet Union and a legion of political violations.

The order with which the Senator from Idaho has presented that material, I believe, is commendable, and as a matter of fact, I suspect that there would be unanimous condemnation of the Soviet Union, and clearly unanimous condemnation of very specific and graphic examples of wholesale slaughter of persons in Cambodia and Afghanistan, as well as within the Soviet Union itself.

I make the point, Mr. President, and I think it is an obvious one. The debate today is not over our feelings of antipathy and horror with regard to politically motivated violations of human rights which have unfortunately historically been legion and in our own time have been associated very strongly with the Soviet Union and those countries allied with the Soviet Union.

Mr. President, the argument against the distinguished Senator's amendment is a simple one but it is an important one to understand. It is a method of procedure. It is a parliamentary argument. And I want to simply state it

as concisely and clearly as I can; that when the Senate requires that an amendment to the treaty be adopted, the President of the United States must gain the consent of all other parties, as the Senator from Idaho has correctly stated, with 96 others at this point, before he—that is the President—may ratify the treaty on behalf of the United States.

No amendment to the Genocide Treaty has been recommended by the Foreign Relations Committee for this obvious reason. As a matter of fact, approval by the Senate of this amendment or of any other amendment would be tantamount to rejection of the treaty, and of the convention, by the Senate. It is in effect not a debate about the political situation in the Soviet Union, Cambodia, Afghanistan or anywhere else. The amendment that the Senator from Idaho has offered is effectively a killer amendment. It is the same as a vote against the treaty.

The Senator has indicated that he may wish to oppose the treaty, and others have indicated that, too. There will come a time, hopefully, for that will to be expressed.

Mrs. KASSEBAUM assumed the chair.

Mr. LUGAR. Let me simply say so it is clear for all Senators that a vote for an amendment, any amendment, is a vote to kill the treaty simply because the assent of 96 other parties who have already ratified is required before our President can sign it. This is why we have offered, during the course of this debate, another course of action which I think is constructive.

The majority leader and I have indicated we would support the attempt of the distinguished Senator from Idaho to gain an amendment—as a matter of fact, the President of the United States has indicated that he would support this course of action after the United States becomes a party to the convention. In other words, as a party, 1 of 97, we would seek with the other parties to have a debate on politically motivated violations of this sort. It is worthy of consideration. If we proceed along a course of action that has been informally suggested, we will commit ourselves to do precisely that.

The points of the Senator from Idaho having been well-taken, our colleagues will have an opportunity to determine a course of action by our Government, and supported specifically by our President.

Madam President, in the meanwhile I would ask the Senate to reject the amendment offered by the distinguished Senator from Idaho, and reject other amendments that might be offered by himself or by other distinguished Senators because we ought to have a vote on the convention itself. We ought to consider whether this is the best thing for our country to do.

I will add a short argument. While I believe it is the best thing for our country to do, the Senator has pointed out that we could improve the Genocide Convention, and indeed we could. I have suggested we should—after we have become a party to it—enter into that argument with others. We should try to improve it. But, Madam President, even if the Genocide Treaty does not include the political situation which is present—although it might in due course, but even if it does not—it does include sentiments that many Members of this body feel are very important. That is the reason courageous persons have persisted with this convention for a long time.

Some have characterized their activities as symbolism. Others have been concerned, as I mentioned yesterday, that something more than symbolism was involved, that law was involved.

The Foreign Relations Committee has attempted to craft a solution to both of those problems. Let us not deny the power of the symbolism. It is important to persons who have been profoundly disturbed by the Holocaust and by other examples of genocide in our time.

I would simply tell you that throughout this country there are many persons who argue that symbolism alone is very important as an indicator of how the Senate of the United States feels about the Holocaust and about political genocide, which was unfortunately exemplified in the horrors of those activities.

So even if we were to deal just with the symbolism, in my judgment two-thirds of the Senate would vote to concur with the convention on that basis alone. Those who are worried about the legal implications I would hope have been reassured that the Constitution of the United States would have supremacy, that the world court would not have supremacy. There are colleagues who have expressed themselves eloquently, who believe that these thoughts are redundant. They have been willing in the course of this debate to say that the overall concept of the United States to ratify the treaty is the important issue, one we have tried to keep in front of us. Therefore, we have not been distracted, in my judgment. We have wisely offered safeguards for many points of view, but ultimately we cannot amend this treaty without killing it, given the nature of treaties, the nature of the parliamentary situation that we face.

Madam President, I would hope that Senators would consider this carefully but would vote against the amendment of the distinguished Senator from Idaho. I am hopeful that we might proceed to that vote soon. For the moment, however, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, I would like to endorse the views of the chairman of our committee. He has expressed the argument for the treaty lucidly, succinctly, and well. The point of overriding importance for all of us who value this treaty, whether it be for symbolic reasons or the other reasons, is that this amendment, if passed by the Senate, would be truly a killer amendment that would end further ratification of the effectiveness of this treaty.

I join in seeking this amendment to be defeated or it should be tabled.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Madam President, I rise in opposition to the amendment of my friend from Idaho.

I would like to point out to my colleagues that this amendment is a good deal different than the reservations that we have entered into on this treaty. We have entered into some reservations and understandings indeed at the suggestion of the Senator from Idaho and others that affect this country's relationship to the treaty but which do not affect the relationship of other countries to the treaty.

It is an important distinction to make, Madam President, the fact that an amendment to the treaty itself would indeed effectively void it, that all other 96 nations that have already signed onto it would have to accept this amendment. But reservations that have been entered into that define the relationship of the United States to the treaty are of a different nature and of a different sort.

Those who have read the report on the Genocide Convention issued by the Foreign Relations Committee note on page 16 this distinction is made:

> A reservation is usually defined as a unilateral statement made by a contracting party which purports to exclude or modify the terms of a treaty or the legal effect of certain provisions. Ordinarily, it affects only the party entering it. All that is required of the other parties to the treaty is that they acquiesce in it. Their own treaty obligations among themselves remain unaffected.

So there, Madam President, is the difference between a reservation and an amendment such as the Senator from Idaho now suggests.

The report continues:

> The practice of entering reservations to multilateral treaties is widespread. The Netherlands, for example, entered nine separate reservations to the International Convenant on Civil and Political Rights at the time of ratification. Portugal included eight reservations in the instrument of ratification of the European Convention on Human Rights. A number of signatories have en-

tered reservations to the Genocide Convention.

The procedures followed by other parties to a treaty in giving effect to reservations are also well established. A state that wishes to enter a reservation must see that it is circulated to all other parties. These states then have a year in which to act. Each has the option of accepting or objecting to the reservation. In the event a party accepts the reservation, either expressly or by allowing a year to pass without objecting, the reservation becomes binding upon the accepting state and the reserving state in all disputes between the two.

So I would carefully make the distinction between what my friend from the State of Idaho is now offering, an amendment to the treaty itself, and the reservations that have been agreed to by a large number of Senators here in order to make the Genocide Convention acceptable to what I believe will be the vast majority of Senators when the matter comes to a vote.

So, Madam President, this amendment is, as the chairman of the Foreign Relations Committee said, a killer amendment. We cannot allow it to be adopted. It must be rejected. The Genocide Convention that has been before this body for 38 years is now close to passage. It will be a memorable day in the history of the U.S. Senate when, indeed, this treaty is ratified.

Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. BOSCHWITZ. Madam President, I rise to speak in favor of the Genocide Convention and also in opposition to the amendment that is being proffered by the Senator from Idaho.

Madam President, before I begin, I wish to say that the fact that the treaty is before us today and has a good chance of passage, after 38 years of waiting in the wings, I think is a tribute to the very forceful leadership by the majority leader, Senator DOLE, and the cooperation of Senator BYRD, the minority leader. It is also an indication that the Foreign Relations Committee is being restored to the authority and luster that it once held in this body, and in this Nation, under the leadership of Senator DICK LUGAR of Indiana and also under the leadership of the ranking minority member, Senator CLAIBORNE PELL of Rhode Island, whose father was one of the outstanding heroes of a tale that I will tell and about whom I will speak at some length.

I might say that my friend from Rhode Island has the moral antenna and decency of few I have met in my life, and I am a great admirer of his.

I also wish to commend Senator PROXMIRE for his unflagging devotion to this issue in speaking to the Senate daily and for keeping the issue alive over a long period of years. Without him, the treaty would not have reached the floor today.

The Genocide Convention, Madam President, has particular significance and particular applicability to me. Though I am not sure that the treaty will do away with genocide—indeed, genocide continues to occur to this day and is perhaps proceeding at this moment in Ethiopia. It happened a few years ago in Kampuchea. It happened many years ago to the Armenians; it happened in the 1930's at the hand of Stalin to the Ukrainians. Then in the midst of 50 million other deaths, it fell upon the Jewish people to lose two out of five of their world population during the terrible period of the Second World War in the 1940's. This treaty, Madam President, has been a long time in coming to the U.S. Senate. And again, I am not sure that it will end genocide—people's inhumanities to other people, regretfully, continues—but an important step will have been taken.

Because, Madam President, who among us can say that had the Genocide Convention been passed in the 1930's as a response to the slaughter of the Armenians and then to the Ukrainians, that had the Genocide Convention been passed and ratified by the nations of the world, including the United States of America, who among us could say that the events of the 1930's and 1940's would not have been different? Perhaps thousands, hundreds of thousands, or even millions would have been saved. And I submit that none among us could say that had the Genocide Convention been passed, and had the press been aware of the desire of nations to oppose it, that the events of the 1940's would indeed not have been different.

Madam President, I said that the Genocide Convention has particular significance and applicability to me. In late January 1983, I made an appointment with President Reagan. I went to see him a few days later with my son to tell him that January 30, 1983, was the 50th anniversary of Hitler's becoming Reich Chancellor in Germany and that the Weimar Republic at that point died. Hindenburg, who was old and infirm, stepped down. And also on that day, on January 30, 1933, my father came home—and we lived in Berlin, Germany, at that time—and told my mother that we would leave Germany.

That was 53 years ago now. My father was at that time 55, the same age that I am today. He was at the height of his success. He was Handelsgerichsrat, a judge, a referee—an unusual position for a Jew in Germany to have at that time. He was also a businessman, for being a referee in the commercial courts was not a full-time position. And he was indeed quite successful. And, as we would expect from any man of that age, to leave such heights and to leave his home was difficult.

He was a highly successful man in the midst of a worldwide depression, and he knew that to move his family was a matter of great risk. Our travels from that day onward when we left Germany in July 1933, very early in the Hitler period, our travels were nevertheless difficult.

My father was born in a small town on the German-Polish border. Indeed, the border of Germany and Poland ran right through the middle of the town. My father was born on the Polish side and so we always found ourselves under the Polish quota. And the Polish quota, because of the actions of the Congress in the 1920's, was always full. The German quota, on the other hand, was often empty.

We went from American consulate to American consulate, seeking entry into this country, even in 1933 and 1934, and were turned down time and again—as my wife's father was in later years. My wife and her family eventually found their way to Brazil.

We went first to Czechoslovakia, and we spoke to the American consul there and we were refused. Then we went to Switzerland, and my father spoke with the American consul there and was refused. They said, "You are Polish. The quota is full for years and you cannot enter the United States." So we went on.

We went to several other countries—Holland and Luxembourg and finally we went to England. My father felt that he was still not far enough away from Hitler's wrath that he foresaw with considerable clarity. Finally in England we found a consul who allowed us to immigrate to the United States under the German quota. We arrived December 23, 1935. So this treaty indeed has some very special meaning to me.

For, while it is not an insurance against future genocide, if the countries of the world had ratified such a convention in the 1930's, if there had been a heightened public awareness of genocide in the world, as this convention attests that there is, who among us would not say that the genocide of the 1930's, conducted by Stalin against the Ukrainians and the genocide of Hitler against the Jews and against many other good people as well, might not have occurred. Who among us would say that history might not have taken a different course? Perhaps genocide would not have been averted,

but certainly its course, its extent, its intensity would have been much different. The borders of other countries might not have been slammed shut to the victims, as it was, even at the height of the horror in the 1940's. The Jews of that period simply had no place to go.

What if my father had not made that decision to leave Germany? We would have been among the statistics, our ashes would have risen through the chimneys of Auschwitz. The figure would have been 6 million and 6 instead of 6 million, though it would not even have been adjusted.

But had this treaty been in effect, had the awareness of the world been enlightened, had the press known that 100 countries had signed such a treaty, would they have directed their activities differently? Would hundreds or thousands or more have survived? I submit that that would have been the result.

Recently, a book was written entitled "The Abandonment of the Jews," by David Wyman, who is a non-Jew, who spoke of how leaders of the world—many of them revered in our memory, I might say—did nothing despite clear and overwhelming evidence that the atrocities that were taking place were actually happening—newspapers would not publish stories, statesmen would simply not act and millions were herded into the gas chambers, many of them from my family, none of whom I knew because I was 2 years old, Madam President, when we left Germany, but many of whom my father often spoke to me about. One of the few people, indeed, one of the very few people, during that time to speak up was Herbert Pell, the father of Senator CLAIBORNE PELL. Senator PELL's father was then a high ranking member of the State Department. For his efforts he was effectively expelled from the State Department, the budget for his activities removed.

I might say another member of the Pell family, Robert T. Pell, was instrumental in convincing the Dominican Republic to develop a haven to which somewhat less than a thousand Jews went from Europe at a time when they really could go nowhere else.

In that regard, it is interesting to note that when I made a speech not so long ago to a group of Canadians, I spoke about the book "The Abandonment of the Jews." They responded by saying, "Let us send you the one about Canada." In Canada the companion book is entitled "None Is Too Many," because there, too, the gates were closed to the Jews.

It is also interesting and sad to note that a look at immigration patterns over the history of this country shows that in the 1930's, when the need was so great, we reached the lowest levels of immigration. There was no previous period of our existence as a country when immigration was as low. Ninety percent of the quota, Madam President, went unfilled. It simply was not filled. It is emotional for me to speak about this fact when I think about the millions of people whose ashes were just swept through the chimneys of those concentration camps.

But let me read about Herbert C. Pell, who was appointed to the War Crimes Commission by President Roosevelt, an old friend. This organization first met in December 1943. The book, "The Abandonment of the Jews" that I have mentioned, goes on at some length about the attitude of the American Government during those times. It states: "From the outset Pell wanted the Commission to be as 'tough as possible.'" He strongly proposed the view that atrocities committed by the Axis on civilian populations were not outside the realm of war crimes. He won some members of that Commission over to his broader interpretation but they could not act without orders from their government. The matter bogged down because neither Pell nor Sir Cecil Hurst, the British representative, and Commission Chairman, could get his government to take the position on it.

In January 1945, after 8 months without an answer, Hurst quit in disgust. The State Department treated Pell even more shabbily. Despite his frequent requests for instructions on policy issues, it never gave him definite directions. Thus, while he could lobby other Commissioners, he had no authority to take official positions themselves. His lack of power was not acknowledged.

Further on, the book states that the State Department officials assigned to the War Crimes Commission questions intended to make Pell's mission fail. Continuing to quote:

In December 1944, Pell returned to the United States to try to clarify the problem. He made no progress with the State Department, but conferred with Roosevelt on January 9th. By then, Hurst had resigned the War Crimes Commission, and it appeared that Pell would become the chairman. The President reassured him, and as he left said, "Good-bye, Birdie. Good luck to you. Go back to London as quick as you can and get yourself elected chairman." When Pell went to the State Department to bid his formal farewell, he was astonished to hear Stettinius say that the Department had been unable to obtain the appropriation for continuing his work. The only choice was to close his office and have some regular American official represent the United States on the commission.

Later, the book also states:

What Pell definitely achieved then was to force the administration to make its war crimes policy public, a step that the War Refugee Board greatly desired. Whether his year of effort in the War Refugee Board added pressure and influenced policy itself cannot be determined.

But this man, the father of Senator PELL, was among the few who spoke out and tried to have an impact on American policy—and was totally unsuccessful.

The United States did little—close to nothing. I pointed out that immigration during that period fell to its lowest point in our history. A mere 10 percent of the quotas were filled. My people were allowed to languish, suffer, and die uncharted deaths. Other countries, as I have mentioned, did little more or did nothing at all.

My family and others who were able to get out were sprinkled all over the world: Brazil, Cuba, Kenya, Shanghai, China, the Union of South Africa, Australia, and a number of other countries as well. But many, many more were lost and are no more. Who among us, Mr. President, can say that a Genocide Treaty would not have been effective if it had been in existence back in those days? Who among us can say that the results would not have been different, whether with respect to a single human being, hundreds, thousands, perhaps millions? If the consciousness of nations had been awakened as it is now by this treaty; if the press were freer as it is today, and more aggressive as it is today, who among us can say that the presence of this treaty would not indeed have affected those terrible days?

So, Madam President, I hope we vote 100 to zero to ratify this treaty. No authority or sovereignty of the United States is threatened but countless millions may someday be saved.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER (Mr. MURKOWSKI). The Senator from Rhode Island.

Mr. PELL. Mr. President, I feel very touched by the words of the Senator from Minnesota. I thank him very much. I remember those days very vividly. I remember the shock and horror that my father suffered—he was a gentle man—at becoming aware of the horror and heinousness of what was going on. He was then the U.S. Representative to the United Nations War Crimes Commission. But, the interesting point is just as the Senator from Minnesota mentioned, the fact that these dreadful events were going on was becoming increasingly known amongst the leaders of the world, if not necessarily amongst all the populations.

Very little was done at that time. I am convinced from the reading I have done, the book cited by the Senator from Minnesota, and another one called "Why Six Million Were Killed" by Arthur D. Morris, that came out in 1967, that there was an unwritten gentleman's understanding to ignore the Jewish problem in Germany, and that we and the British would not intervene in any particular way.

Hitler was not interested during the early years of his rule, in killing all the Jews. He wanted a Europe that

was Juden frei, free of Jews. The trouble was that there was no sanctuary, no escape. We did not take them. I remember when the *St. Louis* came over to our shores with 900 Jews aboard her and we sent her back to Bremen for the people to burn there. I can remember the lack of sympathy there was here.

The press seemed to have a policy of putting the Holocaust stories, except for Kristal Nacht, inside the pages at the bottom of the page.

You read the letter from Secretary McCoy in Yad Yashem, and you realize that the instructions were given not to bomb the railroad line between Kosice and Paesov, over which these unfortunate Jews were carried on their way to Auschwitz.

On the other hand instructions were given to bomb a factory less than 10 miles away. But, the point was as McCoy felt and our Government felt at the time, the way to help the Jews was to focus on winning the war. But we could also have given aid and sanctuary to the Jews. As the Senator from Minnesota mentioned, there were quota numbers that were not used. My recollection is in 1943 only 10 percent of the German quota numbers were actually used.

So we had all these means of helping the Jews. We knew what was going on. None of us really did very much about it. I speak particularly of the leading politicians and leaders in Great Britain and in the United States. I believe this plays also a certain role in our sense of responsibility to the sanctity of Israel. So that nobody could never again suffer their fate.

And the prejudice against Jews remains. I can remember opening the Consulate General in Bratislava on the border of Hungary after the war, and there was minipogrom there. I remember giving sanctuary to the Jews in the bottom of our Consulate General building.

So there was to be a place where a man can say ich bin Jude, to be remembered as a matter of right, and that is why I believe we took the lead in the support of Israel.

There is one other point here mentioned, and that is what was able to be effected by at least one individual, my father, speaking up. I think what happened here is that the State Department, Glenn Hackworth, Larry Preng, and other State Department lawyers, all were very legalistic.

They were more concerned about legalistic jargon and semantics than human suffering. However, there were human considerations that made one go further. I am very glad to say that after my father was effectively fired from the State Department, he went public. You find that Secretary Stettinius reversed positions and said that the U.S. policy would be to consider genocide as a war crime and subject to the war crimes tribunal.

So there was some success done there.

In the course of the firing, and this might interest the Senator from Minnesota, when my father found his and his office budget being cut, he offered to go back at his own expense. They declined and then he offered to go back and pay for the secretary and the rent. Again the offer was declined. Apparently the decision was made that they did not want to vigorously enforce human rights in that job at that time.

I am very glad that the Senator from Minnesota is aware of this.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I would like to thank the Senator from Minnesota for his remarks. It was most moving and touching to be here on the floor to hear this personal story of the experience and the agony that he and members of his family went through some 52 or 53 years ago at the hands of the Nazis.

I would like to say further that I know the Senator feels very strongly about the ratification of this treaty. I appreciate his concern and his enthusiasm to see this treaty ratified.

He made the comment that the Holocaust might not have happened as it did if the Genocide Convention had been ratified in the 1930's, in the 1920's.

I think that brings me back to the point of my amendment. My amendment is about stopping genocide. My amendment is aimed directly at the target. If we had a Genocide Convention ratified in the 1930's, what would it have done for the 10 million people in the Ukraine who were starved to death because they were political enemies of the Soviet Union?

That is the point I am trying to make.

My appeal to my colleagues is very simple: I share the concern that the Senator from Minnesota has, and I appreciate that concern very much. But we must focus that concern in the most productive way possible. We must ratify a treaty which condemns all genocide, not just that aimed at racial and religious groups.

I cannot for the life of me understand, why a nation that is the greatest symbol of human rights, personal freedom, and economic opportunity, does not want to put those countries who base their entire heritage on oppression, tyranny, and assassination of large numbers of people, on the defense.

I am talking specifically now about the Soviet Union, the dictators in the Kremlin, where they have based their entire government on tyranny and oppression.

Why do we not put them on the defense? Why do we not go on the offense? We have a story to tell. Our Nation's committment to human rights, speaks for itself. What committment have they shown? Ours is the country that allows opportunity, that respects human rights, that recognizes that our rights come from some higher power, that we have the sovereignty to run our own Government and we tell our leaders what to do. Why do we not put them on the defense? Why do we not make them answer for their crimes? Why do we instead cower, frozen by our self-imposed guilt?

I heard the distinguished Senator from Indiana and the distinguished Senator from Rhode Island make the argument—this amendment is a killer amendment. It is no such thing. Our adoption of this amendment would merely require the United States to send this amended treaty to those other countries who have ratified it and seek their approval of this addition to the protection of this treaty. I think it would be a most entertaining and a most edifying experience to see what the Soviet Union, and the other countries who base their governments on oppression, tyranny, assassination, and genocide would do when confronted with our amendment.

If my amendment is adopted, I think the Senator from Minnesota will get his wish. We will probably have a vote of 100 to 0 in favor of this treaty on the Senate floor. But without my amendment, this treaty is not a symbol appropriate to our Nation. I would urge adoption of this amendment to my colleagues, and I would say that we should not be deterred by those who say it is a killer amendment. It is no such thing. It is an amendment designed go guarantee the lives of countless millions in Communist and totalitarian nations around the world who live in daily fear that their own government will kill them for their political dissent.

Again, my amendment simply adds one simple word to this treaty. "Political." The word "political" would be added in section 2 of the treaty. It would then read:

> In the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, political, ethnical, racial, or religious group as such:

One simple word, Mr. President, is all that would be added to this treaty. One word without which this treaty is silent on the greatest examples of genocide in history. With the addition of this word, this treaty would have a powerful symbolic meaning which we could all be proud to endorse.

I yield the floor.

Mr. WILSON. Mr. President, I rise in support of ratification and in reluctant opposition to the amendment pro-

posed by my colleague from Idaho. My opposition to his amendment is purely procedural; and my agreement with its substance will be reflected in my subsequent vote for his proposal when it is later recast and offered as free-standing legislation, rather than an amendment to the treaty, which imperils success of the ratification process.

First, Mr. President, I am satisfied that U.S. citizens and sovereignty have been adequately safeguarded. Why then should we continue to afford the jailers of Shcharansky and tormenters of Sakharov the pretext of American failure to ratify this treaty with which to divide world attention from their actual conduct of genocide against the innocent civilian populations of Afghanistan, Cambodia, and other nations unable to resist?

Why, Mr. President, should we allow the Sandinista butchers of Miskito women and children to hypocritically point their bloody fingers at the United States?

And how, Mr. President, can we allow any inference that American memory is so short or sensitivity so lacking that we have forgotten or grown indifferent to the horrors of the Nazi Holocaust or of genocide against the Armenian people?

The answer, Mr. President, is that we dare not make such mistakes.

We are engaged in support of freedom fighters on many fronts throughout the world. In our support, we must recognize this fact: We are engaged not just in wars of arms, but in wars of ideas as well. Lose the war of ideas and we risk the loss of armed conflict in the cause of freedom.

We must deny the enemies of freedom and human rights the great tactical, psychological advantage of false moral superiority which they will brazenly foist upon the innocent, if we let them.

Mr. President, the time has long since come to deny them this advantage. The time has long since come for the Senate of the United States to ratify this treaty.

Mr. DOLE. 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. BOSCHWITZ. 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. BOSCHWITZ. Mr. President, I would just respond to my friend from Idaho that he offers an amendment to the treaty. Some reservations have already been made with respect to this treaty and agreed to by its sponsors here in the Senate. Reservations are different than amendments, I will say once again to my colleagues.

An amendment would require all other 96 nations who ratified the treaty to agree to it. Reservations define only our attitude with respect to the treaty and do not require the other nations to reratify the treaty.

In effect, what my friend from Idaho's amendment in asking for the single word change would require is the resubmission of the treaty to the 96 nations that have already ratified it. The President would then have to wait to sign it until they approve the treaty yet again. As a result, even this single word, by amending the treaty, is indeed a killer amendment.

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

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 Minnesota [Mr. DURENBERGER] is necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN], the Senator from Maine [Mr. MITCHELL], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is also absent because of illness in the family.

I also announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

I further announce that, if present and voting, the Senator from Maine [Mr. MITCHELL] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 62, as follows:

[Rollcall Vote No. 14 Ex.]

YEAS—31

Abdnor	Hawkins	Pressler
Armstrong	Hecht	Roth
Cohen	Helms	Rudman
Denton	Hollings	Symms
Domenici	Humphrey	Thurmond
East	Kasten	Trible
Garn	Laxalt	Wallop
Goldwater	Long	Warner
Gramm	Mattingly	Zorinsky
Grassley	McClure	
Hatch	Nickles	

NAYS—62

Andrews	Chiles	Gore
Baucus	Cochran	Gorton
Bentsen	Cranston	Harkin
Biden	D'Amato	Hart
Bingaman	Danforth	Hatfield
Boren	DeConcini	Heflin
Boschwitz	Dixon	Heinz
Bradley	Dodd	Johnston
Bumpers	Dole	Kassebaum
Burdick	Eagleton	Kennedy
Byrd	Evans	Kerry
Chafee	Ford	Lautenberg
Leahy	Nunn	Sasser
Levin	Packwood	Simon
Lugar	Pell	Simpson
Matsunaga	Proxmire	Specter
McConnell	Pryor	Stafford
Melcher	Quayle	Stevens
Metzenbaum	Riegle	Weicker
Moynihan	Rockefeller	Wilson
Murkowski	Sarbanes	

NOT VOTING—7

Durenberger	Inouye	Stennis
Exon	Mathias	
Glenn	Mitchell	

So the amendment (No. 1585) was rejected.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I move that the Senate proceed to advance the Genocide Treaty through its various parliamentary stages up to and including the presentation of the resolution of ratification and that all committee-reported reservations, understandings, and declarations be considered and agreed to.

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

Mr. LUGAR. 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.

WHO SUPPORTS THE GENOCIDE TREATY AND WHO OPPOSES IT?

Mr. PROXMIRE. Mr. President, who supports the Genocide Treaty and who opposes it? The treaty is supported by the President of the United States. Indeed, President Truman and every one of the last six Presidents have supported the treaty. Six times the Senate Foreign Relations Committee has recommended its passage. The Senate itself went on record, as recently as December 1984, supporting the principles of the treaty and recommending its early consideration by this Congress. The vote on that pro-Genocide-Treaty resolution was 89 to 2. The American Bar Association officially opposed the treaty for the first 16 years it was before the Senate. But then a series of ABA presidents personally differed from the Bar Association's formal position. In 1974, the ABA conducted a 2-year, detailed, meticulous study of every legal aspect of the treaty. The Bar Association carefully and thoroughly examined the constitutional implications of the treaty. How did that thorough painstaking, factual examination of the treaty affect the American Bar Association's position? It completely reversed the posture the Bar Association had taken. In the past 10 years—since 1976—the Bar Association has been an

all-out, vigorous supporter of the treaty.

Mr. President, this is a religious country. The overwhelming majority of Americans recognize God as the Supreme Deity. At the same time Americans glory in the fact that we worship God in our own individual and different ways. Our country enjoys a wide variety of religions. These religions—including all of the major religions—have taken a strong and emphatic position on the Genocide Treaty: A position of vigorous support. This is true of virtually every significant Christian sect, Catholic, Russian Orthodox, and all of the varied Protestant sects. The Jewish faith, too, has weighed in emphatically on the side of the Genocide Convention. Many civic and fraternal organizations have announced their support of the Genocide Treaty. So who supports the Genocide Treaty? Mr. President, it is hard to find a major, respected organization that does not support it.

And, who opposes the Genocide Treaty? The John Birch Society, Phyllis Schafly's Eagle Forum, the Liberty Lobby, and a few other far-out, extreme fringe groups. The groups that oppose the Genocide Treaty constitute a politician's dream of what each of us dearly wish we could identify with our opponent. Is there anything more embarrassing in elective politics than to be publicly and vocally supported by the John Birch Society? Does anyone really want the general public to know that a serious candidate for the U.S. Senate has the enthusiastic support of the Liberty Lobby? Mr. President, these are thoroughly discredited organizations. But let's not kid ourselves, they can be astonishingly effective. They constitute a major reason why the Genocide Treaty has been sitting in the Senate for 36 years without action. The problem is that after 36 years, the responsible, respected, prestigious supporters of the treaty rarely discuss it. When they do discuss it, they talk about it in factual, low key, unemotional, reasonable terms. This doesn't excite anyone. The overwhelming majority of Americans agree with the treaty's supporters but they aren't excited about it. They are not moved emotionally. They rarely listen. Ah! But the far-out fringe supporters of Liberty Lobby and John Birch. They trade in the language that excites and intrigues. They trade in emotion. And let's face it. They often trade in that exciting, energizing emotion: Hate. That hate takes the form of anti-Semitism and of blatant racism. Unfortunately that still has deep appeal in this country. The extremists will deny that they deal in hate. But they do. They trade in outrageous distortions of what the treaty will do. Those distortions have been refuted repeatedly by the American Bar Association and by many, many years of hearings before the Foreign Relations Committee.

So what's the result? We go home to our States. The only time we hear the Genocide Treaty brought up, it's brought up by intense, bitter people who know the treaty only through what they read in Liberty Lobby's "Spotlight" or some publication of the John Birch Society. Has any Senator ever been confronted at home by a critic of the treaty who has actually read it or read the careful, objective analysis of the American Bar Association or the findings of the U.S. Senate Foreign Relations Committee? In the past 28 years, this Senator has repeatedly been confronted by vigorous critics of the Genocide Treaty. I have yet to meet one who gave any evidence of hearing both sides of the argument. That is not true of most Members of this body. Most Senators are now familiar with what the experts have found on the treaty. Most of us know what is right and what is not. We also know that this vote is not without some political risk. But believe this Senator who has been identified with this treaty for many years. In the long run—and that includes the next election—the political plusses in voting for the treaty and against amendments that would destroy any prospect for ratification are far, far stronger than the minuses.

Mr. LAUTENBERG. Mr. President, I rise in strong support of ratification of the Convention on the Prevention and Punishment of the Crime of Genocide. The time has come for the United States of America to take its rightful place among the family of nations that have already ratified this document. We must delay no longer.

I would like to commend Senator PROXMIRE for his efforts on behalf of ratification. Senator PROXMIRE has been a lone voice, crying in the wilderness, urging ratification of this treaty. He has made literally thousands of speeches on this matter here in the Senate, and I congratulate him for his diligent attention to this important issue. I hope that the action we take today in ratifying the U.N. Convention on the Prevention and Punishment of the Crime of Genocide will vitiate the need for Senator PROXMIRE's efforts.

I have had many opportunities to study first hand the heartrending evidence of the most far-reaching campaign of genocide in history, the despicable work of the Nazis before and during World War II. That one group of human beings can turn against another in an attempt to wipe them off the Earth is beyond comprehension, and yet it has happened, again and again.

Early in this century, the Turkish slaughter of the Armenian people was an early and unfortunate example of genocide. What was originally called the Ukrainian famine of 1932-33 is now known as a broad and orchestrated campaign of starvation, physical abuse, and internment, and called genocide by many. Today Cambodia is reported to be the site of genocide killings.

The litany goes on. The victims are many, the voices of outrage too few. The ratification of an international treaty outlawing the practice of genocide seems a small enough protest against the enormity of the crime. Still, this is a government of laws, and we write the moral bases of our society into law.

It is therefore imperative that after a 37-year delay, the Senate should give its advice and consent to the signing of the Genocide Treaty.

President Truman transmitted the Genocide Convention to the Senate for its advice and consent on June 16, 1949. Hard on the heels of the end of World War II and the revelation to the world of the Nazi extermination camps, the United States declared genocide a crime under international law. This was followed by the drafting of the Convention of Prevention and Punishment of the Crime of Genocide.

Let us not lose sight of the background. The world was shocked by the evidence of lengths to which man can go when driven by irrational forces. One reaction was the swift passage of measures to outlaw and punish such genocidal actions against a whole people.

The convention would have made it possible to punish those responsible for the atrocities committed against the Armenian people in Turkey during the time of the First World War. Some 1.5 million people of Armenian ancestry were killed throughout the Ottoman Empire, and more were driven from their homes during that time.

The convention would have made it possible to punish those responsible for the actions of the Soviet Government during the early 1930's which resulted in wholesale deaths and displacement of the Ukrainian people.

The convention would have made it possible to punish those responsible for the deportation of Jews from all over Europe to slave labor and death camps in Germany and Eastern Europe for the express purpose of wiping out the Jewish people.

The convention would make it possible to punish those responsible for the intentional uprooting and killing of millions of the Cambodian people by the Khmer Rouge forces.

Mr. President, no reasonable objection can be made to a treaty that labels genocide an international crime which must be prevented and punished.

I urge my colleagues to vote to ratify this convention. The United States must join over 90 of her sister nations in denouncing genocide.

Mrs. KASSEBAUM. Mr. President, the Genocide Treaty has been pending before the Senate since 1949 and today we find ourselves, finally, about to resolve what has been a very difficult and complex issue.

During the Foreign Relations Committee's most recent review of this treaty, it was clear that an important reason for the long delay in ratification has been the sharply differing perceptions of the force and effect of the treaty. Some believe the treaty is largely symbolic. Others regard it, first and foremost, as a legal document which commits the United States to a number of international obligations, some of which are not clearly identified.

The Foreign Relations Committee, in an attempt to bridge the gap between these perceptions, approved a number of provisos. These address concerns that the treaty might endanger the constitutional rights of U.S. citizens and infringe upon U.S. sovereignty. Even with the eight provisos developed by the committee, the treaty's legal application to the United States has been a point of controversy.

I joined the majority of the committee in voting to send the treaty to the Senate floor for debate. However, I have had reservations about the effectiveness of this treaty. While I don't believe this treaty would undermine our Bill of Rights, neither do I believe the Genocide Treaty can prevent genocide.

However, I have come to agree with the view expressed by many, particularly the committee chairman, Senator LUGAR, that Senate ratification of the treaty is important as a symbol. While I believe we too often immerse ourselves in symbolism, there are times when it becomes important for the United States to take symbolic action to influence public opinion around the world.

In doing so, we should not lose sight of reality. The history of the world since World War II makes clear that the Genocide Treaty has not stopped genocide. Millions have died in Cambodia. Religious minorities have been persecuted mercilessly in Iran and other states. An estimated 500,000 people have been killed during the Soviet occupation of Afghanistan. By itself, American ratification of the treaty will not, and cannot, change that.

As the Senate moves to ratify this treaty, important as that action is, we also must be mindful that a genuine commitment to the end of genocide and the protection of all human rights is not demonstrated by words, even the most noble ones in an international treaty, but by actions. That is the message that we must continue to send to the body of world nations, by this action and many others that must follows.

Mr. THURMOND. Mr. President, since 1949, the Genocide Treaty has been before the Senate for ratification. It has been my belief that the treaty could undermine safeguards provided by our Constitution. Consequently, I have opposed ratification.

My distinguished colleagues, Senator LUGAR and Senator HELMS, are to be commended for their efforts in the Senate Foreign Relations Committee to address these constitutional concerns. However, I am not convinced that these modifications succeed in remedying legal defects in the treaty.

For instance, in 1947, the United States acquiesced to pressure from the Soviet Union by exempting political genocide from the treaty's definition of genocide. Accordingly, the destruction or mass imprisonment of political opposition is not considered to be within the purview of this treaty. The committee-passed modifications have failed to address this important issue.

I have always opposed provisions in the treaty which would allow U.S. citizens to be extradited, tried in the country where the so called act of genocide was committed, and punished under the laws of that country. Our former colleague, Senator Sam Ervin, had a richly deserved reputation for his knowledge of the United States Constitution. In opposing the treaty, he warned that Americans captured by the Communists during the Vietnam War could have been tried and punished for genocide in a North Vietnamese tribunal.

The sovereignty of our Nation and the principles of the Constitution which we cherish require us to carefully review, not only the words of this treaty, but their potential application in the real world. It is unfortunate that other nations which do not share our love for freedom and our abhorrence of genocide have used the failure to ratify this treaty as propaganda against us. When these nations follow ours in the protection of human freedom and when we can be assured with reasonable certainty that our citizens will be allowed the same constitutional privileges throughout the world as we have in this country, then I will feel more comfortable with the ratification of this treaty. Unless I can be convinced that modifications to this treaty insure our national sovereignty, as well as all of the constitutional rights to which our citizens are entitled—I will continue to oppose the treaty.

Mr. PRYOR. Mr. President, I should like to join in this "eulogy" for BILL PROXMIRE.

His dedication to this cause is, of course, legendary—and should be. Imagine delivering a statement on the Genocide Convention every single day the Senate has been in session since January of 1967—every single day without fail. That's more than 3,000 speeches. No matter how we feel about the treaty, we can't say it hasn't been discussed thoroughly. I think it probably takes one of us to understand just how extraordinary the Senator's record is, considering the demands on a Senator's time and the uncertainty of modern travel. But then I suppose we should not be too surprised at this epic accomplishment since BILL PROXMIRE has not missed a day's work or a vote since April of 1966—20 years ago.

The Senator from Wisconsin has often speculated that many Members would eventually vote for the Genocide Treaty simply to keep from having to listen to any more of his speeches. I won't comment on that issue except to say that Morning Business will never be the same again.

My first exposure to this issue came when I was in my first few days on the job and BILL PROXMIRE took the time to personally call on me to discuss the Genocide Convention. I can't tell you what an impression that made on me. Here was the famous senior Senator from Wisconsin walking over to the office of a raw freshman Senator to explain and plead for an issue which obviously had a deep significance for him. That kind of dedication to an issue sets a very high standard for all of us.

Ratification of the 36-year-old Genocide Convention resulted from the efforts of many people, inside the Senate and out, and we should take time to mention Larry Patton of Senator PROXMIRE's staff, who worked diligently on this issue for many years.

But the treaty will forever be the legacy of the patience, passion, persistence, and persuasion of the Senator from Wisconsin.

Mr. EAGLETON. Mr. President, I join with my colleagues in paying tribute to Senator PROXMIRE for his awesome perseverance in vigorously advocating and supporting the Genocide Treaty.

Nineteen years ago, on January 11, 1967, BILL PROXMIRE gave a speech on the Genocide Treaty. On that day, Lyndon Johnson was in the White House. The war in Vietnam was still expanding. Robert Kennedy was gearing up to run for the Presidency, and Richard Nixon was practicing law in New York. Indeed, on that day 19 years ago, TOM EAGLETON was the Lieutenant Governor of Missouri. By any yardstick—social, political, or chronological—1967 is far removed from today.

Since then, on each day the Senate has met in session, Senator PROXMIRE has articulated the conscience of this Nation in calling for the Senate to ratify the Genocide Treaty. In all, he has addressed the Senate on this topic more than 3,000 times.

Those statistics are eloquent testimony to Senator PROXMIRE's dedica-

tion and commitment. His colleagues pay tribute to him for those qualities.

Mr. KERRY. Mr. President, 40 years ago, the United States won its war against the terrorism of the Nazis, and became the principal force behind the drafting of the Genocide Treaty.

Today, as our Government continues to fight terrorism around the world, it is appropriate that we at last join 96 other nations in ratifying the treaty that we originally drafted.

Mr. President, in its current form, the Genocide Convention has been weakened, for reasons having to do with ideology and politics, and not for any reasons of good policy.

But even its weakened form, it is time the United States ended the embarrassment of its failure to ratify the treaty drafted over a 2-year period by a United Nations committee chaired by a United States delegate, adopted unanimously by the U.N. General Assembly in Paris on December 9, 1948, signed 2 days later by the United States, and transmitted to the Senate for ratification the following June by President Truman.

Mr. President, along with seven other members of the Foreign Relations Committee, I opposed the additional provisions that were added to the treaty as part of the Lugar-Helms package, because I believed these provisions were unnecessary, and might cause some of our allies to refuse to recognize the U.S. ratification as valid. The Netherlands, for instance, has stated that it does not recognize as valid ratification by any nation which seeks to deny the World Court with jurisdiction over the treaty.

I think it is worth looking at which other nations have adopted the kind of provisions contained in the Lugar-Helms package:

Albania, Algeria, Argentina, Bulgaria, Byelorussian Soviet Socialist Republic, People's Republic of China, Czechoslovakia, German Democratic Republic, Hungary, India, Mongolia, Morocco, Philippines, Poland, Romania, Ruwanda, Spain, Ukranian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, and Viet Nam.

Most of these nations are Communist. Others are or were headed by authoritarian regimes at the time they ratified the convention. It is understandable why these nations might not want the World Court to exercise jurisdiction over their actions. But the United States does not commit genocide. We should not be fearful of giving jurisdiction to the World Court of any such offense.

We should not be on the same side as these Communist nations in refusing to acknowledge the jurisdiction of the Court. We have nothing to hide.

Instead, we should be taking the position taken by our allies, including Australia, Belgium, Brazil, Ecuador, Greece, The Netherlands, Norway, and the United Kingdom, who do not accept reservations in respect to article IX of the convention.

In order to avoid a lengthy debate on the Genocide Convention that might impede its swift ratification, I will not be offering an amendment to the treaty to eliminate the additional provisions to the convention reported out by a bare majority of the Foreign Relations Committee.

For the record, I wish to state that the amendment I would have offered would have replaced these provisions with the declaration by the United States it did not recognize the article IX reservations to the treaty adopted by the Communist nations, and the others I have mentioned, which is the position taken by the United Kingdom and our other allies.

Even with the additional provisions, ratification of the treaty by the United States is long overdue. As President Reagan has said of the Genocide Convention:

> If free men and women remain silent in the face of oppression, we risk the destruction of entire peoples. * * * We intend to use the convention in our efforts to expand human freedom and fight human rights abuses around the world. Like you, I say in a forthright voice, "Never again!"

We must reject the claims of some that the treaty is worthless because it does not protect political groups. It protects national, ethnic, racial, and religious groups. I find it hard to imagine a nation defending itself against charges of genocide by saying, "We are not committing mass murder against an ethnic or racial group—we are only committing mass murder against a political group."

The idea that a nation would use the defense that it is only committing mass murder against a political group is ludicrous.

We must reject the claims of some that the slaughter of the Cambodians by Pol Pot was not a genocidal action prohibited by the treaty. There is no forum in the world that ever made that determination. Yet the United States has been in no position to raise the issue, because we haven't ratified the Genocide Convention.

We must reject the claim that the Genocide Convention exempts the Soviet actions in Afghanistan from being considered genocidal. That is another issue that has not been resolved, because no one has taken the Soviet Union to the World Court to make that charge. If the United States ratifies the treaty, it has the right to do so. If the Soviet Union refuses jurisdiction, the World Court then has the right to decide both whether it can hear the case, and whether the genocide has occurred.

Because of our World Court reservation, we have weakened our position at the World Court, and the Soviet Union could under the standing principles of international law claim that the United States has lost its right to bring its claim because of its own reservation.

Still, we can bring the claim, even if the Soviets decline jurisdiction, and thus use the convention to publicize acts of genocide when we believe they have occurred.

We must also reject the claims that ratification of the Genocide Convention would violate or affect the United States Constitution. The Constitution is the supreme law of the land, and it cannot be overridden by any external agreement.

As the distinguished majority leader has stated in the past:

> The rights of all remain in major focus of our foreign policy, especially when we are today beset by issues of how to stem the advance of the enemies of human rights. Let us set an example for the world to follow. Let us ratify the Genocide Convention now.

Mr. President, I believe the opposition to the Genocide Convention in its current form demonstrates extraordinary insensitivity to the many American citizens who came here following the Armenian genocide, to those who once were refugees from or had relatives killed in Hitler's death camps, to those immigrants from Southeast Asia who fled from the Khmer Rouge.

Those who object to the treaty should recognize that their concerns are not accepted by the State Department, by the President of the United States, or by such close U.S. allies as Canada, France, Israel, Italy, and the United Kingdom.

Both West and East Germany have ratified the Convention. Our own ratification of this treaty is long overdue.

Mr. DECONCINI. Mr. President, today I rise to vote for the Genocide Convention—a controversial issue which has been long-debated and long-delayed. As we are well aware, the convention was drafted by an international committee which included representatives of the United States, and was signed in the heady days following the Second World War when the United States was the preeminent world power. At that time, we hoped that we could rebuild the world and create an era of peace, democracy and legal order. It was also our hope and desire to establish a world in which atrocities like the Holocaust would never again occur. It was in these times, as a response to these times, that the Genocide Convention was drafted. Never again, we felt, would we allow such a horror to take place.

Unfortunately, the new hopes of the late 1940's were replaced by the cold war realities of the 1950's. The Soviets continued their advance into fledgling Democratic States and their subjugation of freedom-loving peoples. Yet, every President since Harry Truman

has asked the Senate to ratify the Genocide Convention, including the likes of John Kennedy and Jimmy Carter as well as Richard Nixon.

Now, in the 1980's, President Ronald Reagan, the most conservative U.S. President this century, has asked the Senate to ratify this convention. He called upon the Senate Foreign Relations Committee to report it, and he urged its consideration on the Senate floor late in the 98th Congress. Early in the 99th Congress, President Reagan again called upon the Senate to take action, and the Foreign Relations Committee once again favorably reported the convention with eight attached reservations. I believe these reservations fully respond to the concerns raised by various groups. The reservations clearly spell out that the convention does not supersede the U.S. Constitution nor does it subject U.S. citizens to any loss of their constitutional rights.

President Reagan asked for the ratification of the convention, saying that "we now have an important opportunity to reaffirm to the international community the fundamental and unswerving American commitment to human rights." He stated the need for ratification by asserting that it "would serve as an important statement in opposing the gross human rights abuses the convention addresses. I believe that we can also use this convention effectively in our efforts to expand human freedoms and fight human rights abuses around the world. Ratification of the convention after 37—now 38—years would serve to counter the criticisms the United States had received over the years for its failure to ratify."

As a strong champion of human rights around the world and a firm believer in the prerogative of the Office of the President to direct this Nation's policy in international affairs, I have been convinced by President Reagan of the need for this convention. It will strengthen his hand in dealing with the Soviet Union. Additionally, ratification would unequivocally establish the United States as the human rights leader in free world by officially declaring genocide an international crime.

We can be proud that the United States is finally taking its place as the prominent free-world leader in the protection of human rights. I congratulate the distinguished chairman and ranking minority member of the Foreign Relations Committee, Senators LUGAR and PELL, for their leadership on this issue. Absent their superb negotiating skills, this treaty would never have reached the floor. I also commend the majority and minority leaders, Senators DOLE and BYRD, for agreeing to bring the convention before the full Senate, and, again, I applaud President Reagan, whose support and leadership were crucial to ratification of the Genocide Convention.

Finally, I would like to extend my sincere gratitude to Senator PROXMIRE for his doggedness on this matter. Senator PROXMIRE first addressed this issue on January 11, 1967 and has urged ratification of the treaty every day the Senate has been in session since that date—over 3,000 floor speeches. Without his commitment, I do not believe we would be voting today to ratify this very important document.

Ratification of the Genocide Convention will be a tribute to the untiring work of individuals like Senator PROXMIRE and other supporters of human rights throughout the world. I intend to support President Reagan because he is right on this issue and I urge all my colleagues to vote affirmatively on this important matter.

Mr. KENNEDY. Mr. President, I support ratification of the Genocide Convention, and I urge the Members of the Senate to join me in that support. U.S. ratification of this treaty is long overdue.

On December 11, 1946, the U.N. General Assembly voted unanimously to declare genocide a crime under international law. Since that time, 96 nations have agreed to that convention. The United States has been conspicuous in its absence.

In 1963, President John F. Kennedy urged the Senate to ratify this treaty. He believed that, "there is no society so advanced that it no longer needs periodic recommitment to human rights. The United States cannot afford to renounce the responsibility for support of the very fundamentals which distinguish our concept of government from all forms of tyranny." This sentiment applies today with equal force; we must be clear in our abhorrence of genocide and we must be emphatic in our willingness to make genocide a crime.

The arguments against ratification are unpersuasive. Nothing in the convention will override any of the basic protections of the Constitution; a treaty does not override or supersede constitutional provisions. And the convention itself makes clear that it is up to the ratifying States to adopt their own implementing legislation.

The reason why the United States should ratify the Genocide Convention is to add our name to the effort to deter genocide in the future. We have had too many examples in the recent history of humanity—the Armenian massacre, the Holocaust, and the Cambodian nightmare—not to recognize that genocide can occur and it can recur.

By ratifying this convention, genocide will become fully established in international law as a crime against humanity. This treaty is a statement of repugnance by all civilized peoples at that crime, and the name of the United States should be on that statement.

We must ratify the Genocide Convention today. We—and the peoples of the world—have waited for 35 years. We cannot wait any longer.

PERSECUTION OF THE BAHA'IS: A CASE OF GENOCIDE

Mr. HEINZ. Mr. President, I join my colleagues who support ratification of the Genocide Convention at this time as a long overdue statement by the United States that we stand at the forefront of those condemning and fighting the most horrible crime we know. Several references have been made in this debate to the origins of the Genocide Treaty in the immediate post-war period. Some have suggested that the treaty is drawn more to address the Holocaust, the event which gave us the awful term genocide, than to today's realities. We all wish that the treaty had no current relevance, but it does. As currently drafted, the treaty does indeed address current problems. If any doubt remains on that, I have yet another example of persecution, one that goes on today, that is precisely the sort of crime the Genocide Convention condemns.

The case to which I wish to call our attention is notable because it represents a phenomenon, the codification of human rights abuses, that is particularly alarming, and all too reminiscent of the horrors committed by the Nazis and their collaborators in Europe during the Second World War.

Last spring in Tehran, Iran, a pedestrian was struck and killed by an automobile. Nothing would be particularly interesting in this from the standpoint of human rights concerns, except that the pedestrian was a member of the Baha'i faith, a minority religion that the revolutionary Iranian Government has persecuted ruthlessly since coming to power. The driver of the car was tried in court for his negligence, and found to be guilty of manslaughter. This is where the systematic, codified denial of basic human rights as practiced by the Iranian Government enters the picture. The court, despite its finding that the defendant was clearly guilty, ruled that "since the victim was a member of the misguided and misleading Baha'i community, and is considered an unprotected infidel, and since there is no explicit provision in Islamic laws about damages and fines payable to unprotected infidels," the negligent driver was "relieved of any obligation" to compensate the bereaved family.

Was the driver let off scot free? No. The court found that he had violated government rules governing driving and therefore should serve 3 months in jail. This is the very heart of a system of tyranny—a calm, reasoned,

even routine process carried out in accordance with the law that results in the systematic persecution of a group deemed "unprotected" by basic standards of human rights. Random abuses of civilians by military forces, general political repression, and the imprisonment, torture, or killing of dissidents or minority groups are just as reprehensible as the outrage I have described. But the seeds of genocide are planted whenever persecution is not a matter of individual whim, or a result of chaos, anger or revenge, but a routine mandate of standing law. As citizens of a country of laws, Americans find this sort of oppression especially reprehensible, and especially hostile to our view of the proper relationship between public power and individual rights.

Mr. President, I am sure that my colleagues would join me in deploring the continuing persecution of the Iranian Baha'i community by the Iranian Government, and especially the systematic, codified denial of their basic human rights. We are a nation of laws, and nothing is more offensive than the perversion of law to persecute those it is meant to protect.

Mr. BINGAMAN. Mr. President, I rise today to offer my full support for the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide.

I believe that ratification of the convention is a long overdue act which would reaffirm our Nation's abhorrence of genocide. The convention has widespread support. President Reagan last fall wrote to the distinguished majority leader urging the Senate to ratify the convention. The President said it represents "an important opportunity to reaffirm to the international community the fundamental and unswerving American commitment to human rights." I agree with him entirely.

It has been urged by some that ratification of the convention would subordinate the American legal system to the International Court of Justice and thus jeopardize our sovereignty. However, I believe that Supreme Court Justice William Rehnquist and other legal scholars have persuasively argued that ratification will not infringe upon our constitutional safeguards.

On May 21, 1985 the Senate Foreign Relations Committee recommended by a 10-to-0 vote that the full Senate ratify the convention on condition that it contain eight reservations advocated by the chairman of Senate Foreign Relations Committee and others to ensure the inviolability of our constitutional safeguards. Now that the President has once again called for Senate ratification, I believe that we should act and act resoundingly.

The Genocide Convention was first sent to the Senate for ratification on June 16, 1949, by President Harry S. Truman. However, despite the importance of this document as a legal and moral statement on human rights, action on it has been held up for over 36 years. As we finally take up the convention today, I hope we all give the fullest possible credit to the ever-vigilant, distinguished senior Senator from Wisconsin, Senator PROXMIRE. Without his guidance and his almost daily expressions of conscience on the need to ratify the convention I know we would not be here today considering it.

Without further delay, I urge my colleagues to support the ratification of the convention.

Mr. WALLOP. Mr. President, after 37 years of wise decisions with respect to U.S. ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide, the Senate once again has the matter under consideration for its advice and consent. I oppose ratification of this convention because it is an ugly political document dressed up as a pretty legal statement. It would commit the United States to international obligations which are clearly political, vague, unclear, poorly defined, or unenforceable. This convention will be used against us by enemies of the United States and our way of life by a seemingly beguiling rule of law which has no definition in precedent but a profound root in propaganda.

Mr. President, every civilized person is opposed to the crime of genocide as we learned to our horror in the Holocaust. Every civilized person must protest and resist violations of human rights around the world, whenever and wherever they occur. Who would not? Yet this cursed political document, the Genocide Convention, does not even address the goal of eradicating the international crime of genocide. Those nations which oppose and punish this crime already will continue to do so and those which do not—such as the Soviet Union and others—will be unaffected by this convention.

I believe the Genocide Convention, which originally was an instrument of the U.N. system conceived in the aftermath of World War II to express the outrage of the world community against the Holocaust in Nazi Germany, will be turned against the very countries, such as Israel, which it was first thought and always designed to protect.

Mr. President, after World War II, we had high hopes for the United Nations and its instruments. We believed that the community of nations could work together to make the world a better, more civilized place. This has not proved to be the case. Many instruments of the U.N. system have become wily, sinister weapons in the hands of parts of the world community. They have made a mockery of the basic ideas of the United Nations. Its system has become completely politicized and the most basic principles for which it was created have been undermined. The Genocide Convention is now one more weapon. Who can be against it until it fouls the very concept of genocide? There are those who will have the United States ratify this treaty so that they may turn it back upon us and our friends around the world to propagandize us before the World Court to extract maximum propaganda advantage. But they will fail. Our record on human rights stands tall for all the world to see. We need not ratify a politicized U.N. document to show the world what our record is. It is clear by itself and no amount of posturing will either enhance it or diminish it.

Mr. President, the rule of law is a dominant principle of the American system. We do not need a Genocide Convention to prove to the world or ourselves that we are committed to the principles of basic human freedoms, human rights, and the dignity of the individual. Our constitutional history stretching back from the Magna Carta to our Constitution and the Bill of Rights guarantee that crimes against persons and groups of persons will be punished. This is not true for those countries which propagandize us to sign this convention. It is not basic to them. Indeed their actions say that they do not understand it. In fact, those nations which are the worst offenders against the basic rights of man are the very ones who wish to have us sign the convention so that they may find political ways to mock us before the World Court. We believe in law and they do not. We stand on principle and they do not. The Soviets annihilate Afghanis. We do not. The Soviets killed 7 million Ukrainians. We did not. The Khmer Rouge eliminated millions of Cambodians. We did not. The North Vietnamese seek to eliminate the Hmong. We do not. This convention will not help us to stop them, sad to say. They do not adhere to treaties, nor do they count public opinion. The convention will trouble America and her allies because the garbage it defines carefully excises political annihilation but can accuse us of the crime of genocide by troubling the sleep of "groups." We who care will suffer while those who do not will continue to wreak the havoc they always have.

Mr. President, some nations have convinced many well-meaning and well-intentioned groups in the United States that the Genocide Treaty is a good thing and that it will stop the nations who do not adhere to the most basic principles of human rights from committing crimes against humanity. In fact, this convention cannot do that. Neither the U.N. General Assem-

bly nor the World Court nor any other international body has been able to stop the crime of genocide when it has occurred around the world.

The World Court cannot try the individuals who commit such crimes. Only the courts of sovereign nations can do that. The civilized nations already have laws and statutes to punish such crimes while the worst offenders of human rights do not. For example, the Genocide Convention has not made one whit of difference to the human rights practices of the Soviet Empire. Yet the Soviet Union has signed the convention.

Mr. President, some people are saying that the Genocide Convention would enable the U.S. State Department to pursue cases at the World Court. But, Mr. President, our success in obtaining World Court consent to hear let alone judge the cases we wanted to take before it has been very slim indeed. And I have my doubts that the State Department is staffed to pursue such cases vigorously, even if the World Court were disposed to hear them. These are practical realities, quite apart from all the legal complexities of international and constitutional law related to this Genocide Convention.

Mr. President, the bottom line is that this convention, which is supposed to be a legal instrument, is in reality a political instrument of the highly politicized United Nations. It is a loosely drafted flimsy thing. In today's world of guerrilla wars, international terrorism, Soviet imperialism, and Soviet deception and disinformation it must say what it means in unequivocal terms, but it does not. In short, there are no safeguards to assure that the Genocide Convention will be used to challenge genocide, and not democracy, or be used to benefit mankind and not to threaten us. It is difficult to oppose a noble thought, but that thought is not defined here. No, Mr. President, that thought is only spoken here without thought or commitment to the passion of mankind from which it springs. It is evil for its lack of nobility.

Mr. President, I ask unanimous consent that the attached article from the February 18 Washington Times regarding the Genocide Convention be printed in the RECORD.

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

[From the Washington Times, Feb. 18, 1986]

PERILS OF THE GENOCIDE TREATY

(By David Wagner)

The United Nations Genocide Convention has once again popped back to life in the Senate. As always, its backers find they have to push hard if they are to get the Senate to put the signature of the United States on it—for some very good reasons, notwithstanding the humanitarian claims made for this treaty.

It is odd that contours of the Genocide Convention debate have changed so little despite the changes, mostly for the worse, in the way words are used since the treaty was drawn up in 1948. It is particularly strange that the treaty still commands strong support from the Jewish community.

That it commanded such support back in '48 is not strange at all. The very word "genocide" was coined in response to the Holocaust, a crime so immense it needed a new category to fit it. But words can be manipulated.

Take, for instance, the word "racism." It was once associated exclusively with the kinds of attitudes that produced the Holocaust; but then diplomats of the Arab and Third Worlds, with the U.N. General Assembly resolution calling Zionism "a form of racism," demonstrated what can be done with words. (I always recall fondly a Jewish friend who told me he would introduce at the United Nations a resolution declaring that "idiocy is a form of intelligence.")

Now, as Robert S. Wistrich showed in last May's *Commentary* magazine, the identification of Zionists with Nazism is the latest tack organized anti-Semitism is taking, with help from Soviet propagandists. The utility of the Genocide Convention for this campaign has been demonstrated by the Palestine Arab Delegation, a group whose objectives are to "disprove Zionist lies," (in which category it includes the Holocaust), to "convince the United States to stop supporting illegal Zionist occupation of Palestine," and so on. The PAD sent a memo to President Reagan in 1983 charging Israel with violations of the Genocide Convention.

Not that Israel has committed what you or I would recognize as genocide, though: in order to fall afoul of this versatile treaty, you don't have to.

If the United States were signatory to the treaty, it would be much harder to tell such people to go fly a carpet. We would be pledging ourselves to "prevent and punish" a very vaguely defined set of offenses, and to submit our citizens to the jurisdiction of the World Court whenever someone takes it in mind to charge them with such crimes.

The treaty defines genocide as any kind of offense against a "national, ethnical [sic], racial, or religious group." Missing from this list, at the behest of the Soviet Union, is "political," which just happens to be the category into which the Soviets wedge all the groups they try to wipe out, whether the Ukrainians in the 1930s, the Afghans, or the Hmong tribesman, etc., today.

But while the treaty's spectrum of possible victim group is too narrow, its range of possible ways to victimize those groups is breathtakingly broad: not only actual genocide, but also "Causing serious . . . mental harm to members of the group," "Deliberately inflicting on the group conditions calculated to bring about its physical destruction in whole or in part," "Attempt to commit genocide," "Complicity in genocide," etc. A gold mine for creative Second and Third World diplomats.

Of course, the fun and games might not all be one way. For instance, genocide would be understood to include "Imposing measures intended to prevent births within the group" and "Forcibly transferring children of the group to another group," which raises the prospect of the entire staff of International Planned Parenthood and all advocates of forced busing getting hauled up before the World Court. But somehow I doubt these groups would bear the brunt of the bizarre interpretations that could be put on the treaty's language. The United States would, and Israel would.

Of course, such hypothetical abuses of the Genocide Convention might get laughed right out of the court of world opinion. But that's the best we can hope for if we sign the treaty. There is no way it can do anything about genocide that is really taking place; the Soviet editors of the treaty have seen to that.

Meanwhile, several Republican senators face a choice between their judgment and their seats. This dilemma, which threatens the Republican majority in the Senate (as Democratic backers of the treaty are no doubt aware), could largely be solved if Jewish voters stopped judging the treaty by its original intentions and instead looked hard at what it could do in present circumstances.

In lending credibility to the Genocide Convention at such a time, the United States would not be disarming neo-Nazis. It would be handing them a propaganda treasure trove—not (it should not be necessary to stress) because of anything Israel has done, but because of the presentday debasement of political language. Friends of Israel should vote no.

Mr. MOYNIHAN. Mr. President, I rise today to call attention to a resolution adopted by the National Jewish Community Relations Advisory Board on February 17, 1986, supporting ratification of the Genocide Convention. The council represents almost every major Jewish organization in the United States. In adopting this resolution, the council agreed unanimously to call upon the Senate "to give its approval to this historic declaration against the heinous crime of genocide. There must be no further delay."

Mr. President, in view of the soundness of this advice, and the reputation of the council offering it, I ask unanimous consent that the council's resolution be entered into the RECORD, together with a list of the groups comprising the council.

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

RESOLUTION ADOPTED BY THE NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL—FEBRUARY 17, 1986

Meeting in plenary session in New York on February 17, 1986, the affiliates of the National Jewish Community Relations Advisory Council (including 11 national organizations and 111 local Jewish federations) are heartened by the prospect of Senate consideration in the next few days of the Genocide Convention.

For over 36 years, failure by the United States Senate to ratify the convention has been an embarrassment and a hindrance to more effective human rights advocacy in world affairs. But with the hearty endorsement by the President, the Secretary of State, and the Attorney General, the members of the United States Senate can now finally ratify American adherence to the convention.

Despite concerns over some of the reservations adopted by the Senate Foreign Relations Committee, the NJCRAC now calls upon the Senate to give its approval to this historic declaration against the heinous

71-059 O-87-29 (Pt. 2)

crime of genocide. There must be no further delay.

Adoption of this resolution was unanimous, with the participation of the following organizational affiliates:

Alabama: Birmingham JCC.

Arizona: Greater Phoenix Jewish Federation, Tucson Jewish Federation of Southern Arizona.

California: Greater Long Beach and West Orange County Jewish Community Federation, Los Angeles CRC of Jewish Federation-Council, Oakland Greater East Bay JCRG, Orange County Jewish Federation, Sacramento JCRC, San Diego CRC of United Jewish Federation, San Francisco JCRC, Greater San Jose JCRC.

Connecticut: Greater Bridgeport Jewish Federation, Greater Danbury CRC of Jewish Federation, Greater Hartford CRC of Jewish Federation, New Haven, Jewish Federation, Eastern Conn. Jewish Federation, Greater Norwalk Jewish Federation, Stamford United Jewish Federation, Waterbury Jewish Federation, JCRC of Connecticut.

Delaware: Wilmington Jewish Federation of Delaware.

District of Columbia: Greater Washington JCC.

Florida: South Broward Jewish Federation, Greater Fort Lauderdale Jewish Federation, Jacksonville JCC, Greater Miami Jewish Federation, Greater Orlando Jewish Federation, Palm Beach County Jewish Federation, Pinellas County Jewish Federation, Sarasota Jewish Federation, South County Jewish Federation.

Georgia: Atlanta Jewish Federation, Savannah Jewish Council.

Illinois: Metropolitan Chicago Public Affairs Committee of Jewish United Fund, Peoria Jewish Federation, Springfield Jewish Federation.

Indiana: Indianapolis JCRC, South Bend Jewish Federation of St. Joseph Valley, JCRC of Indiana.

Iowa: Greater Des Moines Jewish Federation.

Kansas: Kansas City, see Missouri.

Kentucky: Lexington Central Kentucky Jewish Association, Louisville Jewish Community Federation.

Louisiana: Greater New Orleans Jewish Federation, Shreveport Jewish Federation.

Maine: Portland Southern Maine Jewish Federation-Community Council.

Maryland: Baltimore Jewish Council (Montgomery County, see D.C.)

Massachusetts: Greater Boston JCRC, Marblehead North Shore Jewish Federation, Greater New Bedford Jewish Federation, Springfield Jewish Federation, Worcester Jewish Federation.

Michigan: Metropolitan Detroit JCC, Flint Jewish Federation.

Minnesota: Minneapolis Minnesota and Dakotas JCRC—Anti-Defamation League.

Missouri: Greater Kansas City Jewish Community Relations Bureau, St. Louis JCRC.

Nebraska: Omaha JCR Committee of Jewish Federation.

New Jersey: Atlantic County Federation of Jewish Agencies, Bergen County JCRC of United Jewish Community, Cherry Hill JCRC of Southern New Jersey Jewish Federation, Delaware Valley Jewish Federation, East Orange MetroWest New Jersey Jewish Community Federation, Greater Middlesex County Jewish Federation, Union Central New Jersey Jewish Federation, Wayne North Jersey Jewish Federation.

New Mexico: Albuquerque JCC.

New York: Greater Albany Jewish Federation, Binghamton Jewish Federation of Broome County, Greater Buffalo Jewish Federation, Elmira CRC of Jewish Welfare Fund, Greater Kingston Jewish Federation, New York JCRC, Rochester Jewish Community Federation, Greater Schenectady Jewish Federation, Syracuse Jewish Federation, Utica JCC.

Ohio: Akron Jewish Community Federation, Canton Jewish Community Federation, Cincinnati JCRC, Cleveland Jewish Community Federation, Columbus CRC of Jewish Federation, Greater Dayton CRC of Jewish Federation, Toledo CRC of Jewish Welfare Federation, Youngstown JCRC of Jewish Federation.

Oklahoma: Oklahoma City JCC, Tulsa JCC.

Oregon: Portland Jewish Federation.

Pennsylvania: Allentown CRC of Jewish Federation, Erie JCC, Greater Philadelphia JCRC, Pittsburgh CRC of United Jewish Federation, Scranton-Lackawanna Jewish Federation, Greater Wilkes-Barre Jewish Federation.

Rhode Island: Providence CRC of Rhode Island Jewish Federation.

South Carolina: Charleston JCR Committee, Columbia CRC of Jewish Welfare Federation.

Tennessee: Memphis JCRC, Nashville and Middle Tennessee Jewish Federation.

Texas: Austin JCC, Greater Dallas JCRC of Jewish Federation, El Paso JCR Committee, Greater Houston Jewish Federation, Fort Worth Jewish Federation, San Antonio JCRC of Jewish Federation.

Virginia: Newport News-Hampton-Williamsburg United Jewish Community of the Virginia Peninsula, Richmond Jewish Community Federation, Tidewater United Jewish Federation, (Northern Virginia, see D.C.).

Washington: Greater Seattle Jewish Federation.

Wisconsin: Madison JCC, Milwaukee Jewish Council.

Mr. RIEGLE. The Senate's ratification of the Genocide Treaty today is one of the most important actions ever taken by this body. As one of the first nations to endorse the convention at the United Nations 36 years ago, it is appropriate that the United States, as a key defender of human rights around the world, join the 96 other signatory nations in condemning the act of genocide.

In 1949, President Truman first submitted the Genocide Treaty to the U.S. Congress for ratification. Since then, the convention, which declares the systematic killing of racial, ethnic, or religious groups a crime under international law, has had the support of Presidents Kennedy, Johnson, Nixon, Ford, and Carter. On September 6, 1984, President Reagan became the seventh President to urge the Senate to give its consent to ratification.

Disagreement over the legal meaning and effect of this treaty has prevented the Senate from approving this convention for the past 36 years. To alleviate concerns that certain obligations under the convention are not clearly defined and may conflict with the U.S. Constitution, the Senate Foreign Relations Committee has drafted a set of eight provisos which delineate and qualify the legal obligations that the United States will incur in ratifying the convention. In so doing, the committee has quieted many of the treaty's critics, and has facilitated its approval by the Senate.

Today's ratification of the Genocide Treaty pays tribute to the millions of victims of genocide, including the 1.5 million Armenians whose massacre between 1915 and 1923 set the stage for the annihilation of 6 million Jews just a few decades later. In addition, we remember the millions of Ukrainians who perished in the only man-induced famine in history, and the killing of millions of Cambodians at the hands of the Pol Pot regime. These events are part of the darkest chapters in the world's history.

Even now, the threat of genocide is not safely in our past. Many ethnic and religious minorities around the globe—including the Baha'is of Iran—continue to be at risk.

Unfortunately, mere Senate ratification of the Genocide Treaty will not end the injustices of the world. What ratification will do, I believe, is demonstrate the commitment of this country to the protection of human rights and thereby legitimize our Nation's standing as the greatest protector of human rights in the world. No longer can our adversaries challenge U.S. dedication to human rights by focusing on our failure to ratify the Genocide Treaty.

In the three and a half decades that the world has waited for the United States to lend its support to the Genocide Treaty, distinguished proponents of Senate action have kept the debate alive. Since 1967, the regular speeches on the Senate floor by our distinguished colleague from Wisconsin, Senator PROXMIRE, urging prompt ratification of the convention, have provided daily reminders of the importance of endorsing the convention, and of the damage rendered by our continued failure to do so.

One of our greatest teachers on the moral imperative of protecting the world from the horrors of genocide is the distinguished humanitarian and survivor of the Holocaust, Elie Wiesel.

Through his words and deeds, Elie Wiesel has etched in the world's memory the horrors of his own experience, in the hope of preventing the occurrence of future holocausts. He eloquently reminds us that respect and dignity for each individual is essential to the achievement of world peace.

I am pleased that, after long years of waiting, the Senate has today taken an important step toward achieving that goal by voting overwhelmingly in favor of ratifying the Genocide Convention.

Mr. HELMS. Mr. President, the vote which the Senate is about to conduct

upon the so-called Genocide Convention is, at most, symbolic. Thanks to the eight provisos—on reservations—that some of us insisted should be a part of the instrument, the sovereignty of our Nation and the freedom of our people have been protected against assault by the World Court.

In other words, the treaty has been defanged in terms of the dangerous defects in its original version.

Mr. President, I will not delay the Senate with a reiteration of what I said on this floor yesterday. For those who may have an interest in my concerns, I would refer them to pages S 1261 through S 1273. Of particular interest will be the testimony of the late, great Senator Sam Ervin when he appeared before the Committee on Foreign Relations on May 22, 1970.

So, Mr. President, this Genocide Convention upon which we are about to vote is purely symbolic. We might as well be voting on a simple resolution to condemn genocide—which every civilized person does.

My vote against the treaty is likewise symbolic. Even in its present form, harmless as it now is, this treaty has the remote potential of an entangling alliance. So I shall vote against it for that reason—and also as a postscript of gratitude to a great American, Sam Ervin, who long ago took the time to make me aware of the great constitutional implications of this treaty in its original form.

Mr. MATSUNAGA. Mr. President, I rise to speak in full support of the measure before us today—the Genocide Treaty. In doing so, I would like to take this opportunity to express my deep appreciation for the efforts of the many who have made it possible to debate this issue on the floor of the Senate, early in this session of the Congress. To the members of the Senate Foreign Relations Committee, especially to Senator PELL, its ranking minority member, and to its distinguished chairman, Senator LUGAR, I extend my congratulations on a job well done. They have shown us that even on an issue as highly charged emotionally as this one is, that this august body can indeed choose the best, most just, most reasoned path among the many which present themselves.

To President Reagan, I also extend my congratulations, for without his support, it is doubtful that this treaty would have been considered as expeditiously as it has.

But most of all, Mr. President, I would like to extend my heartfelt thanks and congratulations to my dear friend and statesman from Wisconsin, Senator WILLIAM PROXMIRE, without whose dauntless and relentless campaign to keep the treaty in the consciousness of the Members of this body, and the consciousness of all Americans, this opportunity to ratify the treaty would never have come to pass. Day after day, year after year, this redoubtable champion of the ineffable hopes of the dead, the living, and those yet to be, has stood in this Chamber to remind us of our duty to the memory of those victims of unimaginable horror.

But perhaps it should not be said "unimaginable" horror—for the horror is that genocide is and has been contemplated, even as a matter of policy. Indeed, it has been said that a hallmark of national, racial, religious, or ethnic extermination is the commonplace manner with which it has been prosecuted. Hannah Arendt, the late political philosopher, wrote of the banality which characterized men like Eichman, who help carry out the thousands upon millions of murders committed in the Nazi camps only four short decades ago. It is this banality, this danger that the horror will be diluted by the commonplace, that the Genocide Treaty addresses. It has happened. Even in this great country, Mr. President, actions which we consider today to be barbarous, were committed—the persecution of native American Indian nations—the enslavement of blacks. But none has approached for sheer magnitude those mass killings which, sadly, seem to characterize our living generation.

Mr. President, I support the Genocide Treaty because, in the last analysis, it is a reflection of our highest nature, our conscience. There is no question of national sovereignty or legal jurisdiction, which opponents of the treaty have raised, for a nation which cannot abide by its basic precept would render meaningless its political, legal, and moral conventions. This is clear—for these conventions have not prevented men from ignoring them to perpetrate the ultimate crime against humanity. Let us hope that with the overly long-delayed ratification by the United States, this document will help direct all people on Earth down that road where the obscene is obscene, the horror truly horrible, the unthinkable truly unthinkable. Until that time, let us join the nations of the world in this declaration of conscience—if only to guard us from ourselves.

Mr. DOLE. Mr. President, I just want to take 2 or 3 minutes to thank my colleagues and to indicate that it would be my intention—and I will ask unanimous consent before we vote on this—that we bring up a separate resolution, which I think has been cleared on both sides, which would direct the President to seek a political genocide amendment to the Genocide Convention under the procedures established by the convention for that purpose.

The distinguished Senator from Idaho has a letter from the President indicating that he is prepared to do just that. I will seek a separate vote on this resolution following the vote on the resolution of ratification itself.

Mr. President, the International Convention on the Prevention and Punishment of the Crime of Genocide was approved by the United Nations in 1948. Six of the seven Presidents who have assumed office since that time have asked the Senate to consent to the treaty's ratification. The Senate has considered the treaty on no fewer than five occasions. In the last Congress, we overwhelmingly passed a resolution—I think the vote was 87 to 2—which declared the treaty to be a priority for the 99th Congress, with only two Senators dissenting. This is the 99th Congress, I remind my colleagues, and that is why the matter is before us. The time has come for the Senate to take the final step and approve the resolution of ratification. We have waited long enough.

THE PRESIDENT'S SUPPORT

The reasons for ratifying the Genocide Convention were succinctly stated by President Reagan when he wrote me last October to again urge the Senate to approve this important agreement. In his letter, he stated:

> Ratification of the convention would serve as an important statement in opposing the gross human rights abuses the convention addresses. I believe that we can also use this convention effectively in our efforts to expand human freedoms and fight human rights abuses around the world. Ratification of the convention after 37 years would serve to counter the criticisms the U.S. has received over the years for its failure to ratify.

AN IMPORTANT SYMBOL

This treaty has enormous symbolic value as a worldwide statement of outrage and condemnation over very real horrors—as real as the Armenian genocide and Hitler's death camps. We cannot wipe out the memory of these atrocities, nor can we turn our backs on the victims for whom this treaty has a special meaning the rest of us cannot even begin to appreciate. Moreover, as we rejoice in the release of Anatoly Shcharansky, can we continue to let his jailers use our failure to ratify this convention as a propaganda tool to camouflage their abuses of human rights? This was a particular concern of mine when I cochaired the Helsinki Commission. Jeane Kirkpatrick summed the problem up for the Senate Foreign Relations Committee in the last Congress, when she stated:

> The Soviets and others hostile to the United States have long focused on the United States' failure to ratify the convention as part of their anti-American propaganda. It is contrary to our national interest to provide fuel to this campaign by failing to reaffirm clearly and unequivocally U.S. support for the important objectives of the convention.

THE DEBATE OVER THE TREATY

Why then has it taken so long for the United States to ratify this agreement? Not, of course, because there is

any question that genocide should be an international offense. Rather, the debate over the years has mainly centered on legal ambiguities in the language of the treaty, perceived by critics as infringing upon the sovereignty of the United States and the supremacy of the Constitution. Fears have been expressed that these ambiguities could result in Americans being prosecuted in foreign countries without due process protections, or that our country could become vulnerable to trumped up charges of genocide by our adversaries in hostile forums.

The debate has gone on for far too long, but it has resulted in a refined understanding of the treaty which in turn has helped culminate a consensus which has placed ratification within our reach. One of the most significant developments occurred in 1976 when the American Bar Association—an outspoken critic of the treaty—changed its position and became a leading supporter.

THE PROVISOS

Another significant development occurred this past year when the distinguished chairman of the Foreign Relations Committee joined Senator HELMS in sponsoring eight carefully crafted provisos which meet the concerns of those who view the convention as an imprecise legal document, while maintaining the treaty's integrity as a strong, international condemnation of genocidal acts. I am satisfied that these provisos will protect our national interests. Indeed, Senators HELMS and LUGAR have devoted substantial amounts of time to the consideration of this treaty and the various objections that have been raised. I have a deep respect for their expertise and judgment. Moreover, there is no doubt that in drafting these provisos, they have struck a very delicate balance—any tampering, and the whole package could very well fall apart.

POLITICAL GENOCIDE

A final objection raised about the treaty is one which cannot be addressed through reservations or provisos. That is the question we just voted on—the argument that the treaty is deficient because it fails to prohibit political genocide—an omission which can be remedied only by amending the text of the treaty itself. I agree that political genocide should be included as an international crime, as does every Member in this body I would venture to guess. The problem is that if the Senate adopts an amendment to the treaty, it conditions its consent to ratification on the acceptance of the amendment by all 96 countries who have already ratified the convention—an extremely unlikely occurrence. Senate passage of the resolution of ratification would become a meaningless act. This is why I felt compelled to vote against the distinguished Senator from Idaho.

The convention itself provides for a process for amendment. So I believe we should pass the resolution ratifying the treaty as it is currently written. Once a party, this country can seek to use those procedures to extend the convention to political genocide. And again let me state for the record that immediately after we complete action on the convention, I will seek passage of a separate Senate resolution which directs the President to initiate those procedures upon depositing the instrument of ratification with the United Nations.

CONCLUSION

We have waited too long to delay further. The convention is not perfect, but that is hardly reason to reject it. As a nation which enshrines human dignity and freedom as a God-given right in its constitution, we must correct our anamolous position on this basic rights issue. The time to debate is over. The time to act is now.

DOCUMENTS FOR THE RECORD

Mr. President, at this point, I ask unanimous consent that certain documents be printed in the RECORD at the conclusion of my remarks.

First, there are various statements made by the President and other administration officials in support of the convention, including the President's speech before B'nai B'rith in September of 1984 which eloquently and forcefully presents the case for the Genocide Convention; the letters the President sent me last October urging prompt Senate approval of the treaty and to Senator SYMMS today; Secretary Shultz letter to me reaffirming the administration's support for the treaty; and Ambassador Jeane Kirkpatrick's statement before the Foreign Relations Committee in the last Congress in behalf of the convention.

Next is the text of the resolution passed by the Senate on an 87-to-2 vote in the last Congress which expresses support for the Genocide Convention and declares that it should be acted upon expeditiously in the 99th Congress.

Finally, there is a column by Jack Kilpatrick which appeared in the Wasington Post shortly before the Senate began debating the Genocide Convention in the last Congress. This article constitutes one of the best explanations by a conservative I have seen of why the Genocide Convention, with the Helms reservations, is worthy of strong support.

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

(See exhibit 1.)

THANKS TO SENATORS

Mr. DOLE. Mr. President, in concluding, I would like to thank all the Senators who have put so much time and effort into this issue: Chairman LUGAR, who made the Genocide Treaty an early priority for his committee, consistent with last Congress' Senate resolution; Senator HELMS, who has long supported the goals of the Genocide Treaty and has worked diligently to ensure that potential ambiguities are clarified through the provisos he has sponsored; Senator HATCH should also be commended for his contributions to the drafting of the provisos.

Thanks should also go to Senator PROXMIRE for his tireless advocacy of the Genocide Convention. Senator BOSCHWITZ, of course, has also been highly active in support of the treaty. And finally, a debt of gratitude goes to the ranking member of the Foreign Relations Committee, Senator PELL for his leadership on this issue.

EXHIBIT 1

THE WHITE HOUSE,
Washington, DC, October 16, 1985.

Hon. ROBERT J. DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: We now have an important opportunity to reaffirm to the international community the fundamental and unswerving American commitment to human rights.

Last September, following an extensive review by the Executive Branch, I announced the Administration's vigorous support for ratification of the Genocide Convention. The Senate Foreign Relations Committee, after careful consideration, subsequently recommended that the Senate give its advice and consent to ratification of the Convention subject to eight provisions. I am convinced that ratification of the Convention with these eight provisions would further the national interest and fully protect the United States.

Ratification of the Convention would serve as an important statement in opposing the gross human rights abuses the Convention addresses. I believe that we can also use this Convention effectively in our efforts to expand human freedoms and fight human rights abuses around the world. Ratification of the Convention after thirty-seven years would serve to counter the criticisms the U.S. had received over the years for its failure to ratify.

I urge the Senate this year to give its advice and consent to ratification of the Genocide Convention with the eight provisions adopted by the Committee on Foreign Relations.

Sincerely,

RONALD REAGAN.

B'NAI B'RITH—REMARKS AT THE ORGANIZATION'S INTERNATIONAL CONVENTION, SEPTEMBER 6, 1984

Thank you very much. Thank you. Max Fisher, if I'd be really smart, I'd just sit down and leave your introduction do it, and I wouldn't speak. I thank you very much. He's a long-time friend.

And I thank all of you. It's a deep honor for me to speak to you, the members of one of the oldest and largest Jewish organizations in America. For more than 140 years, B'nai B'rith has sponsored religious, cultural, and civic programs, conducted studies of vital issues, combated bigotry, and worked tirelessly to advance the cause of tolerance and humanity. And because of your efforts, today our country has a bigger heart, a deeper sense of the generosity of spirit that

must always define America. And on behalf of all Americans, I thank you.

Anyone who has contemplated the horror inflicted on Jews during World War II, the deaths of millions in Cambodia, or the travail of the Mesquito Indians in Nicaragua must understand that if free men and women remain silent in the face of oppression we risk the destruction of entire peoples. I know that B'nai B'rith has been among the most concerned of the groups advocating American support for the Genocide Convention. With a cautious view, in part due to the human rights abuses performed by some nations that have already ratified the documents, our administration has conducted a long and exhaustive study of the convention. And yesterday, as a result of that review, we announced that we will vigorously support, consistent with the United States Constitution, the ratification of the Genocide Convention. And I want you to know that we intend to use the convention in our efforts to expand human freedom and fight human rights abuses around the world. Like you, I say in a forthright voice, "Never again!"

THE SECRETARY OF STATE,
Washington, DC, October 7, 1985.

Hon. ROBERT DOLE,
U.S. Senate.

DEAR BOB: As you well know, the Genocide Treaty has failed to receive Senate approval for 37 years. Now, as a result of strong Administration support, thoughtful consideration by the Senate Foreign Relations Committee, and careful crafting of eight provisions aimed at protecting U.S. interests, Senate advice and consent now seems possible. I am convinced that ratification of the Convention with the eight provisions adopted by the Senate Foreign Relations Committee would fully protect the United States and advance the national interest.

Ratification now would remove a focal point of international criticism over the years. It would make clear to all that U.S. opposition to genocide is unequivocal. And, it would be seen as a reaffirmation of this nation's longstanding commitment to fundamental human rights and individual dignity.

I urge the Senate to give its advice and consent to the Genocide Convention, with the eight provisions adopted by the Senate Foreign Relations Committee, this year.

Sincerely yours,

GEORGE P. SHULTZ.

SELECTED CONSERVATIVE'S SUPPORT

STATEMENT OF HON. JEANE J. KIRKPATRICK; PERMANENT REPRESENTATIVE OF THE UNITED STATES TO THE UNITED NATIONS

President Reagan has joined Presidents Truman, Kennedy, Johnson, Nixon, Ford and Carter in asking the Senate to ratify the Convention on the Prevention and Punishment of the Crime of Genocide. I, of course, fully endorse and welcome President Reagan's initiative in seeking Senate ratification of this important Convention, which the United States first signed in 1948.

I believe that the Senate's ratification of the Convention will enhance the standing of the United States in the United Nations and other international organizations. The Soviets and others hostile to the United States have long focused on the United States' failure to ratify the Convention as a part of their anti-American propaganda. It is contrary to our national interest to provide fuel to this campaign by failing to reaffirm clearly and unequivocally U.S. support for the important objectives of this Convention.

Despite the horrors of the Second World War which gave rise to the term genocide, and despite various international efforts, genocidal practices continue. This Convention can be of only limited value in combatting this scourge. It has no automatic enforcement provisions and is essentially self-implementing. Ratification of the Convention would, however, as President Reagan has stated, reaffirm "the fundamental and timeless American commitment to human rights." Ratification would also advance our shared objective of realizing the goal of the Convention—a world free from genocide.

[Submitted to Foreign Relations Committee in October 1984]

S. RES. 478 (EXEC.)

Resolved, That the Senate hereby expresses its support for the principles embodied in the Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948 (Executive O, Eighty-first Congress, first session), and declares its intention to act expeditiously thereon in the first session of the Ninety-ninth Congress.

[ROLLCALL VOTE NO. 288 EX.]

YEAS—87

Abdnor, Andrews, Armstrong, Baker, Baucus, Bentsen, Biden, Bingaman, Boren, Boschwitz, Bradley, Bumpers, Burdick, Byrd, Chafee, Chiles, Cochran, Cranston, D'Amato, Danforth, DeConcini, Denton, Dixon, Dodd, Dole, Domenici, Durenberger, Evans, Exon.

Ford, Garn, Glenn, Gorton, Grassley, Hart, Hatch, Hawkins, Hecht, Heflin, Heinz, Helms, Hollings, Humphrey, Inouye, Jepsen, Johnston, Kassebaum, Kasten, Lautenberg, Laxalt, Leahy, Long, Lugar, Mathias, Matsunaga, Mattingly, Melcher, Metzenbaum.

Mitchell, Moynihan, Murkowski, Nickles, Nunn, Packwood, Pell, Pressler, Proxmire, Pryor, Quayle, Randolph, Riegle, Roth, Rudman, Sarbanes, Sasser, Simpson, Specter, Stafford, Stennis, Stevens, Thurmond, Trible, Tsongas, Warner, Weicker, Wilson, Zorinsky.

NAYS—2

East, Symms.

NOT VOTING—11

Cohen, Eagleton, Goldwater, Hatfield, Huddleston, Kennedy, Levin, McClure, Percy, Tower, Wallop.

[From the Washington Post, Sept. 19, 1984]

THE HELMS RESERVATIONS

(By James J. Kilpatrick)

Once again the International Convention of the Prevention and Punishment of the Crime of Genocide is back in the news. If the Senate will agree to the two sensible and prudent reservations sought by Sen. Jesse Helms the treaty should be ratified.

The Genocide Convention was approved unanimously by the U.N. General Assembly in December 1948. The following June President Truman sent the treaty to the Senate with a recommendation that it be approved. The Senate balked then, as it has balked for the ensuing 35 years, on questions of "understanding." It is time to have these questions resolved.

As the term "genocide" generally is understood, the crime arouses revulsion almost beyond description. Hitler's slaughter of more than 6 million Jews provides the most appalling example of genocide in the century, but there have been other instances that have aroused the condemnation of the civilized world. In this recent statement to the Senate Foreign Relations Committee, Helms spoke of the "horror" of genocide. It was precisely the right word.

Given this unanimity of opinion on genocide itself, why has a treaty with so noble a purpose languished so long? The answer lies in part with the language of the convention, and in part with the language of our own Constitution.

The convention defines five acts committed with intent to destroy "in whole or in part" a national, ethnical, racial or religious group. These are 1) killing members of the group; 2) causing serious bodily "or mental" harm to members of the group; 3) deliberatly inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; 4) imposing measures intended to prevent births within the group; and 5) forcibly transferring children of the group to another group.

The convention commits the signatories to adopting legislation "in accordance with their respective Constitutions"—note the language—providing for the punishment of public officials or private individuals who commit any of the prohibited acts. Such persons would be tried in the country in which the acts were committed "or by such international tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction."

Under Article IX of the convention—and this is one of the serious sticking points—questions of interpretation and state responsibility "shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

A threshold problem is that our own Constitution, in defining the supreme law of our land, says that the supreme law includes treaties "made under the authority of the United States." This convention would be such a treaty. It would bind all state and federal judges. The first of the Helms reservations would make it clear that the treaty authorizes only legislation "which would be valid in the absence of the convention." Surely this is a reasonable proposal.

Helms' second reservation goes to Article IX. He wants a formal understanding that the United States will not accept the World Court's jurisdiction over any domestic matter "as determined by the United States." This language echoes the Connally Amendment of 1946, which the Senate prudently adopted as a condition of recognizing the World Court at that time. Again, Helms is on sound ground.

It is unlikely that the Genocide Convention, if ratified, ever would be invoked in the United States. To be sure, opponents have concocted horror stories. By tortuous interpretation, the treaty conceivably could be invoked against racial homicides, or against a bigoted Louis Farrakhan who causes "serious mental harm" to Jews, or against public officials who fail to protect American indians and braceros who come in to pick lettuce. These are frivolous conjectures.

It is doubtful the Genocide Convention ever will amount to anything more than a symbol of man's revulsion at inhumanity to man. So long as it is made clear we are not effectively amending our Constitution and not surrendering sovereignty over our domestic affairs to any world tribunal, the Senate would do well to advise and consent.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in

the RECORD a letter received this morning from the President, addressed to the distinguished Senator from Idaho [Mr. SYMMS].

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

THE WHITE HOUSE,
Washington.

HON. STEVEN D. SYMMS,
U.S. Senate, Washington, DC.

DEAR STEVE: As you know, in September 1984, after an intensive Administration review, I called upon the Senate to give its advice and consent to ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide. I renewed that call to the Senate last October. I remain strongly committed to the Convention and hope the Senate will approve it expeditiously.

I understand and appreciate your concern that the Convention does not explicitly address the question of politically motivated genocide. If the Senate gives its advice and consent to the Convention, I am prepared, at the time of ratification, to inform the UN Secretary General of the United States' desire to obtain international agreement to include acts of politically motivated genocide within the definition of the term "genocide" under the Convention and to seek adoption of such an agreement.

I hope that this approach will alleviate your concern on this score and that the Senate will give its advice and consent to the Convention within the next few days.

Sincerely,

RON.

Mr. DOLE. Again I thank my colleagues for their patience and I believe that within the hour we will have completed action on this, and then I am not certain what Senator PROXMIRE would do when it comes to special orders and morning business, but maybe we can find another suitable topic.

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

Mr. DOLE. I am happy to yield.

Mr. SYMMS. I suggest Senator PROXMIRE take up the constitutional amendment to balance the budget as his next crusade.

Mr. DOLE. But not wait 19 years.

Mr. GORTON. Mr. President, nearly four decades have passed since this convention was submitted to the Senate for our consideration. Today we end a conscientious and certainly prolonged deliberations on this matter. I believe that we have now addressed the important reservations which have delayed the treaty for so long. Accordingly, I urge the Members of this body to grant their advice and consent to this measure.

I have advocated the general principles of the Genocide Treaty for many years. I have also taken note of the rigorous scrutiny which this treaty has received since its introduction in 1949 in the light of the reservations attached to this resolution. There is reason to believe that there no longer remain significant constitutional obstacles to our support of the Genocide Convention. Of particular note are the provisions added by the Foreign Relations Committee. The language we are adopting makes it clear that this statement of opposition to the crime of genocide in no way degrades the legal primacy of the Constitution and the protections which it guarantees to American citizens.

I am proud to add my voice to the President's request for final action on this matter. I urge my colleagues to do the same.

Mr. DODD. Mr. President, in the 5 years that I have spent serving in the Senate few issues troubled me more than our failure to ratify the Genocide Convention. For someone who takes a great deal of pride in serving in this institution where my father served before me, it has been painful for me to witness the mass misinformation that has been created and spread about on this issue, totally paralyzing the constitutional process for over 36 years. The simple act of ratifying an international agreement that 96 countries ratified to this day has been invested with superstitious powers and diabolic consequences that may torpedo and sink our Constitution and indeed our whole Nation.

Far from having such ominous consequences, our ratification would simply renew our commitment to international law and justice. It would serve our national interest, and it would acknowledge the most minimal standards of an acceptable international order.

The impetus for an international prohibition against genocide was born in the gas chambers and the crematoria of the Nazi Holocaust. The world recoiled upon learning that primitive hatreds combined with modern technology could come close to eradicating whole peoples from the face of the Earth.

The Genocide Convention, however, is not merely a monument to a historical crime of immense proportions. History may and does repeat itself. Just in our days, in the medieval darkness of Iran the gentle and peaceful people belonging to the Bahai faith are subject to a deliberate attempt to eradicate their group from existence. Our Government and Congress has raised its voice repeatedly in defense of the Bahais. How much more authority that voice would command if we had had the guts long ago to identify ourselves with the goals of the Genocide Convention by accepting it as a formal obligation.

Our late Chief Justice, Earl Warren, expressed it well: "We as a nation, should have been the first to ratify the Genocide Convention * * * instead we may well be among the last." More than 20 years has passed since the Chief Justice issued this warning and we still hesitate. In that hesitation we renege on a debt we owe both to the victims of earlier genocides and to those who are being killed in these very days in the name of benighted doctrines of hatred.

Our refusal to act has been all the more glaring in light of the legislative history of the Genocide Convention.

My friend from Wisconsin, Senator PROXMIRE, who has served as the conscience of the Senate on this issue for longer than, I am sure, he cares to remember, has called this convention an American treaty. This is a crucially important point. No nation has acted more forcefully and effectively to build the international legal order that governs the world today. Americans initiated the negotiations and the legislative crafting that lead to the convention. It was written with active American participation and incorporates American legal and moral principles. Seven Presidents, including four Democrats and three Republicans supported its ratification as did the Senate Foreign Relations Committee on seven different occasions. The time for ratification is certainly long past due.

Even with the advantage of hindsight it is difficult to understand what paralyzed this body on this issue for so long.

Certainly, there is nothing esoteric or threatening about this convention. It boils down to two simple and direct proposals. First, the United States would declare that it recognizes genocide as a crime under international law. Who would find that objectionable? We have undertaken solemn treaty obligations condemning the destruction of species of animals. What conceivable reason can there be to balk at prohibiting the extermination of entire races or nations of humankind?

Second, the United States would obligate itself to provide for the punishment of those who perpetrate genocide under its domestic jurisdiction. This Nation owes its very birth to a belief that each person was entitled to life, liberty, and the pursuit of happiness. The Constitution which governs us is rooted in the values of human dignity and individual liberty. Can we be true to that heritage and demur from punishing those who would destroy not a single life, but, in fact, the lives of whole multitudes? I think not.

The arguments that are raised against the Genocide Convention, Mr. President, are not new. They were raised and answered 30 years ago. They have been reiterated and rebutted ever since. Reading the record on the issue is frustrating—it is like listening to a dialog in which at least one of the parties is deaf. On the whole, however, it is now clear that this country and its citizens have nothing to fear, our reputation and our diplomacy have much to gain if we complete

the long overdue ratification of this treaty.

Mr. President, I made clear repeatedly in this body my opposition to any reservations and conditions that go beyond the three understandings and one declaration that were supported by the Foreign Relations Committee repeatedly, the last time in September 1984. I am resolutely opposed to the conditions that are included in the present resolution of ratification that go beyond the above three understandings and one declaration.

Nonetheless, I also know the realities of the day in the Senate. If it comes to the question of voting on the treaty with the present conditions or putting off this issue once again, then, with great reluctance and sorrow, I will vote for ratification. My joy over the completion of this long overdue step, however, will be severely tempered by the crippling impact of these ill-advised provisions.

I cast this vote not only on the merits of the issue at hand but in the hope, that the approval of the Genocide Convention will open the way for the consideration of the series of signed but unratified human rights treaties that are pending in the Senate. Frankly, the genocide debate does not give me much hope that those treaties will be treated any more favorably in this body. Still, I do not intend to abdicate my responsibility as a Senator and as a member of the Foreign Relations Committee and I fervently hope that my chairman and ranking member will agree on the need to take up those treaties without delay.

Mr. President, just on another note: there has been reference made to the distinguished Senator from Wisconsin [Mr. PROXMIRE]. This must indeed be a very happy moment for him, having spent as many years as he has in this body day in and day out urging the Senate of the United States to ratify this treaty.

I think all of us who feel strongly about this agreement, though not entirely pleased with every piece of it, owe a debt of gratitude to him and others who came before us years and years ago, who waged the good fight on this treaty.

This is a historic moment indeed.

I commend the Senator from Wisconsin.

Mr. CHILES. Mr. President, I associate myself with the Senator's remarks and again express my admiration for the Senator from Wisconsin and his persistence over the years with which he has stood up for his principles and his fight on this issue.

Mr. METZENBAUM. Mr. President, several weeks ago when the majority leader rose to ask for unanimous consent in connection with the consideration of the Genocide Treaty, there was some discussion on the floor as to the position of the American Jewish community on the matter of ratifying the Genocide Treaty.

There is one organization in this country that speaks for all of the other Jewish organizations, consisting of 12 national and 113 community agencies, and that organization is known as the National Jewish Community Relations Advisory Council.

On February 17 they met and unanimously indicated their support for ratification of the Genocide Treaty. They indicated that they still have concerns over some of the reservations adopted by the Senate Foreign Relations Committee but that notwithstanding that fact the MJCRAC now calls upon the Senate to give its approval of this historic declaration against the heinous crime of genocide.

Mr. President, I ask unanimous consent that their statement as well as a list of organizations making up that group be printed in the RECORD.

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

NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL,
New York, NY, February 18, 1986.

To: Members of the U.S. Senate.
From: National Jewish Community Relations Advisory Council.
Subject: Jewish Community Call for Genocide Ratification.

Meeting in plenary session in New York City on this day, February 17, 1986, the 12 national and 113 community agencies of the National Jewish Community Relations Advisory Council are heartened by the prospect of Senate consideration in the next few days of the Genocide Convention.

For over 36 years, failure by the United States Senate to ratify the convention has been an embarrassment and a hindrance to more effective American human rights advocacy in world affairs. But with the hearty endorsement by the President, the Secretary of State, and the Attorney General, the members of the United States Senate can now finally ratify American adherence to the convention.

Despite concerns over some of the reservations adopted by the Senate Foreign Relations Committee, the NJCRAC now calls upon the Senate to give its approval to this historic declaration against the heinous crime of genocide. There must be no further delay.

Adoption of this resolution was unanimous, with the participation of all of the organizations listed below:

LOCAL, STATE, AND COUNTY AGENCIES AND THEIR LOCATIONS

Alabama: Birmingham JCC.

Arizona: Greater Phoenix Jewish Federation, Tucson Jewish Federation of Southern Arizona.

California: Greater Long Beach and West Orange County Jewish Community Federation, Los Angeles CRC of Jewish Federation-Council, Oakland Greater East Bay JCRC, Orange County Jewish Federation, Sacramento JCRC, San Diego CRC of United Jewish Federation, San Francisco JCRC, Greater San Jose JCRC.

Connecticut: Greater Bridgeport Jewish Federation, Greater Danbury CRC of Jewish Federation, Greater Hartford CRC of Jewish Federation, New Haven Jewish Federation, Eastern Connecticut, Jewish Federation, Greater Norwalk Jewish Federation, Stamford United Jewish Federation, Waterbury Jewish Federation, JCRC of Connecticut.

Delaware: Wilmington Jewish Federation of Delaware.

District of Columbia: Greater Washington JCC.

Florida: South Broward Jewish Federation, Greater Fort Lauderdale Jewish Federation, Jacksonville JCC, Greater Miami Jewish Federation, Greater Orlando Jewish Federation, Palm Beach County Jewish Federation, Pinellas County Jewish Federation, Sarasota Jewish Federation, South County Jewish Federation.

Georgia: Atlanta Jewish Federation, Savannah Jewish Council.

Illinois: Metropolitan Chicago Public Affairs Committee of Jewish United Fund, Peoria Jewish Federation, Springfield Jewish Federation.

Indiana: Indianapolis JCRC, South Bend Jewish Federation of St. Joseph Valley, JCRC of Indiana.

Iowa: Greater Des Moines Jewish Federation.

Kansas: Kansas City, see Missouri.

Kentucky: Lexington Central Kentucky Jewish Association, Louisville Jewish Community Federation.

Louisiana: Greater New Orleans Jewish Federation, Shreveport Jewish Federation.

Maine: Portland Southern Maine Jewish Federation-Community Council.

Maryland: Baltimore Jewish Council (Montgomery County, see D.C.)

Massachusetts: Greater Boston JCRC, Marblehead North Shore Jewish Federation, Greater New Bedford Jewish Federation, Springfield Jewish Federation, Worcester Jewish Federation.

Michigan: Metropolitan Detroit JCC, Flint Jewish Federation.

Minnesota: Minneapolis and Dakotas JCRC—Anti-Defamation League.

Missouri: Greater Kansas City Jewish Community Relations Bureau, St. Louis JCRC.

Nebraska: Omaha JCR Committee of Jewish Federation.

New Jersey: Atlantic County Federation of Jewish Agencies, Bergen County JCRC of United Jewish Community, Cherry Hill JCRC of Southern New Jersey Jewish Federation, Delaware Valley Jewish Federation, East Orange MetroWest New Jersey Jewish Community Federation, Greater Middlesex County Jewish Federation, Union Central New Jersey Jewish Federation, Wayne North Jersey Jewish Federation.

New Mexico: Albuquerque JCC.

New York: Greater Albany Jewish Federation, Binghamton Jewish Federation of Broome County, Greater Buffalo Jewish Federation, Elmira CRC of Jewish Welfare Fund, Greater Kingston Jewish Federation, New York JCRC, Rochester Jewish Community Federation, Greater Schenectady Jewish Federation, Syracuse Jewish Federation, Utica JCC.

Ohio: Akron Jewish Community Federation, Canton Jewish Community Federation, Cincinnati JCRC, Cleveland Jewish Community Federation, Columbus CRC of Jewish Federation, Greater Dayton CRC of Jewish Federation, Toledo CRC of Jewish Welfare Federation, Youngstown JCRC of Jewish Federation.

Oklahoma: Oklahoma City JCC, Tulsa JCC.

Oregon: Portland Jewish Federation.

Pennsylvania: Allentown CRC of Jewish Federation, Erie JCC, Greater Philadelphia JCRC, Pittsburgh CRC of United Jewish Federation, Scranton-Lackawanna Jewish Federation Greater Wilkes-Barre Jewish Federation.

Rhode Island: Providence CRC of Rhode Island Jewish Federation.

South Carolina: Charleston JCR Committee, Columbia CRC of Jewish Welfare Federation.

Tennessee: Memphis JCRC, Nashville and Middle Tennessee Jewish Federation.

Texas: Austin JCC, Greater Dallas JCRC of Jewish Federation, El Paso JCR Committee, Greater Houston Jewish Federation, Fort Worth Jewish Federation, San Antonio JCRC of Jewish Federation.

Virginia: Newport News-Hampton-Williamsburg United Jewish Community of the Virginia Peninsula, Richmond Jewish Community Federation, Tidewater United Jewish Federation (Northern Virginia, see D.C.)

Washington: Greater Seattle Jewish Federation.

Wisconsin: Madison JCC, Milwaukee Jewish Council.

Mr. METZENBAUM. Mr. President, we are about to conclude this debate, and it is obvious that the Genocide Treaty is going to be ratified, and I think it is a very solemn occasion and there is probably no more critical moment in the deliberation of the Senate than the significance of the act that we are about to take.

I think that many of us who feel very deeply about that which occurred in the Holocaust are very grateful to the leaders—the leadership that has seen fit to bring the matter to the floor and to push it to a vote.

It has been talked about in the past but today we see ourselves actually in action, and I commend the leadership for having done so.

But having said that, I return to comments I made earlier this morning about the one man in the Senate who has been so totally steadfast since 1967. Every day that we have been in session, except for those pro forma sessions, he has come to the floor and urged this body to act to ratify the Genocide Treaty.

Many of us come to this floor and we speak once, we speak twice, we speak and we think that if we have spoken once or twice a week, that is a lot.

Senator PROXMIRE has spoken, according to my best calculations, more than 3,000 times, urging this body to ratify the Genocide Treaty.

I think that he has been singular in his devotion and dedication, and I think he is a Senator of whom all of us can be very proud.

I say for one that I stand on this floor and salute him and indicate my deep gratitude for his constant effort for the last 18 years and better than 3,000 speeches. We are all very grateful to him.

Mr. MELCHER. Mr. President, I, too, wish to associate myself with the remarks made by the Senator from Ohio in commending the distinguished Senator from Wisconsin, Senator PROXMIRE, for his devotion to a cause that will bear fruit finally today.

Mr. President, I, too, support the ratification of the Genocide Treaty. We all agree with the principles to eliminate the terrible crime of genocide by concerted agreement of the nations of the Earth.

This treaty is to acknowledge and accomplish that goal.

I am fully convinced that our ratification of this document is just and proper. Our Nation's greatest strength is our commitment to individual freedom and rights. It is time for us to ratify this treaty which has awaited Senate action for 36 years and which seven of our Presidents have asked the Senate to ratify.

The main concern in the Senate has been to insure that that ratification of the Genocide Treaty did not in any way interfere with the rights guaranteed to U.S. citizens under our Constitution. This has been done. The Senate Foreign Relations Committee has included language in the form of legally binding reservations to the treaty that insure that the constitutional rights of American citizens will always be above the jurisdiction of the World Court. These reservations make it clear that before any dispute involving a U.S. citizen can be submitted to the jurisdiction of the World Court, the specific consent of the United States is required; and that nothing in the treaty requires or authorizes legislation or any other action by the United States that is prohibited by our Constitution.

The last hurdles have been removed from the treaty's ratification permitting the United States to join with the 96 other nations that have agreed to cooperate in bringing an end to abhorrent crime of genocide.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair, and I shall be very brief.

Mr. President, approval by the Senate of the terms of the Genocide Convention is a tribute to the sheer doggedness and determination by the distinguished senior Senator from Wisconsin [Mr. PROXMIRE]. The convention was submitted to the Senate for its advice and consent in 1949, some 37 years ago.

It was 9 years ago, on January 11, 1967, to be exact, that Mr. PROXMIRE announced on the Senate floor his intention to wage a personal crusade on behalf of the treaty.

He said on that day, and I quote from his floor address, that the

> Senate's failure to act has become a national shame * * * I serve notice today that from now on I intend to speak day after day in this body to remind the Senate of our failure to act and of the necessity for prompt action.

I would also note that it was the distinguished senior Senator from Rhode Island [Mr. PELL], who is today the ranking Democratic Senator on the Foreign Relations Committee, who was the first to raise his voice, and I quote, "I am in complete and full support of the words just uttered by the Senator from Wisconsin."

Mr. President, Mr. PROXMIRE made good on his word. He has delivered over 3,000 speeches on this floor—as was just stated a moment ago by the distinguished Senator from Ohio [Mr. METZENBAUM]—keeping the pressure on the Senate to fulfill this long-standing, long-overdue obligation to the international community and to the rights of oppressed groups of all kinds worldwide—national, ethnic, religious, or racial. It is altogether probable that the United States would never have gotten to the point of ratifying the Genocide Convention were it not for the efforts of the distinguished Senator from Wisconsin. He has scored a notable achievement, one that may well have an impact on the treatment and livelihood of men, women, and children in far-flung parts of the world into the far future. He is richly deserving of all the honor and praise that will undoubtedly be afforded to him. I join with my colleagues in congratulating him.

Mr. BOSCHWITZ. Mr. President, I wish to associate myself with the remarks of Senator METZENBAUM and the minority leader with respect to Senator PROXMIRE. I know that some of my colleagues have sometimes even found the fact that he persisted day after day to have an element of humor in it, but whether or not it did is unimportant.

There is no question that the Senator from Wisconsin, at some political risk, I might say, kept the attention of the Senate focused on the Genocide Convention that now appears to be close to passage here in this body after 38 years. He conducted a heroic fight, often a very lonely fight, a fight that I was pleased to join when I arrived in the Senate 11 years after he started it. He indeed has been the leader here on this floor. He has been the leader in a nationwide effort to gain its passage and has understood, as I have stated, considerable pressure.

I might also say, Mr. President, that it is a testimony to the leadership not only of the minority leader but also of the majority leader who has given such forceful leadership to the Senate that this treaty finally comes before us. I think it also attests to the leadership that Senator LUGAR and Senator PELL have given the Foreign Relations Committee so that the various reservations and other conditions could be successfully worked out with all Senators, enabling the treaty to be brought to the floor. I think that some of the

luster and some of the authority and some of the prestige is being restored to the Foreign Relations Committee under the leadership of Senator LUGAR and Senator PELL.

So I join with my colleagues in thanking most particularly the Senator from Wisconsin for his unflagging efforts, for his ability to not only vote on each occasion but to keep his priorities in order and to keep the attention of this body riveted on the Genocide Convention.

Mr. SPECTER. Mr. President, I rise today in support of the Genocide Treaty and to commend the distinguished Majority Leader, Senator ROBERT DOLE, for pressing for an early vote on this long-delayed issue. The majority leader understood that some of my colleagues vehemently oppose the treaty and even oppose consideration of the treaty, but nevertheless felt that there had been enough delay and that the Senate must vote on ratification. I concur with the senior Senator from Kansas [Mr. DOLE] because I believe we can no longer postpone joining in the virtually universal condemnation of the kind of large-scale attempts to annihilate a race or ethnic group such as that which characterized the Holocaust of World War II.

This treaty was adopted by the United Nations over 35 years ago, and our failure to ratify it can only be explained by misunderstanding of its impact. Many of these concerns persist today, but a careful review of the convention reveals that they are unfounded.

The treaty carefully defines genocide to require an "intent to destroy, in whole or part a national, ethnical, racial, or religious group," combined with specific actions to implement that intent. Thus, contrary to what some have alleged, this would not cover ordinary acts of war, since the objective of any justificable conflict could never be the destruction of a race or ethnic group.

Nor does the inclusion of acts causing "mental harm to members of the group" challenge constitutionally protected free speech, as some fear. No act becomes an act of genocide unless it is accompanied by a provable intent to destroy the members of a national, ethnical, racial, or religious group. Even an effort to effectively eliminate a religious sect through conversion would not constitute genocide, since it is not aimed at actual destruction of the religion's members.

The treaty also outlaws conspiracy, incitement, and attempt to commit genocide, as well as complicity in genocide. Some have claimed that this removes the requirement for an overt act. This assertion is false. As a lawyer, I can assure you that each of these crimes does require an overt act toward the actual genocide. Thus, mere thoughts and protected speech are not punishable.

Another concern frequently expressed about this convention is that it does not apply to political genocide and, thus, it is alleged that genocide conducted through a "purge of enemies of the state" would not be punishable. Again, this is not the case. What the treaty in fact provides is that the proscribed acts of genocide "shall not be considered as political crimes for the purpose of extradition." The reason for this is to avoid precisely the potential loophole that causes concern. Generally, extradition treaties contain an exception for so-called political offenses such that a country need not surrender a criminal to another country for punishment if they claim the offense was "political."

Eliminating this loophole strengthens the treaty, but it does not expose U.S. citizens to greater risk of foreign accusations because they would still have all of the protections and safeguards we have built into all of our extradition treaties. It is important to remember that this convention is not an agreement to extradite. That is still governed solely by existing treaties which are already in effect, or those we might enter in the future.

Similarly, this convention does nothing to expose U.S. citizens to greater risk of being tried in a foreign court or international tribunal, or even the United Nations, where our constitutional guarantees of due process would not apply.

Each nation that ratifies the treaty must implement its own legislation to carry out its provisions. Thus, U.S. laws and constitutional protections would have to be observed in any trial taking place in this country, and we can easily retain the power to try all U.S. citizens regardless of where the alleged offense occurred.

With regard to an international tribunal, there is currently no such court with jurisdiction over individuals, and none could be established with jurisdiction over the United States without our separate agreement to such. The World Court has jurisdiction only over countries, and then only with each country's assent. Furthermore, the World Court cannot punish countries or individuals. Sanctions can only be implemented by action taken at the United Nations, where we have a veto and where jurisdiction is again limited to nations, not individuals.

With these safeguards, I can see no justification for refusing to add our leadership to this international condemnation of the heinous act of genocide. Given the long history of man's inhumanity to man, action that draws attention to, condemns, and provides a legal framework for punishing the crime of genocide is sorely needed and should be supported by the United States of America.

I believe we should be ratifying the Genocide Convention. Fortunately, the distinguished majority leader has determined that ratification is possible. This treaty is a significant step forward and puts us clearly on record as condemning this most grave of crimes, a crime which hope relegates to history, but sobriety recognizes as a potential threat in the future.

Mr. President, I urge my colleagues to vote for ratification of the Genocide Treaty. It is a great day for the U.S. Senate. We have finally come to the point where we are about to ratify the Genocide Treaty and take action which is long overdue.

I join in commending the distinguished Senator from Wisconsin, [Mr. PROXMIRE], for his valiant efforts over the many years. The ratification of this treaty is long overdue. It is a very important statement of a principle that this body is undertaking today.

I join in commending the distinguished majority leader for bringing the matter to the floor. I commend the chairman of the Foreign Relations Committee, the distinguished Senator from Indiana [Mr. LUGAR], and the ranking member, the distinguished Senator from Rhode Island [Mr. PELL], and urge the ratification of the treaty.

Mr. SIMPSON. Mr. President, let me just say that I indeed admire the Senator from Wisconsin. I wanted to share very swiftly that when I was practicing law in Cody, WY, I used to have a terrible curse visited upon me. I actually read the CONGRESSIONAL RECORD. And I would read as the Senator from Wisconsin dealt with the Genocide Treaty. It always appeared to me that he was very sensible in what he was saying about it, even though some of the response on the other side sometimes was not of that degree. So this man, with his good sense and good humor and his absolutely dogged determination, is a study for us all in persistence. He has prevailed. And I think it is a remarkable thing that we now embrace this. We should have no fear of it at all as the greatest nation on the Earth—not one shred of fear should we have about entering into this treaty.

I commend Senator LUGAR and Senator PELL. They, indeed, bring stability and integrity into the very fine efforts of the Foreign Relations Committee and commendations to our fine majority leader and the capable minority leader for their assistance, but particularly we always have to come back to the Senator from Wisconsin and his remarkable and dogged efforts, which we now see meet with full success. He must be very pleased. I am.

Mr. CHAFEE. Mr. President, when I first came to the Senate, I did not realize that Senator PROXMIRE was speaking on this every day. But when I

would be here in the Chamber, I would hear him speak about this Genocide Convention. And day after day, I thought: Does he speak on this every day? Then I made inquiries and it turned out, yes, not only does he speak on it every day, but he has spoken on it every day for quite a while. For quite a while? How long is that? He has spoken on it every day since January 11, 1967. Now there are not many Senators who have even been in this Chamber since 1967. So when somebody talks about dogged determination, the essence of it is right here in the senior Senator from Wisconsin.

I wish to join in the tribute to him and also to my distinguished senior colleague from Rhode Island, Senator PELL, the ranking member of the committee, and Senator LUGAR and the minority leader. They all have been important. But it seems to me where the credit is due really today for bringing this forward and having us vote on it is our majority leader. Others have tried in the past, but he has brought it out and we are on the verge of passing it. I hope nothing goes wrong, so maybe we all better not say much any more. I think we all owe him a deep debt of gratitude in the passage of this particular piece of legislation.

(Mr. SPECTER assumed the chair.)

Mr. BYRD. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. BYRD. I apologize to the distinguished Senator who is the manager on this side.

I inadvertently failed to praise the majority leader. I am glad that that has been done by others. I think we all have to understand that, under the Standing Rules of the Senate, of course, any Member can move to go into executive session and take up the Genocide Convention, but by custom and by right, we normally leave that motion to the majority leader or his designee.

Now, if the majority leader does not make it and someone else makes it, then we are not so assured that we can reach a final disposition of it for various reasons. But the majority leader should make that motion, as I say. Others could, but he did it. And when the majority leader does it, that means that that is going to be the Senate's business, and we are going to stay on that convention until the leader elects to take it down or the Senate in the meantime acts in one way or another on it.

So I think that we all have to recognize that the majority leader has played a very central role in this effort, and especially by virtue of his fulfilling of his responsibility to make the calendar, decide on a program, and determine when and how the Senate will proceed to deal with such a matter. We all should join in saluting the distinguished majority leader.

And I hope that he will feel that his efforts are being recognized, and most of all, by his colleagues.

I not only salute him but I also thank him.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I join with our Democratic leader in praising and congratulating the majority leader because he could so easily have rolled this over. It has been rolled over for 20, 30, or 40 years. But instead he succumbed to the blandishment of his colleagues in the sense of what was right and went ahead with it. I thank him very much indeed.

I join also in the praise for the Senator from Wisconsin. I remember when I first came to the Senate. I was presiding where you are, Mr. President. The next day I was supposed to preside. Who was still speaking? It was the Senator from Wisconsin who was at that point in a contest with Senator Johnson of Texas.

He is a talker, and he is a doer. If it had not been for his speeches every day and giving a steady, fair wind to this project, I do not think it would have come to be.

Finally, I also add that the chairman of our Foreign Relations Committee, the Senator from Indiana, has a singular knack and skill in pulling together a consensual arrangement, a consensus where nobody gets everything they want, but everybody gets about 70 or 80 percent.

Again, this bill could not have flown had it not been for his great knack in this regard where it has secured a consensus of all of us within the committee.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the country owes a debt of gratitude to many people for the action we are about to take on the Genocide Treaty.

First, let me join in thanking Senator DOLE. I was with him when the groundbreaking occurred for the Holocaust Memorial Museum in Washington, DC a few months ago. He made a public commitment. It was a difficult one, given the various pressures which the majority leader always faces. He made a commitment, which he has kept, as he always keeps his commitments.

We are all personally indebted to the majority leader for bringing this legislation forward, and for keeping that commitment to the American people, and to his colleagues in the Senate. I am personally greatful to him for what he has done.

Senator LUGAR, Senator PELL, and the Foreign Relations Committee—for crafting this legislation that we are going to vote on, we are very much in their debt.

There are many others. Senator BYRD over the years has been a tremendous help. But, of course, first and foremost, let me commend my old friend Senator PROXMIRE. For his dogged heroism, and his 3,000-plus speeches he has been a profile in courage and in conscience.

He has been the Senate conscience on this issue with 3,000-plus speeches, if my mathematics is correct, on this issue day after day, just as he grinds out 5 miles a day or so running the streets of the District to keep in the kind of wonderful shape that he is in. He has run the distance on this Genocide Convention for all of us.

A few of us have gotten here one day at a time now and then to stand by his side. But that has been nothing. He has been here 3,000-plus days, every morning taking the time necessary to prick our conscience, and to remind us of a treaty that should have been enforced a long time ago.

If his kind of courage had been in place in the first part of the century, we might not have had an Armenian genocide. If his courage had been in place, we might not have had a Holocaust, which saw more than 6 million of our fellow humans lose their lives. And that courage hopefully now will result in future genocides being avoided.

Mr. President, we have an opportunity today—some say the best opportunity in many years—to finally move into its rightful place in the American pantheon of values that moral monument, the United Nations Convention on Genocide.

This Nation, and especially this city, has erected over the years many monuments depicting individuals, and sometimes events. We have put up these statutes essentially for two reasons: To assure that the person or the event would not be forgotten * * * and to send a message to future generations about what has been—and, we hoped, would remain—important to our society.

Sometimes, Mr. President, it is possible to do the same kind of things without even using concrete or marble. Sometimes we can do so in a medium seemingly more ephemeral but sometimes even more enduring and effective—the medium of language. That is the case with the matter before us today, ratification by this body of a concept long endorsed by our Government but not yet given the substance of law.

The concept is that most basic of human values, respect for human life. In the U.N. Convention, the concept is carried to its most logical conclusion, respect for communities of humans. It declares genocide, the murder of such communities, a crime under international law. And it binds each nation ratifying the convention to make

genocide a crime in that nation's body of law.

Our Nation was among the first to sign the convention when it was adopted in 1948, because we had been impressed twice in as many generations with man's capacity for inhumanity. We had learned with horror of the annihilation by the Ottoman Turks between 1915 and 1922 of some 1.5 million Armenians. And we had been appalled by the elimination by the Nazis in the 1930's and 1940's of 6 million Jews and millions more of other ethnic groups.

Still, subsequently, each time the convention was brought to us for the required followup action, ratification by the Senate, we demurred. Why? For nearly 40 years, we have wandered in a kind of wilderness of wishy-washiness—on record as favoring an incontrovertible moral principle, yet not willing to take the step essential to make that principle a legal commitment.

Today, I hope and have reason to believe, things at last are finally different. Opposition to ratification has been shown over the years to have no legitimate basis of concern. Support has steadily and forcefully increased.

Mr. President, there always are among us those who oppose action such as awaits us today not on legal or ideological grounds, but rather on the basis that such actions make no difference. What difference, after all, they argue, can mere declarations of opposition make to a nation determined to wreak death upon another people? And logic might seem to be on the side of those who so argue.

But we know, Mr. President, that Hitler felt impunity about moving forward to annihilate the Jews because, as he publicly asked with scorn, "Who remembers the Armenians?" Indeed, as Elie Wiesel, the chronicler of the Holocaust, commented last fall: "The world knew and kept silent. Hitler knew that the world knew—and thus felt reassured in his belief that he was doing humankind a favor * * *."

Elie Wiesel's comments were made at the groundbreaking here in October for the U.S. Holocaust Memorial Museum. He felt impelled, passionately, to tell those participating in that holy ceremony of remembrance: "We cannot leave this place today without appealing once more to the U.S. Senate to ratify the Genocide Treaty * * *." And he bespoke what I hope will be in the hearts of all of us today as we take up that treaty, mindful of the skepticism around us:

"I am not sure whether such treaties will prevent mass murder," Elie Wiesel said, "but the absence of such treaties may give the enemies of mankind the wrong signal."

I urge my colleagues to stand up and send the enemies of mankind the right signal: Genocide is a crime which this nation will not tolerate.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I thank all of my colleagues. The record should also reflect the strong commitment of the President to this issue. Once the President made it a priority, it became much, much easier, I must say, for many of us who had positions of leadership, to take the next responsible step. Obviously, in any matter of this kind, there are some who are opposed for good reasons, and some who may be opposed for reasons that may or may not have merit.

But in any event, I think in addition to all of our colleagues, and certainly Senator PROXMIRE and others, it should be noted that the President has been consistent in his position in 1984, in 1985, and again today in expressing his commitment to this treaty. I think that is an indication of the President's depth of interest and sensitivity.

Mr. President, after this vote, I ask unanimous consent—that we consider the sense-of-Senate resolution on the political genocide with 10 minutes of debate equally divided, and that we have the yeas and nays on that resolution.

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

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

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 Minnesota, [Mr. DURENBERGER] is necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Maryland [Mr. MATHIAS] would each vote yea.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Maine [Mr. MITCHELL], are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent because of illness in the Family.

I also announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

I further announce that, if present and voting, the Senator from Ohio [Mr. GLENN] and the Senator from Maine [Mr. MITCHELL] would each vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 83, nays 11, as follows:

[Rollcall Vote No. 15 Ex.]

YEAS—83

Abdnor	Gore	Metzenbaum
Andrews	Gorton	Moynihan
Armstrong	Gramm	Murkowski
Baucus	Harkin	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Bingaman	Hatfield	Pell
Boren	Hawkins	Pressler
Boschwitz	Hecht	Proxmire
Bradley	Heflin	Pryor
Bumpers	Heinz	Quayle
Burdick	Hollings	Riegle
Byrd	Humphrey	Rockefeller
Chafee	Johnston	Rudman
Chiles	Kassebaum	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kennedy	Simon
Cranston	Kerry	Simpson
D'Amato	Lautenberg	Specter
Danforth	Laxalt	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Long	Trible
Dole	Lugar	Warner
Domenici	Matsunaga	Weicker
Eagleton	Mattingly	Wilson
Evans	McConnell	Zorinsky
Ford	Melcher	

NAYS—11

Denton	Grassley	Symms
East	Helms	Thurmond
Garn	McClure	Wallop
Goldwater	Roth	

NOT VOTING—6

Durenberger	Glenn	Mathias
Exon	Inouye	Mitchell

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the Senate does advise and consent to the ratification of the Genocide Convention.

The resolution of ratification, including its reservations, understanding, and declaration, is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948 (Executive O, Eighty-first Congress, first session), Provided that:

I. The Senate's advice and consent is subject to the following reservations:

(1) That with reference to Article IX of the Convention, before any dispute to which the United States is a party may be submitted to the jurisdiction of the International Court of Justice under this article, the specific consent of the United States is required in each case.

(2) That nothing in the Convention requires or authorizes legislation or other action by the United States of America prohibited by the Constitution of the United States as interpreted by the United States.

II. The Senate's advice and consent is subject to the following understandings, which shall apply to the obligations of the United States under this Convention:

(1) That the term "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such" appearing in Article II means the specific intent to destroy,

in whole or in substantial part, a national ethnical, racial or religious group as such by the acts specified in Article II.

(2) That the term "mental harm" in Article II(b) means permanent impairment of mental faculties through drugs, torture or similar techniques.

(3) That the pledge to grant extradition in accordance with a state's laws and treaties in force found in Article VII extends only to acts which are criminal under the laws of both the requesting and the requested state and nothing in Article VI affects the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside a state.

(4) That acts in the course of armed conflicts committed without the specific intent required by Article II are not sufficient to constitute genocide as defined by this Convention.

(5) That with regard to the reference to an international penal tribunal in Article VI of the Convention, the United States declares that it reserves the right to effect its participation in any such tribunal only by a treaty entered into specifically for that purpose with the advice and consent of the Senate.

III. The Senate's advice and consent is subject to the following declaration:

That the President will not deposit the instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

Mr. LUGAR. Mr President, I move to reconsider the vote by which the resolution of ratification was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent to insert a letter in the RECORD from Senator MATHIAS.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 3, 1986

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR BOB: In the event that I should be absent at the time when the Senate votes on ratification of the Genocide Convention, I would appreciate it if you would announce, at the time of this vote, that were I present I would vote "aye."

With best wishes,
Sincerely,
CHARLES MCC. MATHIAS, Jr.,
U.S. Senator.

Mr. LUGAR. Mr. President, I have already paid tribute to the Members of this body which have done so much to see that the Senate approved the Genocide Convention. Now, if I may, I would like to single out a few of the many individuals outside the Senate whose efforts over the years culminated in today's vote.

Certainly, in any listing the name of Jacob Javits, a former Member of this body from New York, should rank high. Not only during his long and distinguished service as a U.S. Senator but even after his retirement Senator Javits has been an important force in bringing the Genocide Convention to a successful vote in the Senate.

Hyman Bookbinder should also be singled out for special mention. Mr. Bookbinder has served as Washington chairman of the Ad Hoc Coalition for Ratification of the Genocide Treaty. This has been on top of his regular duties as Washington representative of the American Jewish Committee. He has been a tireless advocate of the convention, meeting with Senators and staff, explaining the convention, addressing the many concerns that have been raised. Without his efforts, I'm not sure we'd have ever brought this matter to a successful conclusion.

Others whose efforts deserve special mention are Jess Hordes, director of special projects for the Anti-Defamation League of B'nai B'rith and Craig Babb of the American Bar Association. Both individuals have been effective advocates for convention, mobilizing the membership of their organizations, working with the staff of concerned Senators, and otherwise making invaluable contributions to today's vote. The same goes for Howard Kohr of the National Jewish Coalition.

Mr. President, I would also like to point out the contribution of the Honorable George Deukmejian, Governor of the State of California, and the work of the Armenian National Committee. The convention has a special meaning for Americans of Armenian descent. I know they are particularly pleased by today's vote.

Of course, we in the Senate probably would not be at this point were it not for President Reagan's strong endorsement of the convention in September 1984. Since that time, many in his administration have worked closely with the staff of the Committee on Foreign Relations to bring the convention to today's final vote. They include Abe Sofaer, the legal adviser of the Department of State. On his staff the efforts of Deputy Legal Adviser Elizabeth Verville and Assistant Legal Adviser James Thessin deserve particular mention. Thanks also go to Louise Hoppe, Deputy Assistant Secretary of State for Congressional Relations and Dick Shifter, the Assistant Secretary of State for Human Rights.

Again, Mr. President, this is only a few of the many who contributed to today's outcome. My thanks to all of them for their efforts. I am pleased that after so many years the Senate has given its approval to the Genocide Convention.

Mr. President, I thank all Members for their consideration and their thoughtfulness in the debate. I thank each person who has been thanked before, but especially the distinguished Senator from Wisconsin, the distinguished majority leader, who called the debate today, and the minority leader for his gracious comments and leadership, and especially my distinguished colleague, Senator PELL.

I wish to mention in particular the work in our committee and, of course, instrumental in this was Senator HELMS, our distinguished colleague from North Carolina, who made such a difference in terms of the provisos that we adopted.

I would be remiss if I failed to mention in addition Senators DODD, KERRY, CRANSTON, and SARBANES, who come to mind as those who would like to have had a different form of the treaty but were prepared to vote today in behalf of the treaty. Finally, to my colleague from Minnesota [Mr. BOSCHWITZ], who helped manage the bill on the floor today so successfully.

Mr. PELL. Mr. President, I join in the words of our chairman thanking the various individuals who helped us. I think particularly of our staffs, too. I pay a word of tribute on our side of the aisle to Brad Penney for his preliminary work and to David Keaney, and to the staff on the majority side who helped us. This was a completely nonpartisan approach. Once again, I thank the chairman for achieving this consensus and thank the Senator from North Carolina for his willingness to be a part of it.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent the Senate return to legislative session.

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

AMENDMENT OF THE INTERNATIONAL CONVENTION ON PREVENTION AND PUNISHMENT OF THE CRIME GENOCIDE

Mr. DOLE. Mr. President, I indicated earlier that I would now send a resolution to the desk and ask for its immediate consideration. There would be 10 minutes of debate equally divided. I think there is no problem with that.

Mr. President, on behalf of myself, the distinguished chairman of the committee, Senator HELMS, and hopefully others, I send this resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 347) expressing the sense of the Senate regarding further amendment of the International Convention on Prevention and Punishment of the Crime of Genocide.

Mr. DOLE. Mr. President, I ask unanimous consent that the clerk read the resolving clause on page 2.

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

The bill clerk continued to read as follows:

Resolved, That it is the sense of the Senate that—

(1) upon depositing the instrument of ratification to the International Convention on Prevention and Punishment of the Crime of Genocide with the Secretary General of the United Nations, the President should notify in writing the Secretary General of the desire of the United States to amend the Convention to include acts constituting political genocide within the definition of the term "genocide"; and

(2) the President should instruct the Permanent Representatives of the United States to the United Nations to take all steps necessary to see that such an amendment is adopted.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DOLE. Mr. President, I thank the clerk for reading that section. We have a letter from the President delivered today which addresses this specific issue. It is a letter to Senator SYMMS. And I quote:

I understand and appreciate your concern that the convention does not explicitly address the question of politically-motivated genocide. If the Senate gives its advice and consent to the convention, I am prepared at the time of ratification to inform the U.N. Secretary General of the United States desire to obtain international agreement to include acts of politically-motivated genocide within the definition of the term "genocide" under the convention and to seek adoption of such an agreement.

A unanimous vote on this resolution will further support the President's efforts when he seeks to amend the convention through the United Nations.

I am pleased to rise in strong support of this resolution directing the President to immediately seek an amendment to make the Genocide Convention applicable to political genocide upon depositing the instrument of ratification with the United Nations.

By passing this resolution, the Senate will be making a strong statement condemning political genocide as a heinous, vicious act. We will be making a statement for the victims of Tibet, Cambodia, and Afghanistan. We will be reaffirming the position taken by the United States, but resisted by the Soviets, 37 years ago when the Genocide Convention was being written. And we will be challenging the rest of the world to join us in condemning those who seek to stay in power not through a democratic process, but rather through the brutal destruction of those who dare to politically oppose them.

Mr. President, I hope the vote on this resolution is unanimous. I think it is important that we send the strongest signal possible on this issue. Through passage of this resolution, we will set in motion a process by which all genocides can become a violation of international law.

I know of no one who objects to this resolution, but I will ask for the yeas and nays because I think there are many Members who voted for ratification on the basis that we would have a RECORD vote on this resolution.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. LUGAR. Mr. President, I strongly support the words of the majority leader. Clearly political genocide is abominable to all of us. The distinguished Senator from Idaho made a very strong case. We tried to argue not the point that genocide in any form could be condoned but, rather, that the particular parliamentary strategy he was pursuing would lead to destruction of our efforts to ratify the convention.

The Senate acted favorably at least with regard to that argument, but at the same time I would argue equally strongly with my colleagues from Kansas and Idaho and North Carolina in behalf of the course of action we now pursue.

Mr. PELL. Mr. President, I think this resolution is a good one. Obviously, we would like to have "political genocide" included in the treaty. In fact, we sought to do so in the original negotiations leading up to the ratification of the treaty by other nations many years ago. The problem lies in defining "political genocide." However, the objective is admirable. Therefore, I believe this is a good resolution and we should pass it now. I support its approval.

Mr. WALLOP. Mr. President, will the distinguished floor manager yield to me 1 minute?

Mr. LUGAR. Yes, of course.

Mr. WALLOP. Mr. President, I strongly support this amendment, too, but I have to tell my colleagues that they know as well as I do this will never take place. The reason it is not in the treaty at the present moment is that the Soviet Union refused to have it there. If we think we can persuade the United Nations, which is run by the Soviet Union and its client states, to buy off on a treaty amendment requiring a definition of political genocide, it is an act of self-deception which I think is unworthy of the Senate.

The appropriate place to have accomplished this was on the amendment of the Senate from Idaho. But we would not do that because, somehow or another, it would have been demeaning, I guess, to the treaty process. I do not know why we did not do it, but that amendment was the appropriate place, if the Senate really meant to have political genocide as a definition under the terms of the Genocide Treaty.

That, Mr. President, is why I voted against the treaty. It does not do it, and neither will this. I strongly support the effort, but if anybody here believes that it will happen, I wish they would explain to me what process they think would achieve it.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield myself 1 minute. I think the point made by the distinguished Senator from Wyoming is an important one. Clearly, the idea of political genocide is one in which some countries have taken exception in the past.

I would say that the difference today is that the President of the United States, in his letter to the distinguished Senator from Idaho, has asked, first of all, that we ratify the convention and, second, he said that he will support this proposition before the United Nations. I do not recall the President going that route before. The very prestige of our President, it seems to me, makes the difference.

We all share the sentiments expressed by the distinguished Senator from Wyoming with regard to the Soviet view or the view of other countries on this issue. Their cynicism has been demonstrated. Nevertheless, our idealism, likewise, should be demonstrated. This is an affirmative vote and I think an important one.

I yield back the remainder of our time.

Mr. PELL. Mr. President, I yield back our time.

Mr. DOLE. Mr. President, there will be one more rollcall vote following this vote. It will be on Calendar No. 507, S. 1429, prosecution of terrorists who attack U.S. nationals abroad. it is my hope that we can have a very brief debate and have that vote started at least by 4:40 p.m.

The PRESIDING OFFICER. All time having been yielded back, the question is on the adoption of the resolution. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN] and the Senator from Maine [Mr. MITCHELL] are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent because of illness in the family.

I also announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

I further announce that, if present and voting, the Senator from Maine [Mr. MITCHELL] would vote "yea."

The PRESIDING OFFICER (Mr. BOSCHWITZ). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—93

Abdnor	Gore	Metzenbaum
Andrews	Gorton	Moynihan
Armstrong	Gramm	Murkowski
Baucus	Grassley	Nickles
Bentsen	Harkin	Nunn
Biden	Hart	Packwood
Bingaman	Hatch	Pell
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Proxmire
Bradley	Hecht	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Sasser
Cranston	Kasten	Simon
D'Amato	Kennedy	Simpson
Danforth	Kerry	Specter
DeConcini	Lautenberg	Stafford
Denton	Laxalt	Stennis
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Long	Thurmond
Domenici	Lugar	Trible
Eagleton	Matsunaga	Wallop
East	Mattingly	Warner
Evans	McClure	Weicker
Ford	McConnell	Wilson
Garn	Melcher	Zorinsky

NAYS—1

Goldwater

NOT VOTING—6

Durenberger	Glenn	Mathias
Exon	Inouye	Mitchell

So the resolution (S. Res. 347) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 347

Whereas the Senate has given its advice and consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide (hereafter in this preamble referred to as the "Convention");

Whereas such Convention excludes from its coverage genocide committed against political groups;

Whereas the Senate finds that instances of political genocide have occurred in Tibet and Cambodia;

Whereas the Senate finds that politically motivated genocide is being carried out in Afghanistan;

Whereas the Senate believes that the protections afforded by the Convention should be extended to all forms of genocide;

Whereas Article XVI of the Convention provides that any party to the Convention may notify in writing the Secretary General of the United Nations of its desire to amend the Convention; and

Whereas Article XVI of the Convention also provides that the General Assembly of the United Nations may take action, after such notification, to amend the Convention: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) upon depositing the instrument of ratification to the International Convention on the Prevention and Punishment of the Crime of Genocide with the Secretary General of the United Nations, the President should notify in writing the Secretary General of the desire of the United States to amend the Convention to include acts constituting political genocide within the definition of the term "genocide"; and

(2) the President should instruct the Permanent Representative of the United States to the United Nations to take all steps necessary to see that such an amendment is adopted.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Alabama, Senator HEFLIN, for 1 minute.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, in my opinion, the word "national" as used in the Genocide Treaty includes, under certain circumstances, the word "political," particularly when the same political views of the vast majority of the people constitutes the philosophy and the interworkings of the Government to the extent that the rights of those of different views and philosophy are unprotected.

Mr. BRADLEY. Mr. President, today's vote to ratify the U.S. Genocide Convention after nearly four decades is a great victory for international human rights. In the aftermath of the systematic annihilation of European Jewry during World War II, the U.N. General Assembly approved the Genocide Convention. The United States participated in this unanimous vote, and President Truman immediately sent the treaty to the Senate where ratification had been stalled since 1949. Although the Senate Foreign Relations Committee favorably reported the convention six times, it has taken 38 years to bring the treaty to a vote in the Senate. Sadly, the continued persecution of racial, religious and ethnic groups throughout the world demonstrates the importance of today's vote.

During the years of debate on the Genocide Convention serious disagreement arose as to whether additional conditions should be included. I feel that these conditions seriously weaken our commitment to the treaty, making U.S. ratification a less meaningful gesture. Despite my reservations about these provisions, I am proud that the Senate finally ratified the Genocide Convention.

I am pleased that the United States has now joined 96 countries who previously committed themselves to abiding by the Genocide Convention. Today's vote sends a clear message to all nations of the world that the United States is willing to take action on the matter of genocide. This action reinforces both our dedication to the sanctity of human rights and our firm belief that the crime of genocide should not escape condemnation by the international community.

Mr. CHILES. Mr. President, I congratulate the Senate for giving its advice and consent to the Genocide Convention. Nearly 40 years after the United Nations General Assembly adopted the Genocide Treaty, the United States will, when President Reagan signs it, finally ratify the treaty. Our ratification is long overdue.

The Genocide Convention seeks to define genocide and prohibit its Commission as a international crime. This purpose is wholly consistent with article I, seciton 8, clause 10 of the Constitution which charges Congress with the power "to define and punish * * * Offenses against the Law of Nations." And it is readily evident to anyone that the Nazi atrocities against the Jews and others in World War II ranked as such an offense.

For 40 years we have been told that the Genocide Convention would somehow supersede our Constitution and nullify the sovereign powers of the United States. For 40 years we have been told that the treaty would somehow strip U.S. citizens of their constitutional rights and liberties. But in all of that time, the critics of the Genocide Treaty have never offered a viable alternative which would be acceptable in both domestic and international law.

The Genocide Treaty—like any treaty—cannot supersede the U.S. Constitution. Our rights and liberties will be protected after the treaty is ratified. The United States will stand, for the first time, among a number of nations intent on punishing this horrendous internationl crime. The treaty will also give us leverage to criticize other signatories of their genocidal actions in the world.

I am pleased that the Senate has finally expressed its utter repugnance to the international crime of genocide. I look forward to passage of the implementing legislation and the President's final ratification of the Genocide Treaty.

A SALUTE TO THOSE RESPONSIBLE FOR RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I want to take a brief moment to thank all of those individuals whose work has helped to contribute to the Senate's vote just a few minutes ago to give its advice and consent to ratification of the Genocide Convention.

Any such list must begin with Bruno Bitker, a Milwaukee lawyer and international law expert, who first brought the Genocide Convention to my attention in the mid-sixties. Bruno Bitker had developed a well-recognized expertise in the field of human rights law and had represented the United States and the American Bar Association in

numerous positions during his professional career. In his final years, Bruno had expressed his hope that he would live just long enough to see the vote that took place in this Chamber just a few minutes ago. I only wish he could have; he deserved to see this day. He was a gentle soul who, through force of his intellectual persuasiveness and his appeal to the best in his fellow man, helped to make the world just a little better place because of his efforts. And I owe him a great debt.

Mr. President, a number of my present and former colleagues who were involved in the early days of this fight deserve mention.

From the very beginning, former Senator Jacob Javits was in the forefront of this effort, working shoulder to shoulder with me to secure ratification. He was in an excellent position as a member of the Senate Foreign Relations Committee and was singlehandedly responsible for seeing that the Genocide Convention never left the committee's agenda. He brought to the convention the full range of his intellectual prowess, but also a deep, personal moral commitment that is rarely seen in public life.

Even after he left the Senate, Jake returned to testify in 1981, at great personal inconvenience, a reflection of his abiding commitment to this treaty. In many ways this victory today is his as well and I only regret that he could not be with us today to share it. He deserves to share in it as few individuals do.

In those early years, Hugh Scott, who went on to become minority leader for the Republicans; Frank Church, who later became chairman of the Senate Foreign Relations Committee; TED KENNEDY and CLAIBORNE PELL, who is now the ranking minority member of the Foreign Relations Committee all joined with me in this effort.

And in those years, Tom Dodd, the father of Senator CHRIS DODD, contributed a special zeal to this effort. Tom Dodd had first testified in favor of ratification as a private citizen during the Foreign Relations Committee's original hearings in 1950, and as a member of the American Bar Association's Special Committee on Peace and Law through the United Nations; a commitment he maintained through his years as Senator and imparted to his son, the present Senator from Connecticut.

But it took a lot of work in the trenches as well. Individuals who wrote about the Genocide Convention, spoke out on its behalf and helped to keep the issue alive over these years. At the risk of offending some individuals I might inadvertently forget to mention, I want to thank a few of those who have labored with me and my staff in the vineyards:

Bill Korey and Warren Eisenberg of B'nai B'rith; Arthor Goldberg, the chairman of the Ad Hoc Committee on the Genocide and Human Rights Treaties and its executive secretary for many years, Betty Kaye Taylor, who deserves a special vote of thanks; Hyman Bookbinder of the American Jewish Committee who brought his tremendous knowledge of Washington to this effort; John Norton Moore and Charles Smith of the Conflict Analysis Center; Roger Cochetti, who, for many years as director of the Washington office of UNA-USA brought together the many outside groups working on the Genocide Convention; his successor in that role, Craig Baab of the American Bar Association, which has been such a great help in this effort; Neil Kritz; and Pat Rangel and Estrellita Jones of the Washington office of Amnesty International.

In addition, Marjorie Brown and Vita Bite of the Congressional Research Service deserve recognition for their scholarly contributions on this subject and their tireless hours of research in response to my requests and those of my staff. The Congressional Research Service has set a high standard for professional, nonpartisan research work of the highest caliber, serving Members on all sides of an issue. They have carried out that task ably and deserve credit for their yeoman service.

And last, but not least, I want to express my heartfelt appreciation to all of the members of my legislative staff, who have worked with me over the last 19 years to keep this issue before the Senate. There are far too many individuals, both former and present members of my staff to mention but I want to particularly thank Larry Patton, who has carried this burden for the last 13 years.

Few individuals have written more frequently regarding the Genocide Convention nor understand the provisions, and drafting history of this treaty, better than Larry and I am deeply appreciative of his work on this issue.

Mr. President, all of these individuals have contributed to this day and I want the record to show their contributions. Without their efforts, this day would not have been possible.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from Mississippi, Senator COCHRAN, be permitted to speak as in morning business for not to exceed 5 minutes, and following that that we then turn to Calendar Order No. 507, S. 1249, the prosecution of terrorists who attack United States nationals abroad, and that there be a time agreement of 30 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I do not intend to object, does the distinguished majority leader mean that 30 minutes would be the overall time on the measure, including any amendments, and that no amendments would be in order, other than the committee-reported substitute and no motions to recommit would be in order?

Mr. DOLE. That is correct.

Mr. BYRD. There is no objection on this side.

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

Mr. DOLE. There will be a rollcall on that and that will be the last rollcall of the day.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

SENATOR JAMES O. EASTLAND

Mr. COCHRAN. Mr. President, earlier today Senator STENNIS and I brought to the attention of the Senate the fact that early this morning the former Senator from Mississippi, James O. Eastland passed away at the Greenwood-LeFlore Community Hospital.

Mr. President, it was my honor to succeed Senator Eastland when he decided not to seek reelection to the Senate in 1978. He had served our State in the United States Senate since 1941. He was appointed to serve in the Senate by former Gov. Paul B. Johnson, Sr., when Pat Harrison, who was at the time chairman of the Senate Finance Committee, died in office. There was a special election held soon thereafter to fill the unexpired term. Senator Eastland did not seek election at the special election but he did run in 1942 for the full 6-year term and he was elected, defeating Senator Wall Doxey, who had been elected in the special election.

He served for 36 years after that. He had five races for reelection and was successful in all of them. For 22 years he served as chairman of the Senate Judiciary Committee and during the last several years of his service here in the Senate he was President pro tempore, serving in that capacity during the administrations of President Nixon, President Ford, and President Carter. So he was very much a national figure and our State was very proud of him and proud of his service in the Senate.

It was my good fortune to have an opportunity to get to know him well while I was a Member of the House of Representatives and he was serving here in the Senate. I would have an opportunity, from time to time, to be with him when we would meet as a delegation with Mississippi constituents and to meet with him in his office

to talk about matters of mutual interest back home and about politics. I came to respect him very sincerely as a person who was concerned about the average citizens. Whenever someone from Mississippi would call upon him and tell him about a problem they had with the Federal Government, he got to work on it. He was enthusiastic and aggressive about trying to ensure that the citizens of our State were treated fairly by the Federal Government.

He surrounded himself with a staff of men and women who were, likewise, very aggressive in trying to be sure that our State got its share of Federal program dollars and that the legislation enacted here took into account the interests of our State; people like Bill Simpson and Frank Barber and Sam Thompson and Courtney Pace, and there were many others whom I came to know personally and respected and liked a great deal. I developed a strong feeling of affection for Senator Eastland as well. He was unpretentious, Mr. President. He did not take himself seriously, but he took his job seriously. He worked at it very hard and diligently.

I do not know whether it is true or not, but they tell the story about the time Senator Eastland and Senator Spessard Holland from Florida were coming back to Washington, having been down in Atlanta or somewhere in the South. They were flying back to Washington, sitting together on the plane; and on the approach to National Airport from the north over the Potomac River—it was about dusk—Senator Holland looked outside and said, "Jim, look out there at this city. Isn't that a gorgeous sight?"

You could see the lights of the Washington Monument and the Lincoln and Jefferson Memorials and, over in the distance, the Capitol.

He said, "Just to think, this is the most powerful city in the world and you and I are right in the middle of it, making decisions that are affecting the course of history."

Senator Eastland looked at Senator Holland and said, "Spessard, are you drunk?" [Laughter.]

It captures the attitude of Senator Eastland; that he was not going to let service here in Washington go to his head. He was a person who took his obligations seriously, but he did not take himself seriously.

He was not one to really tell stories, but he has become the subject of many flattering stories about the great sense of humor that he possessed all these years and which he brought to his job and endeared him to people throughout our State.

He was a person who had a great deal of influence throughout Mississippi. All of my life he has been our Senator. Along with Senator STENNIS, their combined service has probably not been surpassed by two Senators from any other individual State in terms of tenure of service, and I might add distinguished service.

So this is a time when I feel that it is appropriate for us to recognize the contributions that Senator Eastland made to this institution as chairman of the Judiciary Committee and as President pro tempore. He has had a distinguished career that we can all observe and praise.

He has a fine family, a wife, Libby Eastland, a wonderful woman; and four children, Nell, Ann, Sue, and his son Woods.

Most of his staff and his family were together just recently in Mississippi when we had an opportunity to dedicate the Federal court building in Jackson, MS, to Senator Eastland and name it for him.

On that occasion, there were many good things said about him. Roman Hruska was there, his close friend on the Republican side of the aisle of the Judiciary Committee where they had served for many years, Gov. J.P. Coleman spoke and so did Judge Charles Clark, Chief Justice of the Fifth Circuit Court of Appeals.

What came through, Mr. President, is that all Mississippians respected and appreciated the way Senator Eastland had served and worked for Mississippi's interest in the Senate for the years he served here.

It is my hope that we will be able to have a delegation of Senators attend his funeral on Friday. The services will be in Ruleville at the Methodist church there at 10 o'clock in the morning.

We have lost a great citizen in Mississippi with the passing of Senator Jim Eastland, and I have lost a very good friend.

Mr. STENNIS. Mr. President, will the Senator yield for 1 minute?

Mr. COCHRAN. I am happy to yield.

Mr. STENNIS. Mr. President, I want to commend and thank the Senator from Mississippi for the very earnest, sincere, and meaningful remarks which he has made about our former colleague and friend.

Senator Eastland and I served together for years in the Mississippi house of representatives. That is an experience that is worthwhile. We both distributed that around on Capitol Hill as best we could. We knew each other mighty well. We did not have to ask each other how we were going to vote on a matter because we already knew. We knew each other so well.

Quite seriously, Jim was a man that applied himself in a quiet way, and he knew how to get the jobs done. He was very appreciative, too, of the people's attitude because of the matters he had done and tried to do.

With respect to his fine family, mention has been made of the splendid young ladies, daughters, and sons, which they are. Libby Eastland is one of the finest ladies I have known. I talked to her by telephone yesterday, and she had her usual courage of moving forward.

Again, I commend the Senator from Mississippi for his remarks as well as the expression, feeling, and tone of them all.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, will the Senator yield to me?

Mr. COCHRAN. Mr. President, I am happy to yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator.

Mr. President, I came to Washington the first time in late 1951. I came as administrative assistance to one of North Carolina's Senators who was a good friend of Jim Eastland. So many times Mr. Jim would come by our office. I was struck by the fact that he would take the time to pay a little attention to a young fellow from North Carolina who was then on the lower side of 30 years of age. I got to know him very well.

The Senator said that he did not tell many stories. I have to correct the Senator on that. He told me a lot of stories. They were all good. But he gave a lot of good advice as well. I remember one time I walked down the corridor with him, and a vote was on. I very proudly pushed the elevator button three times. As the Senator knows, pushing the elevator button three times back in those days was a command to the elevator operator to come no matter where he was headed or where he was. Senator Eastland noticed that. He said, "Jesse, do not do that around me anymore." He said, "That is the trouble with the U.S. Senate. People come up here enamored with the idea of pushing that button three times."

Senator Eastland endured his share of criticism in the media and elsewhere. I always reflected upon the fact that those who criticized Jim Eastland did not know him because here was a man totally devoted to the Constitution of the United States, and to the fundamentals of this country, and he was faithful to his people of Mississippi. Many times I observed people from the State who came to see him. They did not merely like Jim Eastland. They did not merely support Jim Eastland. They loved Jim Eastland. So did I.

I think it is accurate to say that the exception of the distinguished senior Senator from Mississippi and the distinguished Senator form Louisiana, I have been around the U.S. Senate about as long as anybody. Of course, I was here as a staff member originally.

But anybody who has known Jim Eastland has benefited from him. As the saying goes, we are diminished by any man's death, but I am enormously diminished by his. I will miss him. I know both Senators from Mississippi will miss him.

I thank the Senator for yielding to me.

I yield the floor.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from North Carolina.

Mr. HEFLIN. Mr. President, will the Senator from Mississippi yield?

Mr. COCHRAN. I am happy to yield to the distinguished Senator from Alabama.

Mr. HEFLIN. I know the Senate wants to move forward. I do not want to take much time. I would like to concur with the remarks that have been made. I did not serve with Senator Eastland. But I have known him over a number of years. I know that his reputation as being an effective, hard-working Senator, chairman, and President pro tempore will live in the annals of the history of the U.S. Senate.

Mr. COCHRAN. I thank the distinguished Senator from Alabama, Mr. President.

I yield the floor.

TERRORIST PROSECUTION ACT

The PRESIDING OFFICER. Under the previous order, the clerk will now report Calendar No. 507.

The legislative clerk read as follows:

A bill (S. 1429), to amend title 18, United States Code, to authorize prosecution of terrorists who attack United States nationals abroad, and for other purposes.

The Senate proceeded to consider the bill (S. 1429) to amend title 18, United States Code, to authorize prosecution of terrorists who attack United States nationals abroad, and for other purposes, which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Terrorist Prosecution Act of 1985".

SEC. 2. (a) Part I of title 18, United States Code, is amended by inserting after chapter 113 the following:

"CHAPTER 113A—TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD

"2331. Findings and purpose.
"2332. Terrorist acts against United States nationals abroad.

"SEC. 2331. FINDINGS AND PURPOSE.

"The Congress hereby finds that—

"(a) between 1968 and 1985, there were over eight thousand incidents of international terrorism, over 50 per centum of which were directed against American targets;

"(b) it is an accepted principle of international law that a country may prosecute crimes committed outside its boundaries that are directed against its own security or the operation of its governmental functions;

"(c) terrorist attacks on Americans abroad threaten a fundamental function of our Government: that of protecting its citizens;

"(d) such attacks also threaten the ability of the United States to implement and maintain an effective foreign policy;

"(e) terrorist attacks further interfere with interstate and foreign commerce, threatening business travel and tourism as well as trade relations; and

"(f) the purpose of this chapter is to provide for the prosecution and punishment of persons who, in furtherance of terrorist activities or because of the nationality of the victims, commit violent attacks upon Americans outside the United States or conspire outside of the United States to murder Americans within the United States.

"SEC. 2332. TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD.

"(a) Whoever outside the United States commits any murder as defined in section 1111(a) of this title or manslaughter as defined in section 1112(a) of this title, or attempts or conspires to commit murder, of a national of the United States shall upon conviction in the case of murder be punished as provided in section 1111, for manslaughter be punished as provided in section 1112, for attempted murder be imprisoned for not more than twenty years, and for conspiracy be punished as provided by section 1117 of this title, notwithstanding that the offense occurred outside the United States.

"(b) Whoever outside the United States, with intent to cause serious bodily harm or significantly loss of liberty, assaults, strikes, wounds, imprisons, or makes any other violent attack upon the person or liberty of any national of the United States or, if likely to endanger his person or liberty, makes violent attacks upon his business premises, private accommodations, or means of transport, or attempts to commit any of the foregoing, shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) Whoever, outside of the United States, conspires to commit murder, as defined in section 1111(a) of this title, within the United States of any national of the United States, shall be punished as provided in section 1117 of this title notwithstanding that the offense occurred outside the United States.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(e) No indictment for this section can be returned without the written approval of the Attorney General or his designee.".

(b) The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113, the following:

"113A. Terrorist acts against United States nationals abroad ..... 2331".

Mr. DOLE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, this bill, S. 1429, the Terrorist Prosecution Act, fills a significant gap in our legal arsenal against terrorism by making terrorist attacks against Americans abroad a crime under U.S. law.

The bill was introducd on July 10, 1985, as a modification of a bill originally introduced on September 25, 1984, S. 3018. It was referred to the Subcommittee on Security and Terrorism where hearings were held on July 30, 1985. An amendment in the nature of a substitute was adopted and the bill was polled out of the subcommittee with a vote of 5-0 on November 19, 1985. The Judiciary Committee adopted S. 1429 by unanimous consent on December 12, 1985. The bill has the support of the administration, and is cosponsored by Senators ANDREWS, BOREN, COHEN, D'AMATO, DENTON, DURENBERGER, GRASSLEY, HECHT, LEAHY, MCCONNELL, MURKOWSKI, ROTH, LEVIN, and HAWKINS.

S. 1429 is vital to our battle against terrorism, and I urge my colleagues to support it.

Nearly 2½ years ago, the Nation was rocked by a bomb blast that destroyed our marine barracks in Beirut, Lebanon, and took the lives of over 240 marines. As our shock and grief gave way to anger, the cries to bring the terrorists to justice grew louder. Many called for military reprisals. Having spent most of my adult life in law enforcement, I turned first to the law—these terrorists were not soldiers, they were murderers and should be prosecuted in U.S. courts for their heinous crime.

However, a review of current U.S. law revealed that we had no law on the books under which we could try these criminals, even if we caught them. This same gap in our law prevents U.S. prosecution of those who brutally shot two U.S. AID [Agency for International Development] officers during the hijacking of a Kuwaiti airplane in December 1981, or those who shot and killed the Americans at an outdoor cafe in El Salvador.

A recent New York Times article on January 19, 1986, reported State Department legal advisers, Judge Abraham Sofaer, as noting "that no Federal law covers the murder of American citizens abroad, a lack that frustrated efforts to bring indictments against those responsible for slaying four off-duty American marines and two American businessmen in El Salvador last year."

To fill this gap, on September 25, 1984, I introduced S. 3018 to provide for U.S. jurisdiction over terrorist attacks against U.S. agents, officers, and employees. The bill was modified and reintroduced in the 99th Congress on June 27, 1985, as S. 1373. After receiving input from authorities on international law and meetings with administration officials, the bill was further

modified to provide U.S. jurisdiction over terrorist attacks on any American abroad and reintroduced as S. 1429 on July 10, 1985.

At the heart of this bill is the notion that international terrorists are criminals and ought to be treated as such—that they should be located promptly, apprehended and brought to trial for their heinous crimes.

In 1984, Congress enacted new laws providing extraterritorial jurisdiction for hostage taking and aircraft sabotage, but murder of U.S. nationals outside our borders and not within the special jurisdiction of the United States, other than of specially designated Government officials and diplomats, is still not a crime under U.S. law.

Judge Sofaer told the Senate Committee on Security and Terrorism during hearings on July 30, 1985, that S. 1429 will fill a significant gap in current U.S. law, and is "warranted by reality and logic, and consistent with international law." Ambassador Oakley concurred, emphasizing that the bill will be a useful tool in "the foreign policy and diplomatic aspects of our antiterrorism effort." Also testifying in support of the bill were Dr. Raymond Cline, senior associate at the Center for Strategic and International Studies, and Leo Byron, a hostage of the TWA hijacking in June 1985, accompanied by his wife, Carolyn, and daughter, Pamela, who were also on the plane.

S. 1429 fills the gap in current law without in any way contravening or conflicting with either international or constitutional law. While criminal jurisdiction is customarily limited to the place where the crime occurred, it is well-established constitutional doctrine that Congress has the power to apply U.S. law extraterritorially if it so chooses. (See e.g., *United States* v. *Bowman*, 260 U.S. 94 (1922)).

International law also recognizes broad criminal jurisdiction. If an alleged crime occurs in a foreign country, a nation still may exercise jurisdiction over the defendant, pursuant to the "protective principle," if the crime has a potentially adverse effect upon its security or the operation of its governmental functions. This basis for jurisdiction over crimes committed outside the United States has been applied by the Federal courts in contexts ranging from drug smuggling to perjury. Clearly, then, the exercise of U.S. criminal jurisdiction also is justified to prosecute a terrorist who assaults or murders American nationals abroad. In addition to threatening a fundamental function of our Government—that of protecting its citizens—such attacks undoubtedly have an adverse effect upon the conduct of our Government's foreign affairs, and potentially threaten the security interests of the United States. Terrorist attacks further interfere with interstate and foreign commerce, threatening business travel and tourism, as well as trade relations.

S. 1429 includes a statement of findings and purpose designed to make it clear the act is intended to cover acts of international terrorism, as opposed to bar room brawls or other violence which fails to trigger these national interests. Similarly, the bill specifies that no indictment may be returned under the act without the written approval of the Attorney General or his designee. The intention of this section is to further ensure that application of the law is limited to acts of national interest consistent with the findings and purpose set forth in the act. It is my sense that these provisions are adequate to satisfy this objective and, thus, the bill does not attempt to define terrorism. However, those seeking guidance on this issue can refer to the definition provided in the Foreign Intelligence Surveillance Act, title 50, section 1801(c).

But making terrorist murder a U.S. crime alone will not protect Americans abroad. We must also demonstrate our seriousness by applying the law with fierce determination.

In many cases, the terrorist murderer will be extradited or seized with the cooperation of the government in whose jurisdiction he or she is found. Yet, if the terrorist is hiding in a country like Lebanon, where the government, such as it is, is powerless to aid in his removal, or in Lybia, where the government is unwilling, we must be willing to apprehend these criminals ourselves and bring them back for trial. We have the ability to do that right now, under existing law. Under current constitutional doctrine, both U.S. citizens and foreign nationals can be seized and brought to trial in the United States without violating due process of law. See, for example, *Frisbie* v. *Collins*, 342 U.S. 519, 522 (1952); *Ker* v. *Illinois*, 119 U.S. 436 (1886).

It may surprise some to hear that such methods are an appropriate way to bring criminals to trial. If someone is charged or chargeable with an offense and is at liberty in some foreign country, it is an accepted principle of law to take that alleged criminal into custody if necessary and return him to the jurisdiction which has authority to try him. That prosecution and conviction is sustainable under the laws of the United States and under international law.

This principle has been in effect for almost 100 years, going back to 1886, in the landmark case of Ker versus Illinois, where the State of Illinois seized a defendant in Peru, a man being charged with a crime in Illinois, and brought him back to Illinois for trial, where he was convicted. The case went to the Supreme Court of the United States and the Supreme Court of the United States said it was appropriate to try that man in Illinois and to convict him notwithstanding the means which were used to bring him back to trial in that jurisdiction.

That doctrine was upheld in an opinion written by Justice Hugo Black, well known for his concern about defendants' rights, in the case of Frisbie versus Collins, handed down by the Supreme Court of the United States in 1952 and upheld in later decisions. No country in the world, no country in the history of the development of law, has more rigorous concepts of the due process of law than the United States of America and the U.S. Supreme Court.

Forcible seizure and arrest is a strong step, but the threat of terrorism requires strong measures, and this is clearly preferable to the alternatives of sending in combat troops or bombing a few neighborhoods.

When I first began urging serious consideration of forcible arrest of terrorists nearly 2 years ago, it drew some criticism. It was a unique idea, borrowed from the days of pirates.

Yet, as critics looked more closely at the solid support for convictions obtained after forcibly seizing criminals, and as the cries for bombing raids and assassinations grew louder, the idea of seizing a terrorist for trial in the United States seemed reasonable.

When Judge Sofaer testified on S. 1429, for example, he stressed his strong support for the bill but made equally clear his concern about the way I have urged it be applied—the use of forcible arrest where necessary. As we discussed it further that morning in the hearing, it became clear that we were really not as far apart as it first appeared. Before the hearing concluded Judge Sofaer and I had agreed that such measures should be taken as a last resort, with extreme caution as an extraordinary step, being aware of the sensitive nature, and only after a decision at the highest level.

On January 19, 1986, the New York Times published an article entitled: "U.S. Is Said To Weigh Abducting Terrorists Abroad for Trials Here." In it, Judge Sofaer is reported as saying he would support "seizure" of fugitives in other countries if the chances for success were reasonable. "He acknowledged that such a move would violate international law," the article went on to note, "but said there were legitimate arguments in favor of 'bending' the rules in extraordinary circumstances."

By the end of that week, on January 25, 1986, the Times ran an editorial supporting "snatching terrorists abroad," noting it "no longer sounds far-fetched."

Mr. President, the bill we are considering today represents the culmination

of one aspect of my ongoing effort of nearly 2 years to develop an effective judicial approach to dealing with terrorism. First introduced as S. 3018 in September 1984, the bill has benefitted from the ideas and suggestions of many others concerned about these same problems and from the outstanding leadership in the Senate of Senator JEREMIAH DENTON, chairman of the Judiciary Subcommittee on Security and Terrorism.

In addition to S. 1429, I have also reintroduced a resolution, Senate Resolution 190 on June 27, 1985, to provide for international prosecution of terrorists, expressing the sense of the Senate that the President should call for international negotiations aimed at determining an international definition of terrorism which could then be established as a "universal crime," like piracy, punishable by any nation that captures the terrorists.

Another necessary step in effective prosecution of terrorists as international criminals is to deny the fallacy of the "terrorist-diplomat." I have introduced legislation, S. 1383 and Senate Resolution 191, aimed at preventing any recurrence of the grotesque spectacle we witnessed after the "Libyan shoot out" in London of terrorists walking away from prosecution because of diplomatic immunity, by making it clear that murder is not, and can never be, protected diplomatic activity.

The terrorist diplomat can exist only as a product of state-sponsored terrorism, and it is to this threat that we must next turn our focus. Earlier this year, I introduced legislation to cut off all U.S. trade with Libya because of its support of international terrorism. This proposal was adopted by the Senate as an amendment to the Foreign Assistance Act giving the President authority to summarily cut off trade with Libya and other countries because of its support of international terrorism.

On July 10, 1985, the House passed a similar amendment to the House Foreign Assistance Act mandating a trade boycott of Libya, after I contacted Congressman BENJAMIN GILMAN of New York.

The provision was ultimately enacted and provided authority for the President's recent trade embargo of Libya, announced on January 7, 1986.

Finally, in response to the immediate concerns raised by the TWA hijacking, I introduced a resolution, Senate Resolution 196, calling on the President to work for a worldwide boycott of all international airports that fail to meet adequate security standards. I firmly believe that the United States must take an active role in ensuring the safety of passengers, not just on flights leaving our airports, but on all international flights.

These legislative initiatives, along with S. 1429, reflect my conviction that, ultimately, law abiding nations will succeed against this threat to law and order worldwide, not by adopting the terrorists tactics that threaten innocents, but by fiercely maintaining that threatened order and bringing the full force of the law to bear against these most heinous criminals.

Mr. President, I thank the distinguished majority leader for taking time for this bill at this time. I shall briefly summarize at this juncture what this bill does.

At the present time, as a result of legislation in 1984, it is against the laws of the United States to hijack or take hostage our American citizens. There is a significant gap in U.S. law at the present time as to attacks, assaults, or killings of other U.S. citizens abroad.

This bill fills that gap.

For example, Mr. President, there is no law on the books at the present time which would enable the United States to take action for the U.S. citizens who were murdered at the Vienna and Rome airports in the recent incidents, or take action against the terrorists who murdered the 240 marines in Lebanon on October 25, 1983, or to bring to justice the murderers of U.S. citizens at the outdoor cafe in El Salvador, or take action against the terrorists who murdered two AID officers at the airport in Tehran. This bill would fill that gap.

Mr. President, it has long been accepted that the United States, or any nation, may exert extraterritorial jurisdiction for attacks and murder on their citizens abroad. It is high time that there was a comprehensive criminal code to protect American citizens around the world from such acts of terrorism.

Mr. President, there has been a great deal of tough talk about terrorism, but very little tough action. The enactment of this measure will enable the United States to supplement the tough talk with some tough action.

There is at the present time, largely unknown but a fact, that the three terrorists who hijacked the TWA plane are now under indictment, with such charges having been issued by the U.S. District Court for the District of Columbia. This bill will put on the books a measure which will protect American citizens abroad under all circumstances from acts of terrorism.

What happens next, Mr. President, in terms of bringing terrorists to justice, is a complex matter but it is worth noting that for 100 years now the Supreme Court of the United States has upheld convictions where criminals are brought back to the United States for trial regardless of the methods by which they are brought back.

In a celebrated case called Ker against Illinois, the State of Illinois had brought charges against a man by the name of Ker who fled to Peru. Illinois officials went to Peru, arrested Ker, brought him back to the United States, and he was convicted. That prosecution was upheld by the Supreme Court of the United States in a decision which has been followed many times, with one opinion written by Justice Hugo Black, a noted civil libertarian.

In terms of bringing a terrorist to justice, that has to be very carefully considered. When these ideas were first offered in legislation by this Senator some years ago, there was some substantial criticism in trying to use the Ker doctrine to try to bring terrorists to justice in the United States. As we have seen a proliferation of terrorism, as we have seen other procedures not effective, as we have seen an effort at economic sanctions—which is a good first step but unfortunately not joined in by our colleagues—retaliatory attacks have been considered and rejected, we have been searching for ways to deal with terrorism. The criminal laws have doctrines with considerable force, and those doctrines can be effectively used in bringing terrorists to justice and bringing them to the United States for trial, for prosecution, and conviction.

I ask unanimous consent that the text of a New York Times editorial for January 26, 1986, be incorporated in the RECORD. It is entitled "Snatching Terrorists Abroad," which is a succinct statement and a policy justification for this kind of enforcement and action.

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

[From the New York Times, Jan. 25, 1986]

SNATCHING TERRORISTS ABROAD

If other nations can't catch terrorists or refuse to surrender them, why shouldn't Americans snatch suspects wherever they can and bring them to justice in the United States? That question no longer sounds farfetched.

The violence against Americans abroad and the failure of other nations to take it seriously have aroused Washington's interest in every conceivable countermeasure. Prudence and justice argue for striking directly at guilty terrorists. Why not take them where we can?

The main obstacles are other nations' rights and sensibilities. Governments that put a much lower priority on arresting terrorists may well regard kidnapping by American agents as a crime. They also cherish their sovereignty and insist on making their own choices about whom to arrest and to extradite. Some may also fear retribution by terrorists or remember that the United States itself has sometimes refused to deliver fugitives under extradition treaties that exclude crimes labeled "political."

Still, while other nations are unlikely to give advance approval, some might quietly applaud or even assist in specific arrests of

properly charged fugitives. American judges traditionally have not inquired about *how* a suspect is brought before them, only whether he's been duly charged. America's known regard for defendants' rights, and President Reagan's rejection of reckless retaliation against innocents abroad, are strong arguments for trying to bring some fugitives to account here.

Probably the strongest argument for unilateral action is the failure of international efforts to punish either terrorists or their sponsors. Our European allies, having refused to join in economic sanctions or airline groundings, would find it harder to object to discreet American efforts at self-protection.

Responsible Americans are not talking about a shootout on a busy Paris street. They do, however, want to warn nations that harbor the likes of Mohammed Abbas that they risk the humiliation of having him snatched away. That alone might keep him and others in distracted flight.

Mohammed Abbas is under Federal indictment, charged with plotting the Achille Lauro hijacking, with its cold-blooded murder of a disabled American. He was caught when American planes intercepted the hijackers' escape plane but was then rashly released, first by Italy, then Yugoslavia, despite a strong American showing that he was extraditable. He is a prime candidate for capture if American agents can manage it.

Such snatchings are no substitute for sustained antiterrorist campaigns, including infiltration of suspect groups. They are no substitute for joint action when it can be negotiated. But they can bring some murderers to justice and relieve the pent-up American frustration that might otherwise provoke truly rash action.

Mr. SPECTER. The enactment of this bill will give us a good weapon in our arsenal which will enable us to consider a variety of alternatives to bring terrorists to justice. It will be a great day in our battle against terrorism worldwide to bring terrorists to the Federal court here in Washington, DC, for prosecution, conviction, and punishment. I thank the Chair.

Mr. BIDEN. Mr. President, I would like to take a minute to say that I was interested to note that when we were told this was going to come up and I was suggested as the ranking member to manage this, I asked the staff to check if it was brought up as a noncontroversial bill. The only reason it is noncontroversial is because of the efforts of the Senator from Pennsylvania. The Senator from Pennsylvania addressed this issue in the Judiciary Committee, as he indicated, several years ago, and there then was a good deal of controversy about whether or not the direction he was seeking to go was proper and whether the whole window of law he was seeking to close should be closed.

So I rise to compliment the Senator from Pennsylvania for his diligence and for his persistence in this matter.

Mr. President, I rise in support of S. 1429, the Terrorist Prosecution Act. The purpose of this bill is to provide for the prosecution and punishment of persons who, in furtherance of terrorist activities or because of the nationality of the victims, commit violent attacks upon Americans outside the United States or conspire outside of the United States to murder Americans within the United States.

The legal underpinnings of this bill are sound. It is an accepted principle of international law that a country may prosecute crimes committed outside its boundaries that are directed against its own security or the operation of its governmental functions. Terrorist attacks against Americans threaten such a fundamental function of our Government—that of protecting its citizens.

Mr. President, terrorism is antithetical to the rule of law; yet, to the extent feasible, it is the rule of law upon which we must rely to fight terrorism. What is needed in the fight against terrorism is not a suspension of the very values that we as a Nation seek to embody, but an affirmation of those values by bringing the rule of law to bear on terrorist activity. It is appropriate and necessary, therefore, that we employ every legal mechanism within our power to punish those who commit terrorist acts against Americans, yet doing so in a way that respects the rule of law that we as a nation revere.

Mr. President, in conclusion I would like to commend Senators SPECTER, DENTON, and LEAHY for their commitment to seeing this legislation through. This is a very difficult area to legislate, and I think they have come up with a very good product that I believe will have tangible results in combating terrorist attacks against Americans.

Mr. SPECTER. I have one further comment, Mr. President. I thank the distinguished Senator from Delaware for his very general and kind remarks.

Mr. LEAHY. Mr. President, the hijacking of the *Achille Lauro* and the recent atrocities at the Rome and Vienna airports, have given new urgency to the debate over the proper U.S. response to international terrorism.

The United States needs a comprehensive counterterrorism strategy. Part of that strategy must be to improve our intelligence so the discriminate use of force against terrorists who have committed or are about to commit violent acts becomes feasible and legitimate.

Our strategy must also include laws which provide for the criminal prosecution in the United States of terrorists over whom we can obtain jurisdiction through extradition and other means.

Remarkably, under current law, the murder of U.S. citizens outside our borders, other than of certain government officials and diplomats, is not a crime.

The Terrorist Prosecution Act will close this serious GAP in our arsenal against terrorists, by providing for long jail sentences for individuals who conspire to commit or commit terrorist assaults, murders, or kidnapings against Americans abroad.

As ranking member of the Subcommittee of Security and Terrorism, I am proud to have worked with Chairman DENTON and Senator SPECTER on a draft of this bill which I have cosponsored and which has the strong support of the State and Justice Departments and all members of the Judiciary Committee.

Terrorism will continue to plague us in the future. There are no simple solutions, but we should have every weapon at our disposal. I urge my colleagues to give this bill their wholehearted support.

Mr. DENTON. Mr. President, I rise in support of S. 1429, the Terrorist Prosecution Act, a bill to amend title 18, United States Code, to authorize prosecution of terrorists and others who attack U.S. nationals abroad.

In reviewing the subject of international terrorism, the Judiciary Subcommittee on Security and Terrorism, which I chair, has collected sufficient evidence, through hearings, to conclude that there is more to terrorism than just a series of unrelated violent events perpetrated by several unrelated groups.

There is for example a clear pattern of Soviet supported and equipped insurgencies seeking to destabilize, by revolution, whole regions such as Southern Africa, to politicize established religion, such as in Nicaragua and the Middle East, and to export violence against the democratic governments of neighboring states.

The trends are clear. Cooperation among terrorist groups is increasing. In some instances drug money finances the violence. The lethality of the action is becoming greater as more powerful and more sophisticated weapons are employed. There is increasing disregard for the innocent. More diplomats and world leaders are targets. More innocent civilians are made into pawns. United States' interests are the No. 1 target.

The pattern that emerges from studying the testimony obtained in more than 60 hearings before the Subcommittee on Security and Terrorism, and more recently in joint hearings with the Judiciary Committee and Foreign Relations Committee, is that terrorism is the most widely practiced form of modern warfare. It is both a major force and a major trend in foreign affairs.

How successful have we been in dealing with terrorist warfare against our commerce, soldiers, diplomats, facilities, leaders, and private citizens? Not very. We in Congress sometimes adopt

self-defeating, even contradictory, measures that often put us at odds with our friends and allies. Most people are outraged at the violence of terrorism as depicted by the daily news, but that rage is short-lived.

We have come to a point that requires that we establish both a foreign and domestic policy for dealing with the obvious threat.

U.S. policy on terrorism is fragmented and only partially developed. I believe that it is essential that we determine the degree of the threat to our interests, set our goals and objectives, and then develop a policy and commitments. From there, we must explain our policy so that we can build a consensus that will enable us to persevere and to succeed over the long haul.

Terrorism must be dealt with on many fronts and a military response alone will not suffice. First, we must have laws that are sufficient to meet the threat. We must have a mechanism capable of enforcing these laws. We must pursue diplomatic initiatives and our allies must stand firm with us on this issue. We must in the end be prepared to employ a full range of sanctions: legal, diplomatic, economic, and military.

S. 1429, introduced by my distinguished colleague from Pennsylvania, Senator SPECTER, will allow for prosecution in the United States of individuals who commit terrorist murders against U.S. nationals abroad. I believe that S. 1429, with the amendments suggested by the Department of Justice and offered at the Subcommittee by Senator LEAHY and myself for Senator SPECTER, represents a step forward in our ongoing fight against terrorism.

I urge my colleagues to support S. 1429.

Thank you, Mr. President.

Mr. HATCH. Mr. President, I rise in support of Senate bill S. 1429, introduced by my colleague Senator SPECTER. The bill seeks to authorize prosecution of terrorists who attack U.S. Nationals abroad. It does this by expanding the jurisdiction of U.S. courts overseas. The crimes in question include murder, manslaughter, conspiracy to murder, and assault. In addition, it also makes it a crime to conspire outside the United States to commit murder within the United States and to commit the murder of any U.S. national.

Although I regret that the bill does not define terrorism per se, and although I believe in the need for a statutory definition of international terrorism, this bill develops the nationality theory of jurisdiction. In other words, and attack upon any U.S. citizen abroad, or a conspiracy to engage in such attack, if it includes the crimes I have just listed, grants jurisdiction to U.S. courts to try the offenders in question, once the United States has apprehended them. Among other things, this will prevent a situation similar to that of the murder of Leon Klinghoffer aboard the *Achille Lauro*, when the United States was truly unable to claim a proper jurisdiction in that instance.

What this act really does is to develop the nationality theory of jurisdiction, a theory already claimed by Israel and France, among others. An attack upon and American citizen abroad, and fits one of the above crimes, makes the attack a criminal act under our Federal Criminal Code. This is a most desirable approach in these days of a shrunken world made small by modern science and technology.

Mr. President, the United States, if it is to be at all successful in combating the terrorist threat, must put its words into deeds. This is the only way to serve notice on terrorist offenders that the United States will no longer allow them to escape the consequences of their bloody acts. How we obtain or apprehend the terrorist offenders is another question. I note that many of my colleagues, and the administration also, will not rule out abduction. Nor do I, Mr. President, if that is the only way to get these vile murderers to American shores.

One thing is clear. We cannot afford the further shedding of innocent blood or to allow political fanatics to make civilization itself their hostage. S. 1429 is a good bill because it enhances the reach of the American criminal justice system in its attempts to bring these barbaric criminals to justice. Mr. President, I urge support of S. 1429. It is a first step toward restoring legal sanity in a world reeling from terror-violence. It serves notice on terrorists and violent-wrongdoers abroad that American justice will not be denied.

Mr. SPECTER. Mr. President, I believe we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

I also announce that the Senator from Maryland [Mr. MATHIAS] is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. GLENN], the Senator from Maine [Mr. MITCHELL], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent because of illness in the family.

I also announce that the Senator from Nebraska [Mr. EXON] is absent because of illness.

I further announce that, if present and voting, the Senator from Maine [Mr. MITCHELL] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—92

Abdnor	Gore	Metzenbaum
Andrews	Gorton	Moynihan
Armstrong	Gramm	Murkowski
Baucus	Grassley	Nickles
Bentsen	Harkin	Nunn
Biden	Hart	Packwood
Bingaman	Hatch	Pell
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Proxmire
Bradley	Hecht	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Sasser
Cranston	Kasten	Simon
D'Amato	Kennedy	Simpson
Danforth	Kerry	Specter
DeConcini	Lautenberg	Stafford
Denton	Laxalt	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Long	Trible
Domenici	Lugar	Wallop
Eagleton	Matsunaga	Warner
East	Mattingly	Weicker
Evans	McClure	Wilson
Ford	McConnell	Zorinsky
Garn	Melcher	

NAYS—0

NOT VOTING—8

Durenberger	Goldwater	Mitchell
Exon	Inouye	Stennis
Glenn	Mathias	

So the bill (S. 1429), as amended, was passed, as follows:

S. 1429

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 "Terrorist Prosecution Act of 1985".

SEC. 2. (a) Part I of title 18, United States Code, is amended by inserting after chapter 113 the following:

"CHAPTER 113A—TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD

"2331. Findings and purpose.

"2332. Terrorist acts against United States nationals abroad.

"SEC. 2331. FINDINGS AND PURPOSE.

"The Congress hereby finds that—

"(a) between 1968 and 1985, there were over eight thousand incidents of international terrorism, over 50 per centum of which were directed against American targets;

"(b) it is an accepted principle of international law that a country may prosecute crimes committed outside its boundaries that are directed against its own security or the operation of its governmental functions;

"(c) terrorist attacks on Americans abroad threaten a fundamental function of our Government: that of protecting its citizens;

"(d) such attacks also threaten the ability of the United States to implement and maintain an effective foreign policy;

"(e) terrorist attacks further interfere with interstate and foreign commerce, threatening business travel and tourism as well as trade relations; and

"(f) the purpose of this chapter is to provide for the prosecution and punishment of persons who, in furtherance of terrorist activities or because of the nationality of the victims, commit violent attacks upon Americans outside the United States or conspire outside of the United States to murder Americans within the United States.

"SEC. 2332. TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD.

"(a) Whoever outside the United States commits any murder as defined in section 1111(a) of this title or manslaughter as defined in section 1112(a) of this title, or attempts or conspires to commit murder, of a national of the United States shall upon conviction in the case of murder be punished as provided in section 1111, for manslaughter be punished as provided in section 1112, for attempted murder be imprisoned for not more than twenty years, and for conspiracy be punished as provided by section 1117 of this title, notwithstanding that the offense occurred outside the United States.

"(b) Whoever outside the United States, with intent to cause serious bodily harm or significant loss of liberty, assaults, strikes, wounds, imprisons, or makes any other violent attack upon the person or liberty of any national of the United States or, if likely to endanger his person or liberty, makes violent attacks upon his business premises, private accommodations, or means of transport, or attempts to commit any of the foregoing, shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) Whoever, outside of the United States, conspires to commit murder, as defined in section 1111(a) of this title, within the United States of any national of the United States, shall be punished as provided in section 1117 of this title notwithstanding that the offense occurred outside the United States.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(e) No indictment for this section can be returned without the written approval of the Attorney General or his designee.".

(b) The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113, the following:

"113A. Terrorist acts against United States nationals abroad ..... 2331".

Mr. DOLE. Mr. President, 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.

Mr. McCONNELL. Mr. President, I am pleased the Senate voted by such a wide margin to support this legislation. I commend the dedicated effort of my colleague, Senator SPECTER, in shepherding this bill through the Judiciary Committee and to the floor.

I think it was surprising to many of us that there was this open window in our law. It is difficult to imagine why the murderers of U.S. citizens traveling abroad should be accorded status different from hijackers and hostage takers.

Murder of any U.S. citizen should be a crime. The question of apprehension and prosecution should not depend on where the crime occurs or whether the American enjoys the status of a Government official. Murder is just as wrong and just as much anguish for the victim's family whether it occurs here or abroad.

The bill is carefully crafted to ensure only acts of terrorism are covered, not back alley fights. It also requires the approval of the Attorney General or his designee to return an indictment under the act. Clearly, it addresses crimes with national implications, crimes which threaten international travel and tourism as well as trade relations.

While criminal jurisdiction is usually limited to the site of the crime, it is clearly within constitutional doctrine to extend it extraterritorially. We have extended jurisdiction in a wide variety of cases including drug smuggling.

Given the grievous nature of the crime of murder, I would suggest Congress is both legally obligated and morally bound to extend the sphere of our criminal code to protect U.S. citizens abroad. Leon Klinghoffer's family should have the confidence of U.S. law that his brutal murderers can and will be brought to justice.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond 5:30 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

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

TASK FORCE ON ELDER ABUSE ACT OF 1985

Mr. DOLE. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 1919, the Task Force on the Elder Abuse Act.

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

The legislative clerk read as follows:

A bill (S. 1919) to establish a task force to examine the issues associated with abuse of the elderly.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the bill.

Mr. ANDREWS. Mr. President, I rise today to reaffirm my commitment to eliminate the abuse of our Nation's senior citizens. Last December, I introduced S. 1919, legislation that would create a task force to define and analyze the causes of elderly abuse; examine and assess methods of educating and encouraging cooperative efforts among the general public, health officials and appropriate agencies; and suggest remedial actions that can be undertaken in both the public and private sectors to eliminate this heinous crime.

Although Congress has addressed and sought to remedy the problems of child and spouse abuse, very little has been done to ease the plight of those among our senior citizens subject to such treatment. This legislation, Mr. President, is a first step in what I firmly believe is the right direction. Abuse of the elderly is a wide ranging, multifaceted problem encompassing physical, emotional, and economic mistreatment. It is a problem that this administration and this Congress can no longer ignore. Implicit in S. 1919 is a willingness to indeed recognize that many of our older friends and neighbors are victims of abuse. They are victims, Mr. President, of what can only be viewed as another American tragedy. For far too many people, the reality of growing old has become a living nightmare. I speak of a reality in which dignity is destroyed, hope is trampled, dreams are denied, and the human spirit is laid to waste.

The elderly are a vital and productive part of our society. They are a living and vital link to our past and a stepping stone to our future. They enrich us with their experience and sustain us with their knowledge. As a civilized society we have a responsibility to protect them and to do otherwise would be unconscionable.

The great English poet John Donne wrote that "No man is an island entire of itself, every man is a piece of the continent, a part of the main." We are all a part of the main, Mr. President, and as a part of mankind we must join forces to put an end to the abuse and victimization of our senior citizens. Mr. President, I am pleased to see this legislation move forward, and I thank my colleagues for their support. Without their help and cooperation, the road traveled thus far would surely have been much more difficult.

Mr. CRANSTON. Mr. President, I rise today to voice my support for S. 1919, the proposed "Task Force on Elderly Abuse Act of 1985", introduced by my colleague from North Dakota, Senator ANDREWS, in an effort to address the tragic and growing national problem of elderly abuse. I am honored to count myself among the original cosponsors of this legislation.

Passage of this legislation will mark the commitment of the U.S. Senate to seeking a greater understanding of the extent, causes, and—most importantly—the prevention of the abuse of elderly Americans.

It is estimated that at least 1.1 million—1 in every 25—elderly Americans are the victims of abuse each year. The actual incidence of elder abuse, however, may be many times greater as 4 out of 5 cases are believed to go unreported.

Mr. President, the legislation before us today offers hope that we can find ways to turn around these alarming statistics. Under this bill, a 17-member task force under the direction of the Secretary of Health and Human Services will examine the problem of elderly abuse and submit within 9 months to the Congress and the President a written report of its findings and recommendations. The findings of the Elderly Abuse Task Force can thus serve as an important resource in this area.

Mr. President, the proposed "Task Force on Elderly Abuse Act" represents a crucial step in our efforts to address effectively the national tragedy of elderly abuse. I urge my colleagues to support this vital legislation.

Mr. HEINZ. Mr. President. I applaud this Chamber's prompt consideration and speedy passage of legislation to create a national task force on elder abuse.

Our Nation's senior citizens, like America's children, represent a valuable national resource. Their "golden years" culminate a lifetime invested in this country's peace and prosperity—as worker, teacher, soldier, parent. They are a window on our past and a pathway to our future.

Yet too often this window clouds, the pavement cracks when these most venerable—and most vulnerable—individuals fall victim to abuse.

In the five-county area of my own hometown of Pittsburgh, 162 reports of elder abuse were made in a 12-month period ending this past June. Although physical maltreatment accounts for about 75 percent of reported cases, many abusers of the elderly employ more subtle, yet equally devastating, means.

Take the case of a 74-year-old stroke victim, left strapped to a wheel chair each day, to sit in her own urine and feces. Or the 85-year-old woman whose daughter takes her Social Security checks and spends them for shopping sprees and drugs. Or the "devoted" son who refuses to allow his elderly mother to eat.

If a nation is judged in part by how it treats its aged citizens, then we must don a hair shirt of shame. Shame that 1 million elderly Americans may be victims of abuse each year, with that number increasing by 100,000 in just 4 years. Shame that we spend less than $3 on protective services for each elder abuse victim—while we spend seven times that amount for child abuse victims. Shame that in a nation where the 75-plus is the fastest growing segment of the population, and statistically the most at risk of abuse, we know so very little about the extent of the problem, even less about the causes, and nothing at all about solutions.

Mr. President, what we do know is that family caregivers, not personnel in nursing homes and other institutional settings, most often raise their fists or their emotional ire against their aged parents or grandparents. As chairman of the special committee on aging, I am particularly sensitive to added pressures created for these caregivers by Medicare's new method of hospital reimbursement.

Under the prospective payment system, patients come out of hospitals sicker, needing greater levels of care for more extended periods of time. Families burdened with such heavy levels of care will experience stress that can lead to abuse.

Exacerbating the situation is the absence of any coherent long-term care system, including home health, homemaker services, and adult day care. Even the loving and well-intentioned family member can find caring for a chronically ill adult difficult and burdensome—and unbearable over time without help. In many ways, the abusers are as much victims of circumstance as the abused.

Mr. President, we must act to turn down the heat under the pressure cooker of families caring for elderly family members. My legislation to provide a tax credit for families who care for aged parents represents one step in that direction. More legislation is needed.

I look forward to the recommendations from the task force. Until we know the full extent of the problem, and begin to illuminate causes, we can do little to prevent further abuses.

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Task Force on Elder Abuse Act of 1985".

ESTABLISHMENT

SEC. 2. There is established a task force to be known as the Task Force on Elder Abuse (hereafter in this Act referred to as the "Task Force").

DUTIES

SEC. 3. (a) The Task Force shall assess the nature and extent of public and private efforts that are needed to report, monitor, and redress the incidence of elder abuse in the United States. Task Force shall—

(1) define and analyze the factors that cause elder abuse;

(2) specify and clarify mechanisms that exist or can be developed in the private sector to alleviate elder abuse;

(3) examine and assess methods of educating and training health professionals, the general public, the clergy, law enforcement officers, and other agencies and individuals that may be instrumental in caring for those who are victims of elder abuse and also those who may be instrumental in alleviating elder abuse; and

(4) make recommendations for the conduct and coordination of continuing research concerning elder abuse.

(b) For purposes of this Act, the term "elder abuse" means abuse of an individual over 65 years of age involving—

(1) deliberate physical injury;

(2) negligence;

(3) financial injury;

(4) sexual abuse; or

(5) violation of rights.

MEMBERSHIP, APPOINTMENT, PAY, AND MEETINGS

SEC. 4. (a) The Task Force shall be composed of 17 members as follows:

(1) the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") or the designee of the Secretary;

(2) five individuals appointed by the Attorney General and the Secretary who are not officers or employees of the United States and who represent health and senior citizen organizations and who have experience in handling elder abuse matters;

(3) the director of the National Institute on Aging; and

(4) ten individuals appointed by the Secretary, consisting of one individual responsible for administering State services regarding aging from each of the ten regions of the United States administered by the regional offices of the Department of Health and Human Services.

(b) A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

(c) Members of the Task Force shall be appointed for the life of the Task Force.

(d)(1) Except as provided in paragraph (2) members of the Task Force shall each be paid at a rate equal to the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of the duties of the Task Force.

(2) Members of the Task Force shall be paid per diem and reimbursed for travel and transportation expenses in connection with the performance of the functions and duties of the Task Force as provided in sections 5702 and 5703 of title 5, United States Code.

(3) Members of the Task Force who are officers or employees of the United States or Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Task Force.

(e) Eleven members of the Task Force shall constitute a quorum but a lesser number may hold hearings.

(f) Not later than 15 days after the effective date of this Act, the Secretary of Health and Human Services shall designate the Chairman of the Task Force from among members of the Task Force. The Chairman shall not be an officer or employee of the United States.

(g) The first meeting of the Task Force shall be held not later than 30 days after the designation of the Chairman pursuant to subsection (f). The Task Force shall meet at least five times during the existence of the Task Force. The date and time of all meetings of the Task Force shall be at the call of the Chairman or a majority of its members.

EXECUTIVE DIRECTOR AND STAFF

SEC. 5. (a) The Task Force shall have an Executive Director who shall be appointed by the Chairman of the Task Force and who shall be paid at a rate determined by the Chairman. The rate of pay may not exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(b) Subject to such rules as may be prescribed by the Task Force, the Chairman of the Task Force may appoint and fix the pay of five professional staff members and two support services staff members. A rate of pay fixed pursuant to the first sentence may not exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) The Executive Director and staff of the Task Force may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Subject to such rules as may be prescribed by the Task Force, the Chairman of the Task Force may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for GS-18 of the General Schedule.

(e) Upon request of the Task Force, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this Act.

POWERS

SEC. 6. (a) The Task Force may, for the purpose of carrying out this Act, hold such hearings and conferences, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate.

(b) Any member or agent of the Task Force may, if so authorized by the Task Force, take any action which the Task Force is authorized to take by this section.

(c) The Task Force may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Task Force, the head of such department or agency shall furnish such information to the Task Force.

(d) The Task Force may accept, use, and dispose of gifts or donations of services or property.

(e) The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) The Administrator of General Services shall provide to the Task Force on a reimbursable basis, such administrative support services as the Task Force may request.

(g) The Task Force, through its Chairman, may enter into any contract which the Task Force considers necessary to carry out this Act.

REPORTS

SEC. 7. (a)(1) The Task Force shall transmit to the President and to each House of the Congress—

(A) an interim report five months after the first meeting of the Task Force is held pursuant to section 4(g);

(B) such interim reports as it considers appropriate; and

(C) a final report not later than nine months after the first meeting of the Task Force.

(2) The final report shall contain a detailed statement of the findings and conclusions of the Task Force, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(b) After the final report is transmitted to the President and each House of the Congress pursuant to subsection (a), each executive department and agency affected by the final report, as determined by the President, shall submit to the President recommendations for implementing the final report.

TERMINATION

SEC. 8. The Task Force shall terminate thirty days after its final report is transmitted to the President and each House of the Congress pursuant to section 7(a).

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There is authorized to be appropriated for the fiscal year ending on September 30, 1987, the sum of $350,000 to carry out this Act. Any sums appropriated under the authorization contained in this section shall remain available until expended.

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

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

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, we hope to introduce later this afternoon a modified TV in the Senate package. I think there will be no further rollcall votes today, but there could be rollcall votes tomorrow on that proposal.

VIRGINIA FLOOD VICTIMS RETURNING UNUSED DISASTER RELIEF MONEY

Mr. WARNER. Mr. President, as you well know, Virginia suffered one of the most destructive floods in its history last November, causing an estimated $750 million in property damage and the lives of 20 Virginians.

With the aid of the various disaster relief programs, the cleanup effort continues in the aftermath of the flood that hit, particularly severe in the Shenandoah Valley and the Roanoke areas.

Despite their personal losses and the hardships they have endured over these past few months, the citizens of Virginia have upheld a virtue that has distinguished our State since its founding—the ability to accept hardship, survive, and renew life with vigor and honesty. I stress "honesty."

We hear and read many stories each day of persons who have made financial gains through illegal means.

Less frequently do we hear and read of persons who have resisted temptation and not taken the money and run.

I hold in my hand, Mr. President, letters from 17 flood victims in Virginia, each of whom received checks in varying amounts from the Federal Emergency Management Agency [FEMA].

Each of these persons sustained property losses to their homes and received Federal assistance to replace or repair such things as furnaces, wells, electrical equipment, and water damage.

Enclosed in each of these letters from my fellow Virginians was a refund check to FEMA for money over and above the actual cost of the repairs to their homes.

The checks from these 17 persons total $6,549.95, and represent only a sampling of the many other Virginians who have made similar refunds to the Federal Government.

Mr. President, if you would indulge me for a minute, I would like to read you excerpts from several letters which I found remarkably refreshing.

At a time when our Nation is struggling to reduce our Federal deficit, I am proud to cite these Virginians as examples of what we can do by working together to eliminate any waste of our taxpayers' dollars.

This letter comes from a gentleman in Covington who received a check from FEMA for $472.50, cashed it, then wrote back to Uncle Sam saying:

I am sending back $112.03 for replacing of electric part. I received $472.50 from FEMA, only used $360.47

A family from Shenandoah wrote:

We did not need to use all the money sent to us for the specific repairs listed. The amount sent to us was $1,418.45. I am returning a check for the amount of $526.61.

From a gentleman in Waynesboro who returned $202.50 to FEMA:

Our bill for fixing under our mobile home was $870. This is the money we owe you back from $1,072.50.

From a woman in Roanoke:

After having my gas furnace checked by the Roanoke Gas Co. last week, I was advised that the furnace was OK and no repair work was needed. I'm herewith refunding the $425 received on December 19, 1985. Thank you for processing my claim so rapidly.

From another resident in Roanoke:

We were sent a check for $195 to repair two baseboard heaters. We only need a new thermostat for the larger one and the smaller one was replaced. We had $109 left over as a friend did the labor and purchased the needed supplies, therefore not costing as much.

From a Harrisonburg woman:

Enclosed is check for $465.35 for allowed funds not used for water damage to my basement. Thank you for the courtesy and efficiency of your office.

From a woman in Salem:

Thank you so much for your help during our time of need. I am returning the $425 for repairs to the furnace. I received money to replace it. I have receipts for the remaining $116, used to clean the basement and replace the outlet. Thank you again.

And, finally, Mr. President, my favorite letter, which comes from a Roanoke woman, who writes:

My family and I want to express our sincere appreciation for your financial assistance during our recent flood disaster. It is comforting to us to know that our Government was concerned and acted accordingly. I am returning $189 that wasn't used.

Mr. President, I am sure many lessons can be derived from these letters. These persons were under no legal obligation to return the excess funds—they did so out of honesty.

Certainly, it clearly indicates that not everyone is out to make a buck any way they can.

And by reading these letters today I am in no way implying that citizens in the other 49 States would not do the same thing and refund money that was not rightfully theirs.

In the truest sense of the word, these individuals, and those like them throughout our Nation, are patriots.

I thank them for their integrity, for their honesty, and for taking what they needed, and leaving the rest for others.

We in Virginia take pride in our honesty, our love of country.

IMPACT OF GRAMM-RUDMAN-HOLLINGS

Mr. HATCH. Mr. President, I am submitting for the RECORD an analysis of Gramm-Rudman-Hollings' impact on defense-related jobs. Through 1987, there will be 413,000 fewer job opportunities in this vital sector. The analysis cannot stop there. In fact, Mr. President, I am reminded of Gramm-Rudman-Hollings' impact on our society each time I see Calder's giant mobile being erected in the lobby of the Hart Senate Office Building: Touch it in one critical place and the entire structure will tremble.

In August 1985, Congress agreed to a defense spending level of $279 billion for fiscal year 1987 in its first concurrent resolution on the budget. Since then we have agreed to the Gramm-Rudman-Hollings amendment which threatens large reductions in fiscal year 1987 spending in the fall of 1986. Pursuant to estimates of the fiscal year 1987 budget deficit released by the Congressional Budget Office yesterday, it appears that the defense share of reductions, including residual outlay reductions from the fiscal year 1986 sequester, will amount to $20 billion. I have estimated, on a State-by-State basis, the number of jobs that we are giving up by virtue of a sequester of this magnitude in the defense area. Mr. President, I ask unanimous consent that the tables providing this analysis be printed at the conclusion of my statement.

The anticipated sequester this fall under Gramm-Rudman-Hollings will weaken our national security by destabilizing our economy; and it will devastate the skilled manpower base that was to be the promise of our future. Under Gramm-Rudman-Hollings, we will have cut defense spending not because of any lessened external threat, but to avoid tough domestic choices. In the end, we will be weaker everywhere, domestically as well as externally; allow me to explain.

Gramm-Rudman-Hollings will obstruct a vital artery to the heart of our economic strength: Technology skills. Cutbacks in defense spending will cripple our high-technology sector. Here, the Bureau of Labor Standards forecasts 4 million new jobs to be created between 1982 and 1995. Under Gramm-Rudman-Hollings, over 7 percent, or 286,000 would be eliminated in fiscal year 1987 alone, if one considers all off base and about 25 percent of the onbase jobs to be technology related.

This will have a snowballing effect, Mr. President. For example, the Office of Technology Assessment reported in 1984 that skilled manpower is the single most important consideration of decisionmakers selecting high-technology site locations.

But it does not stop there. We are already short of scientists and engineers for both nondefense and defense industries. The National Science Foundation forecasts a need for 6.1 to 8.5 percent annual growth in engineers just for defense industries. We need incentives to encourage our youth to enter these disciplines. We also need facilities to train them. Last year, DOD contributed $3 billion to university research programs.

What is the payoff of DOD spending, in economic terms? One case suffices: That of our aerospace industry. This sector is symbolic of America's technological eminence. More materially, aerospace sales have continually generated a surplus in our merchandise trade balance; in 1985 that surplus amounted to $13.1 billion, up by 30 percent from the previous year.

When we cut high-skill jobs, we destroy ourselves. These skills erode, they are forever lost; they cannot simply be shelved until a new opportunity to use them arises. Our technology moves far too fast.

The job losses imposed by Gramm-Rudman-Hollings cuts in defense will hurt every State, especially since it is the small business community that will be hardest hit. These firms, with limited resources, cannot survive abrupt, wide swings in defense spending. Let us recall that, in this administration, it is small business that has really gained: Today, those firms receive more than $25 billion of direct defense spending and 20 percent of all prime contracts. They receive nearly 50 percent of all such contracts under $10 million, and 15 percent of those over $10 million.

Let me close this part of the argument, Mr. President. Under Gramm-Rudman-Hollings, we risk turning President Reagan's "Great American Comeback" into the "Great American Setback."

I urge deficit control by cuts in nonproductive spending. But I also urge that we think twice before undermining the President's economic program: What today is being condemned was only yesterday the engine that pulled this country and the rest of the world out of a recession. We have had 38 months of economic growth, and created 9 million jobs since November 1982.

And what role has defense played? Wharton Econometrics attributes 15-20 percent of all job growth for this period to direct or indirect defense spending. The conference board calls defense outlays the "single largest 'fiscal thrust' to the economy." They add that while industrial growth rose at an average of 3 percent a year for 1981 to 1984, defense and space industries grow at 9.5 percent.

Mr. President, I now turn to the more specific defense-related problems that Gramm-Rudman-Hollings will create. In a few words, our readiness will suffer and our arms control negotiation position will be weaker.

Gramm-Rudman-Hollings will impose a 10-percent, across-the-board cut in defense programs, with some exceptions. Let me demonstrate how the ar-

bitrariness of this approach will undermine our security. First, I will examine the rationale for a high-readiness posture. I will then relate Gramm-Rudman-Hollings cuts to each part of the readiness formula.

America's strategy is to deter war at all levels, strategic, conventional and low-intensity, by credibly threatening an instant, severe reprisal against attacks on our vital interests. Therefore, we don't need, and cannot afford, absolute quantitative superiority over our adversaries. And we don't have it. Thanks to the shortsightedness of past arms control agreements like the ABM Treaty, SALT I, and SALT II, the Soviets today outnumber us strategically. They also have more conventional systems like tanks and artillery pieces, as well as troops.

We keep our deterrent credible by having sufficient numbers of forces and technological edge. Because we are outmanned and outgunned, and could easily be outmaneuvered on a battlefield which is in the Soviet's backyard, but 3,000 miles from our shores, we must be immediately responsive, which is to say, ready to react to a first strike. This is the essence of our strategy.

We measure readiness by four criteria; I will show how Gramm-Rudman-Hollings will cause readiness to disintegrate by eating away at its building blocks.

State-of-the-art equipment, readily available is the first requirement of readiness. As I showed earlier in this statement, diminished spending on research and development and procurement will make our industrial base and our economy weaker, perhaps permanently as we stifle our own technological genius and dissipate our skilled manpower base.

Reliable equipment kept in combat-ready condition, is the second requisite of readiness. Yet, where will the personnel reductions be made under Gramm-Rudman-Hollings? In the support staffs that run depots, ensure the prompt delivery of spare parts and service equipment on the battlefield. This proposition defies, no ignores, the demands of modern warfare, as well as the strategy that has kept peace in Europe for the longest period of time since the Roman Empire.

The third need of readiness is skilled, available personnel. In my judgment, the single greatest accomplishment of the Reagan era is the improvement of our defense manpower, in every respect: Education, training, commitment, and self-esteem. We are doing more with fewer people because of higher quality servicemen and servicewomen. Gramm-Rudman-Hollings will return us to the Carter-era Armed Forces that no American wants.

Finally, unit training is the crucial step toward collectively integrating all four readiness components into a fighting force. Yet, training is funded from operations and maintenance accounts. Here, nearly 170,000 jobs would be eliminated by Gramm-Rudman-Hollings, in addition to the unrelenting, free-swinging, ax-like chops made in this account each year by Congress.

Reduced readiness will severely undermine our conventional force capabilities which, in the final analysis make up most of the defense budget. But I caution you: Let us remember that these are the forces most likely to be committed first if deterrence fails.

Finally, Mr. President, there is one point that demands our attention. By reducing our strategic programs 10 percent, we have unilaterally surrendered negotiation points to the Soviets.

But that is not all. On January 15, 1986, General Secretary Gorbachev sent President Reagan a plan calling for the total elimination of nuclear weapons by the year 2000. This means that our defense would reside with conventional capabilities, where we are already at a disadvantage, and would become still weaker under a large sequestration pursuant to Gramm-Rudman-Hollings. What I am saying, Mr. President, is that the highly arbitrary conventional force cutbacks discussed earlier could impede, not promote progress toward the total elimination of nuclear weapons.

The European allies already fear this. The French and others see the Gorbachev plan as a way of "making Europe safe for conventional warfare." And some of our allies will see our conventional force reductions as an attempt to "decouple" the United States from Europe.

In conclusion, Gramm-Rudman-Hollings will only kill the pain by killing the patient. That patient is our Nation's security. Its life support system is our economy on which Gramm-Rudman-Hollings has begun to pull the plug.

I ask unanimous consent to have the analysis printed in the RECORD.

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

FISCAL YEAR 1987 DEFENSE OUTLAYS $279 VERSUS $259 BILLION

[Dollar amounts in billions]

State	Direct expenditures current policy defense budget				Total DOD spending amount	Direct expenditures GRH sequest.	
	Off-base payroll		On-base payroll				
	Amount	Percent	Amount	Percent		Total	Decrease
1	2	3	4	5	6	7	8
Alabama	$0.887	24	$2.744	76	$3.63	$3.37	$0.26
Alaska	.045	4	.973	96	1.02	.94	.07
Arizona	1.771	47	2.012	53	3.78	3.51	.27
Arkansas	.359	26	1.002	74	1.36	1.26	.10
California	35.713	60	23.350	40	59.06	54.81	4.25
Colorado	2.034	45	2.493	55	4.53	4.20	.33
Connecticut	5.187	73	1.913	27	7.10	6.59	.51
Delaware	.037	10	.332	90	.37	.34	.03
Florida	5.768	45	7.124	55	12.89	11.96	.93
Georgia	1.471	26	4.294	74	5.77	5.35	.42
Hawaii	.124	5	2.519	95	2.64	2.45	.19
Idaho	.013	4	.344	96	.36	.33	.03
Illinois	2.093	38	3.410	62	5.50	5.11	.40
Indiana	2.699	56	2.126	44	4.83	4.48	.35
Iowa	.613	55	.500	45	1.11	1.03	.08
Kansas	1.720	54	1.448	46	3.17	2.94	.23
Kentucky	.233	12	1.752	88	1.99	1.84	.14
Louisiana	.763	24	2.453	76	3.22	2.98	.23
Maine	.455	42	.638	58	1.09	1.01	.08
Maryland	4.196	49	4.400	51	8.60	7.98	.62
Massachusetts	7.438	69	3.320	31	10.76	9.98	.77
Michigan	2.242	53	1.985	47	4.23	3.92	.30
Minnesota	2.482	71	1.028	29	3.51	3.26	.25
Mississippi	.830	31	1.888	69	2.72	2.52	.20
Missouri	4.182	61	2.671	39	6.85	6.36	.49
Montana	.015	5	.287	95	.30	.28	.02
Nebraska	.123	14	.773	86	.90	.83	.06
Nevada	.037	6	.607	94	.64	.60	.05
New Hampshire	.844	54	.730	46	1.57	1.46	.11
New Jersey	3.227	50	3.282	50	6.51	6.04	.47

FISCAL YEAR 1987 DEFENSE OUTLAYS $279 VERSUS $259 BILLION—Continued

[Dollar amounts in billions]

State	Direct expenditures current policy defense budget				Total DOD spending amount	Direct expenditures GRH sequest.	
	Off-base payroll		On-base payroll			Total	Decrease
	Amount	Percent	Amount	Percent			
1	2	3	4	5	6	7	8
New Mexico	.377	23	1.274	77	1.65	1.53	.12
New York	8.738	57	6.524	43	15.26	14.16	1.10
North Carolina	.718	16	3.807	84	4.53	4.20	.33
North Dakota	.029	6	.424	94	.45	.42	.03
Ohio	3.749	51	3.629	49	7.38	6.85	.53
Oklahoma	.439	16	2.289	84	2.73	2.53	.20
Oregon	.322	33	.660	67	.98	.91	.07
Pennsylvania	4.073	46	4.750	54	8.82	8.19	.64
Rhode Island	.356	37	.606	63	.96	.89	.07
South Carolina	.247	8	2.802	92	3.05	2.83	.22
South Dakota	.019	6	.302	94	.32	.30	.02
Tennessee	.732	31	1.605	69	2.34	2.17	.17
Texas	6.763	41	9.758	59	16.52	15.33	1.19
Utah	.829	39	1.310	61	2.14	1.98	.15
Vermont	.305	70	.128	30	.43	.40	.03
Virginia	4.720	29	11.519	71	16.24	15.07	1.17
Washington	3.813	48	4.193	52	8.01	7.43	.58
West Virginia	.199	40	.303	60	.50	.47	.04
Wisconsin	.994	50	.985	50	1.98	1.84	.14
Wyoming	.007	3	.198	97	.21	.19	.01
Total	125.030		139.464		264.49	245.45	19.04

FISCAL YEAR 1983 (BENCHMARK YEAR) TOTAL DOD PERSONNEL AND PAYROLL

State	Military personnel	Military personnel/ total personnel	Military payroll	Military pay/total pay	Civilian personnel	Civilian personnel/ total personnel	Civilian payroll	Civilian pay/ total pay	Total personnel	Total DOD payroll	State pay/ U.S. pay
1	9	10	11	12	13	14	15	16	17	18	19
Alabama	25,072	49	0.501	0.50	26,090	0.51	0.506	0.50	51,162	1.007	0.022
Alaska	20,680	82	.402	.79	4,616	.18	.105	.21	25,296	.507	.011
Arizona	24,432	72	.483	.69	9,725	.28	.218	.31	34,157	.701	.015
Arkansas	9,889	67	.208	.80	4,764	.33	.052	.20	14,653	.260	.06
California	204,572	61	3.890	.53	133,359	.39	3.420	.47	337,931	7.310	.159
Colorado	39,879	74	.760	.72	14,061	.26	.292	.28	53,940	1.052	.023
Connecticut	5,865	57	.105	.47	4,515	.43	.117	.53	10,380	.222	.005
Delaware	4,935	73	.109	.75	1,782	.27	.036	.25	6,717	.145	.003
Florida	70,872	70	1.505	.70	29,805	.30	.650	.30	100,677	2.155	.047
Georgia	62,941	63	1.070	.59	36,620	.37	.738	.41	99,561	1.808	.039
Hawaii	45,715	69	.860	.66	20,244	.31	.442	.34	65,959	2.302	.028
Idaho	5,999	84	.118	.83	1,176	.16	.025	.17	7,175	.143	.003
Illinois	36,289	63	.710	.66	21,591	.37	.373	.34	57,880	1.083	.024
Indiana	6,059	31	.170	.36	13,779	.69	.299	.64	19,838	.469	.010
Iowa	459	24	.012	.12	1,462	.76	.090	.88	1,921	.102	.002
Kansas	24,609	79	.448	.76	6,419	.21	.141	.24	31,028	.589	.013
Kentucky	41,378	75	.598	.71	13,605	.25	.243	.29	54,983	.841	.018
Louisiana	25,950	74	.450	.56	9,006	.26	.348	.44	34,956	.798	.017
Maine	5,419	72	.143	.77	2,067	.28	.042	.23	7,486	.185	.004
Maryland	35,759	47	.712	.43	40,857	.53	.939	.57	76,616	1,651	.036
Massachusetts	10,385	47	.216	.36	11,922	.53	.380	.64	22,307	.596	.013
Michigan	9,599	45	.194	.42	11,945	.55	.272	.58	21,544	.466	.010
Minnesota	916	25	.041	.47	2,706	.75	.046	.53	3,622	.087	.002
Mississippi	18,119	62	.413	.75	11,133	.38	.140	.25	29,252	.553	.012
Missouri	17,685	47	.285	.43	20,134	.53	.372	.57	37,819	.657	.014
Montana	4,160	79	.099	.79	1,119	.21	.027	.21	5,279	.126	.003
Nebraska	12,282	77	.345	.84	3,761	.23	.068	.16	16,043	.413	.009
Nevada	11,824	86	.233	.85	1,872	.14	.042	.15	13,696	.275	.006
New Hampshire	4,096	28	.089	.29	10,363	.72	.214	.71	14,459	.303	.007
New Jersey	21,447	44	.332	.37	27,309	.56	.572	.63	48,756	.904	.020
New Mexico	16,883	64	.357	.59	9,433	.36	.251	.41	26,316	.608	.013
New York	22,716	55	.350	.45	18,631	.45	.436	.55	41,347	.786	.017
North Carolina	97,890	86	1.590	.85	15,306	.14	.288	.15	113,196	1.878	.041
North Dakota	11,647	88	.240	.91	1,618	.12	.025	.09	13,265	.265	.006
Ohio	11,834	27	.311	.27	32,657	.73	.831	.73	44,491	1.142	.025
Oklahoma	31,875	56	.548	.53	24,749	.44	.488	.47	56,624	1.036	.022
Oregon	770	20	.047	.56	3,042	.80	.037	.44	3,812	.084	.002
Pennsylvania	7,997	13	.145	.12	53,985	.87	1.109	.88	61,982	1.254	.027
Rhode Island	3,974	49	.084	.47	4,112	.51	.094	.53	8,086	.178	.004
South Carolina	50,264	72	.788	.65	19,803	.28	.422	.35	70,067	1.210	.026
South Dakota	6,515	84	.138	.85	1,219	.16	.024	.15	7,734	.162	.004
Tennessee	11,831	61	.178	.55	7,653	.39	0.143	.45	19,484	.321	.007
Texas	133,406	68	2.649	.67	62,799	.32	1.326	.33	196,205	3.975	.086
Utah	6,241	22	.140	.23	22,156	.78	.472	.77	28,397	.612	.013
Vermont	60	10	.002	.15	535	.90	.011	.85	595	.013	.000
Virginia	94,484	47	1.779	.42	104,719	.53	2.450	.58	199,203	4.229	.092
Washington	42,570	59	.753	.54	29,246	.41	.648	.46	71,816	1.401	.030
West Virginia	438	22	.008	.35	1,577	.78	.015	.65	1,995	.023	.000
Wisconsin	943	24	.018	.25	2,936	.76	.054	.75	3,879	.072	.002
Wyoming	3,821	81	.085	.81	886	.19	.020	.19	4,707	.105	.002
Total	1,363,445		25.711		914,849		20.353		2,278,294	46.064	

Civilian jobs per $1 million expenditures	STATE		On-base only			Fiscal year 1987 current policy defense budget civilian jobs		
	On-base	Off-base	1983–87 deflator	Civilian payroll fiscal year 1987	Adjusted civilian payroll	On-base	Off-base	Total
1	20	21	22	23	24	25	26	27
Alabama	52	32	0.152	1.40	1.19	61,183	24,070	85,253
Alaska	44	32	.152	.18	.15	6,619	1,221	7,840
Arizona	45	32	.152	.57	.49	21,670	48,058	69,728
Arkansas	92	32	.152	.33	.28	25,309	9,742	35,051
California	39	32	.152	9.21	7.81	304,701	969,108	1,273,809
Colorado	48	32	.152	.65	.55	26,537	55,195	81,732
Connecticut	39	32	.152	.83	.71	27,230	140,754	167,984
Delaware	50	32	.152	.09	.07	3,697	1,004	4,701
Florida	46	32	.152	2.11	1.79	82,008	156,520	238,528
Georgia	50	32	.152	1.58	1.34	66,458	39,917	106,375
Hawaii	46	32	.152	.77	.66	30,028	3,365	33,392
Idaho	47	32	.152	.06	.05	2,249	353	2,602
Illinois	58	32	.152	1.27	1.08	62,439	56,796	119,235
Indiana	46	32	.152	1.48	1.25	57,707	73,240	130,947
Iowa	16	32	.152	.38	.32	5,242	16,634	21,876
Kansas	46	32	.152	.30	.25	11,564	46,674	58,238
Kentucky	56	32	.152	.43	.37	20,582	6,323	26,905
Louisiana	26	32	.152	.63	.54	13,869	20,705	34,574
Maine	49	32	.152	.18	.15	7,352	12,347	19,699
Maryland	44	32	.152	2.35	1.99	86,576	113,863	200,438
Massachusetts	31	32	.152	1.77	1.50	47,207	201,838	249,045
Michigan	44	32	.152	1.10	.93	40,986	60,839	101,825
Minnesota	59	32	.152	.77	.65	38,312	67,352	105,664
Mississippi	80	32	.152	.72	.61	48,455	22,523	70,978
Missouri	54	32	.152	1.42	1.21	65,264	113,483	178,747
Montana	41	32	.152	.06	.05	2,138	407	2,545
Nebraska	55	32	.152	.18	.15	8,499	3,338	11,837
Nevada	45	32	.152	.08	.07	3,136	1,004	4,140
New Hampshire	48	32	.152	.52	.44	21,485	22,903	44,388
New Jersey	48	32	.152	1.84	1.56	74,426	87,568	161,993
New Mexico	38	32	.152	.46	.39	14,554	10,230	24,784
New York	43	32	.152	2.94	2.49	106,525	237,114	343,639
North Carolina	53	32	.152	.51	.44	23,199	19,484	42,683
North Dakota	65	32	.152	.05	.04	2,838	787	3,625
Ohio	39	32	.152	2.66	2.26	88,769	101,733	190,502
Oklahoma	51	32	.152	1.00	.85	43,027	11,913	54,939
Oregon	82	32	.152	.53	.45	36,720	8,738	45,458
Pennsylvania	49	32	.152	4.14	3.51	170,781	110,525	281,306
Rhode Island	44	32	.152	.31	.26	11,432	9,660	21,092
South Carolina	47	32	.152	.79	.67	31,514	6,703	38,216
South Dakota	51	32	.152	.05	.04	2,050	516	2,566
Tennessee	54	32	.152	.63	.53	28,610	19,864	48,474
Texas	47	32	.152	3.12	2.65	125,432	183,521	308,953
Utah	47	32	.152	1.02	.87	40,685	22,496	63,181
Vermont	49	32	.152	.12	.10	4,747	8,276	13,023
Virginia	43	32	.152	6.06	5.13	219,482	128,082	347,564
Washington	45	32	.152	1.71	1.45	65,352	103,470	168,821
West Virginia	104	32	.152	.24	.20	20,815	5,400	26,215
Wisconsin	54	32	.152	.75	.63	34,374	26,973	61,347
Wyoming	44	32	.152	.04	.93	1,400	190	1,590
Total				60.38	51.20	2,345,235	3,392,814	5,738,050

CIVILIAN JOB LEVELS FY87 DEFENSE BUDGET POST GRH SEQUESTRATION

State	On-base	Off-base	Total jobs	On-base decrease	Off-base decrease	Total jobs decrease
1	28	29	30	31	32	33
Alabama	56,778	22,337	79,114	4,405	1,733	6,138
Alaska	6,143	1,133	7,276	477	88	564
Arizona	20,110	44,598	64,708	1,560	3,460	5,020
Arkansas	23,487	9,040	32,527	1,822	701	2,524
California	282,762	899,332	1,182,094	21,938	69,776	91,714
Colorado	24,627	51,221	75,847	1,911	3,974	5,885
Connecticut	25,269	130,620	155,889	1,961	10,134	12,095
Delaware	3,431	932	4,363	266	72	338
Florida	76,103	145,251	221,354	5,905	11,269	17,174
Georgia	61,673	37,043	98,716	4,785	2,874	7,659
Hawaii	27,866	3,123	30,988	2,162	242	2,404
Idaho	2,087	327	2,415	162	25	187
Illinois	57,944	52,706	110,650	4,496	4,089	8,585
Indiana	53,552	67,967	121,518	4,155	5,273	9,428
Iowa	4,865	15,437	20,301	377	1,198	1,575
Kansas	10,732	43,313	54,045	833	3,361	4,193
Kentucky	19,100	5,867	24,968	1,482	455	1,937
Louisiana	12,871	19,214	32,085	999	1,491	2,489
Maine	6,823	11,458	18,280	529	889	1,418
Maryland	80,342	105,665	186,007	6,233	8,198	14,432
Massachusetts	43,808	187,305	231,113	3,399	14,532	17,931
Michigan	38,035	56,459	94,493	2,951	4,380	7,331
Minnesota	35,554	62,502	98,056	2,758	4,849	7,608
Mississippi	44,966	20,901	65,867	3,489	1,622	5,110
Missouri	60,565	105,312	165,877	4,699	8,171	12,870
Montana	1,984	378	2,362	154	29	183
Nebraska	7,887	3,097	10,985	612	240	852
Nevada	2,910	932	3,842	226	72	298
New Hampshire	19,938	21,254	41,192	1,547	1,649	3,196
New Jersey	69,067	81,263	150,330	5,359	6,305	11,664
New Mexico	13,506	9,494	22,999	1,048	737	1,784
New York	98,855	220,042	318,897	7,670	17,072	24,742
North Carolina	21,529	18,081	39,610	1,670	1,403	3,073
North Dakota	2,634	730	3,364	204	57	261
Ohio	82,378	94,408	176,786	6,391	7,325	13,716
Oklahoma	39,929	11,055	50,984	3,098	858	3,956
Oregon	34,076	8,109	42,185	2,644	629	3,273
Pennsylvania	158,484	102,567	261,052	12,296	7,958	20,254
Rhode Island	10,609	8,965	19,574	823	696	1,519
South Carolina	29,245	6,220	35,465	2,269	483	2,752

CIVILIAN JOB LEVELS FY87 DEFENSE BUDGET POST GRH SEQUESTRATION—Continued

State	On-base	Off-base	Total jobs	On-base decrease	Off-base decrease	Total jobs decrease
1	28	29	30	31	32	33
South Dakota	1,903	478	2,381	148	37	185
Tennessee	26,550	18,433	44,984	2,060	1,430	3,490
Texas	116,401	170,307	286,708	9,031	13,213	22,245
Utah	37,756	20,876	58,632	2,929	1,620	4,549
Vermont	4,405	7,681	12,086	342	596	938
Virginia	203,680	118,860	322,540	15,803	9,222	25,025
Washington	60,646	96,020	156,666	4,705	7,450	12,155
West Virginia	19,317	5,011	24,328	1,499	389	1,883
Wisconsin	31,899	25,031	56,930	2,475	1,942	4,417
Wyoming	1,299	176	1,476	101	14	114
Grand total	2,176,378	3,148,531	5,324,910	168,857	244,283	413,140

Note: Differences in totals may be attributed to rounding.

ADDRESS BY SENATOR MOYNIHAN ON SOVIET EAVESDROPPING

Mr. BYRD. Mr. President, in a radio address he delivered last month, the senior Senator from New York warned of a very dangerous situation in the United States. Senator MOYNIHAN pointed out that ample evidence indicates that foreign agents, namely those of the Soviet Union, are using sophisticated technology to eavesdrop on American communication lines.

From their embassies, consulates, and other buildings throughout the United States, Soviet officials, including KGB agents, may be tapping in on the conversations of the President, Members of Congress, military planners, financial brokers, and the executives of our most important high-tech firms, as well as on private citizens.

This a gross violation of the constitutional rights of every American who is a victim—a constitutional violation that we would not tolerate if it were being done by our own intelligence or law-enforcement officials.

This is also a gross threat to the national security of the United States. We may spend hundreds of billions of dollars on defense, but how secure is this Nation when a foreign superpower may be listening in on most any telephone conservation?

Thus far, the U.S. Government has responded by increasing security measures, such as burying communication links underground and by developing more secure telephones.

Rather than simply controlling the worst aspects of this disease, legislation is being proposed by Senator MOYNIHAN to remedy it. I commend him for these efforts.

I further commend him for his continuous efforts over the past 9 years to educate and warn the American people of this grave danger, which he did so eloquently and effectively again when he delivered his radio address on January 11.

I ask that a transcript of that address and several newspaper editorials on the topic be placed in the CONGRESSIONAL RECORD.

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

ADDRESS BY SENATOR MOYNIHAN

Good afternoon, this is Senator Daniel Patrick Moynihan of New York.

President Reagan spoke for the nation this week he told Colonel Qadhafi that the United States has had enough.

If Libya is determined to become an outlaw nation, then it can expect to be treated as such. The President was not all that specific. He need not have been. In a similar situation more than a century ago, the great British Prime Minister Gladstone simply warned, and I quote, that "the resources of civilization against its enemies are not exhausted."

As events unfold in the Mediterranean, we would do well to keep an eye on the Soviet connection. Libya gets its armaments from the Soviet Union. To be sure it pays for them, but not everything the Russians have is for sale. In the last few months, however, the Soviets have sent Libya their newest anti-aircraft missiles with thousands of uniformed Soviet technicians to man them. This, of course, has the makings of a "powder keg" as William Safire has put it.

In all that we do, security, especially communications security will be essential. The most important secrets a government has involve decisions to act: when, where, how. If an adversary knows what you plan to do and when you plan to do it—you are in trouble.

It is time the American people were more openly told that in this regard we are in trouble and right here in Washington. The Soviet Union, from its new embassy site on Mount Alto, the third highest hill in the capital, has commenced a massive microwave invasion of our telephone system.

Telephone calls used to be transmitted through telephone lines. Today most calls are sent by microwave. Anybody can listen in, if they are willing to break the law, and that is exactly what the Soviets are doing on a massive scale here.

New Yorkers are sensitive to this. The Soviets have been eavesdropping from their U.N. Mission buildings in our state for a very long while, eavesdropping on the commodity markets, for example.

It is only now, with their new embassy, that they have really got going in Washington. On the morning after the President spoke to us about Libya, the New York Times reported that microwave television reception in Washington neighborhood that adjoins this embassy has gone quite blooey. Home Box Office and Cable News Network all of a sudden are completely scrambled. Said an intelligence source quoted by the Times: "They're working so many different eavesdropping devices over there, it's no wonder."

In an editorial, "The Russians are Listening" the New York Daily News called attention to an incident during the hijacking of the *Achille Lauro*. The President was aboard Air Force One when he decided to order the Navy to force down the Egyptian airliner. The President's order was overheard by a ham radio operator. "And," the News asks, "who else?"

Nelson Rockefeller, as Vice President, warned us about this more than ten years ago in a public report to President Ford that communist countries had developed eavesdropping equipment of extraordinary sophistication, and were even then listening in to "thousands of private telephone conversations." A fair estimate today would be millions.

As we make our battle plans in the war against terrorism, most especially state-sponsored terrorism such as that of Libya under Qadhafi, should we not ask are we being overheard? (And not just on the telephone. Here in Washington the Government is implanting tiny loudspeakers in window panes to block Soviet laser beams from picking up sensitive conversations in government offices.) If the Soviets know our plans, won't they pass them on to Libya?

We can try to hamper their spying, but wouldn't it be better to just tell them to stop? If you have a microwave oven, you will find that the model has been approved by the Federal Communications Commission. All transmissions, even from ovens, have to be reported and approved. Excepting by the Soviet Embassy.

They violate our law with impunity. They know that we know they are doing it. Not to stop them invites contempt and in my view deserves contempt. Not long ago the distinguished Washington columnist Marianne Means wrote a column on this scandal which was titled "Send Soviets home, if that is what it takes to stop the eavesdropping."

Isn't it about time we did something, as the crisis over terrorism grows more intense.

This is Senator Daniel Patrick Moynihan, thank you for listening.

[From the New York Times, July 25, 1977]

THE RUSSIANS ARE LISTENING

At the first hint that the Central Intelligence Agency, the Federal Bureau of Investigation or the National Security Agency has been poking into the lives of private citizens by tapping their phones, we can expect frontpage stories, investigations by Congress, action by the Executive. That is as it should be in an open society. But for at least two years high Washington officials have known that the Soviet Union has been eavesdropping on countless telephone con-

versations in this country, and nobody outside those official circles was informed.

Today, from highly sophisticated installations located in their Washington embassy, their U.N. delegation headquarters in Manhattan their residences on Long Island and in Riverdale and Maryland, and their consulates in San Francisco and Chicago, the Russians continue to tune in on our long-distance telephone calls.

Their interest centers on economic information. The conversations of American bankers and brokers are plucked from the air and transmitted to a computer, probably in the Soviet Union or Eastern Europe, which sorts out the most useful data. And useful it indubitably is; intelligence sources believe that the Russians were helped in negotiating their large and highly advantageous purchases of American grain a few years ago by information obtained through monitoring the calls of grain brokers in the Midwest.

In a few days a National Security Council committee is to give President Carter a set of recommendations for protecting the nation's vital communications. It will reportedly include programs to foil eavesdroppers with coding devices or scramblers or by burying telephone cables underground.

That strikes us as a peculiarly polite approach. When a United States Government agency is found to have been doing illicit wiretapping, the expected response from law-enforcement officials is not to make the job more difficult but to order the agency to stop. If the Soviet tappers are being treated as though this were some sort of a game, it is probably because the intelligence arms of our two countries are linked in just such a game. We are probably getting valuable information from tuning in on Russians in Russia, and perhaps some of that information is deemed so vital as to justify turning a blind eye or deaf ear to Soviet activities here.

But for a nation that prizes individual privacy and public accountability, the presumption must be otherwise. If a member of the Soviet Embassy were caught stealing and shipping economic data back home, our authorities would, we hope, see to it that he was shipped back home. The blunt fact is that a foreign government on American shores is prying on American citizens. And notwithstanding the niceties of diplomatic immunity and extraterritoriality and rigamarole, the response should be equally blunt.

We agree with Senator Moynihan, who has voiced his indignation at this affront to Americans: The public must be fully informed as to the extent to which their privacy has already been invaded; and the Russians must be made to remove their monitoring equipment from this country.

[From the New York Daily News, Sept. 12, 1985]

IT'S FOR YOU, IVAN

Are Russian agents listening in on your phone calls? That's neither a joke nor a paranoid fantasy. Sen. Pat Moynihan points out that the Soviets have a batch of strategically located buildings—their UN mission on E. 67th St, a compound in Glen Cove, L.I., a tower on high ground in the Bronx, their embassy on a hill in Washington, D.C.—bristling with electronic gear. Their dishes can suck microwave phone transmissions right out of the air.

Federal agencies have guaranteed the confidentiality of *their* conversations by buying more than $6 billion worth of secure phones—a single unit can go as high as $35,000. Ordinary folks have no such protection. That's why Moynihan is ringing alarm bells.

One issue is the invasion of privacy. If U.S. agents were wiretapping indiscriminately, there'd be a national hullabaloo. Little heads would roll. Yet no one in the State Department or Congress—with the exception of New York's Moynihan—gives a hoot when Soviet spies violate a highly prized constitutional right.

The other issue is national security. There's ample evidence the Russians eavesdrop on Wall Street financial and banking traffic, gathering information that could be used to hurt this nation. They also can listen to personal calls—a client confiding in his lawyer, an executive arranging a love affair—that can be used to blackmail.

Moynihan is pushing a measure allowing the feds to expose and deport foreign agents—even those with diplomatic immunity—caught at electronic surveillance. The administration rejects the bill, saying it already has the power. If so, why isn't it using it? The Reagan administration should wake up to what is potentially a serious threat to America.

[From the Wall Street Journal, Feb. 19, 1985]

IS MOSCOW LISTENING?

Soviet defectors from diplomatic posts around the world have told enough about their former jobs to make it widely known that clandestine activities occupy a very large share of the time and efforts of the Soviet foreign service. But many average Americans might be shocked to learn that they themselves, at one time or another, could have been subjected to the attentions of the KGB.

Soviet diplomatic missions in New York, Washington and San Francisco are not only dens of spies but are also centers of electronic eavesdropping. These missions, along with a huge electronic surveillance complex in Cuba, are chock-full of equipment that can pick up telephone conversations and data transmissions sent via microwave links. One estimate says that the Soviets have eavesdropped on hundreds of thousands, even millions, of Americans.

In 1982, the Long Island community of Glen Cove protested that a Soviet retreat there was the site of an electronic intelligence operation. Soviet defector Arkady Shevchenko has said that "all the top floors of the building are full of sophisticated equipment," operated by 15 to 17 technicians, "to intercept all conversations of anything that is going on." Another Soviet building in the hills of San Francisco is used to eavesdrop on communications to and from U.S. high-tech firms in nearby Silicon Valley. A new Soviet embassy is being built in Washington on a perfect listening site in the hills of Georgetown, offering possibilities for tuning in on uncoded transmissions to and from the White House, the State Department, the Pentagon, Capitol Hill and CIA headquarters. (What foolishness ever possessed the State Department to permit Soviet construction on such a strategic vantage point?)

The Carter administration took a first step toward countering the Soviet electronic invasion by developing more secure telephones and burying many important government communication links underground. This effort, however, was extremely costly and slow. More recently, with the advances in microchip technology, the National Security Agency has proposed that government and industry be equipped with bugproof phones, which are now relatively inexpensive and unobtrusive.

On Jan. 3, the first day of the new congressional session, Sen. Daniel Patrick Moynihan rose to propose the "Foreign Surveillance Prevention Act of 1985." This would require the President, upon learning of illegal electronic surveillance by a foreign mission, to demand that it be discontinued and, failing that, to have the diplomats expelled. This legislation, said Sen. Moynihan, would "reaffirm in a singularly American way that the United States will not tolerate gross invasions of the privacy of its citizens by a totalitarian power which denies even the most elementary privacy rights of its own citizens."

Sen. Moynihan has submitted similar legislation on two different occasions since 1977, but the Senate has yet to act. We hope that this time around, Congress will send a loud and clear message to Moscow that such breaches of U.S. laws and electronic eavesdropping on government, industry and private citizens cannot be conducted with impunity.

NAIL THE KGB'S EAVESDROPPERS

Pat Moynihan has prevailed. The Senate has overwhelmingly approved a $1 million appropriation for the FBI to stop Soviet spies in the U.S. from intercepting private telephone conversations. They've been getting away with it for years, using all kinds of sophisticated electronic gear at their diplomatic missions to eavesdrop on calls.

It's a violation of privacy of course. But it's also a serious threat to national security. Federal agencies have spent billions of dollars to make their telephones secure, but most private lines are wide open to the KGB.

Moynihan's bill will help end that by giving the FBI money to track down the eavesdroppers. The appropriation now goes to a Senate-House conference. The measure reached that point last year, but House difference killed it. This year, House members should accept the Senate action.

Congress also should approve a second Moynihan proposal that would allow the government to expose and deport foreign agents, even if they have diplomatic immunity, when they are caught poking their big ears into private communications. There are all sorts of diplomatic niceties involved, and espionage is a game for all players. But there's no virtue at all in leaving open gaps that can be closed.

THE RUSSIANS ARE LISTENING

Ever since he entered the Senate, Pat Moynihan has been telling anyone who will listen that advanced technology enables the Soviets to use their embassies and consulates in the U.S. as listening posts. The purpose: To eavesdrop on the telephone conversations of U.S. officials and citizens. For a long while, Moynihan has got little attention.

This fall, at long last, Moynihan succeeded in awakening his colleagues. The Senate voted 96 to 1 to approve an amendment he wrote to the Justice, State and Commerce appropriations bill. It earmarked $1 million—out of a $1.2 *billion* FBI appropriation—for "countering the interception of telecommunications by agents of the Soviet Union." But in the House-Senate conference, the $1 million was deleted.

A million dollars, in this context, is a small sum. And what the Soviets are doing isn't just offensive, it's downright dangerous. U.S. vulnerability in the absence of scrambling equipment, for example, is real and immediate. Consider the Achille Lauro episode: The scrambler on Air Force One was broken. President Reagan had to give the order to force down the Egyptian airline "in the clear." The President's order was overheard by a ham radio operator. And who else?

Still, Congress seems unable to find a million dollars to begin to address this security problem. That's irresponsible—and bizarre. Moynihan confesses that he's baffled. He wonders, rightly, how the Soviets view this whole business: "Surely they will think either that we do not care, or do not dare to act." The conclusions they may draw from those inferences are plain scary.

THE ADMINISTRATION'S ANTITRUST POLICY

Mr. HART. Mr. President, in the next few days, the administration will be transmitting to the Congress a series of sweeping recommendations to amend our Nation's antitrust laws. They are urging us to change these statutes to improve our competitive posture in international markets. As concerned as we are about this Nation's ability to excel in international trade, it is my hope that we will look very carefully at their proposals.

Among their proposals, three are significant. First, they ask Congress to amend substantially section 7 of the Clayton Act. Under current law, a merger can be blocked if, in the Government's view, it may injure competition in a given industry. The administration suggests a new standard which requires a showing that competition will be injured—a standard which many experts believe would be impossible to meet.

Second, they propose an amendment to section 201 of the Trade Act. If an industry shows it has been injured by foreign competition, it can receive a 5 year grant of immunity from the antitrust laws in lieu of quotas or other relief. What happens after the 5 years? Will mergers which occur during that period be undone? What help will further concentration be to import sensitive industries? I will be interested in the administration's rationale for proposing this.

Third, the administration is seeking repeal of treble damages, even though this could make private plaintiffs more susceptible to predatory behavior. Treble damages serve both as an impediment to anticompetitive practices and as an incentive for effected industries to seek court relief. Will repealing treble damages help our competitive posture? I don't believe it will.

The administration's attitude toward the antitrust laws could justly be characterized as "less is better—always." In the 1985 Economic Report of the President, the administration accurately reported that the average annual reported real value of mergers between 1981 and 1984 was approximately 48 percent greater than the average reported during any 4 years of the late 1960's and 1970's.

But the report went further by saying:

> There is no economic basis for regulations that would further restrict the merger and acquisition process. Indeed, *the economic evidence suggest that existing regulations impose restraints that may deter potentially beneficial transactions.* (Emphasis added.)

Mr. President, I would challenge the administration to list for the Congress those mergers and acquisitions it has been forced to block by operation of the antitrust laws. In fact, this Nation has experienced an unprecedented wave of corporate acquisitions. In both 1984 and 1985, record amounts of money were spent on corporate takeovers. The 10 largest corporate takeovers in American history have all occurred since 1980, 8 of those in 1984 and 1985. Mergers, acquisitions, and management buy-outs are driving the alarming increases in corporate debt. If there has been a proposed merger in this country which could have bolstered our competitive position that the administration rejected, I'd like to know about it. I frankly doubt such evidence exists.

The administration must shoulder a significant burden to demonstrate how greater industrial concentration will improve our trade position. There are seven Japanese automobile manufacturers capturing progressively larger shares of the American automobile market. Is the administration actually suggesting that General Motors needs to be bigger in order to compete? Does it really believe that the recent acquisitions by the steel industry of oil companies, or mergers within that industry, stop or slow the penetration of foreign steel products in this country? In fact, the domestic steel industry continues to be in grave difficulty.

If the administration believes that less competition and greater industrial concentration will ipso facto improve our competitive posture, we are in deep trouble. If the unemployed men and women in our industrial heartland are waiting for leadership by the administration, they will be deeply disappointed.

It would be nice if the tough questions underlying the trade crisis could be so easily answered. Most economists agree that the overvalued dollar and our triple-digit budget deficits are the bad actors responsible for the trade deficit drama. The President has appointed Treasury Secretary Baker to study whether we need to do more to bring down the dollar. That's not a premature or bold proposal, but, it is nonetheless welcome. With the submission of the President's fiscal year 1986 budget, it is clear that Congress, and not the administration, will be taking a leadership role in reducing the deficit. As a member of the Senate Budget Committee, I will be doing whatever I can to ensure that significant progress is made. By comparison to the actions taken, and those which must follow, I am afraid the significance of the administration's antitrust proposals is rather small.

The Senior Senator from Colorado does not urge an ideological inflexibility on antitrust. In recent years, we've enacted amendments enabling the formation of export trading companies, modernizing the laws regarding municipalities, and promoting joint research and development activities. Where a clear and compelling case for amending the antitrust laws has been made, the Congress has been willing to cooperate.

This Senator recognizes, as I know my colleagues do, that the world economy is changing dramatically and at exponential rates. Every rule, regulation, and statute which effects economic decisionmaking and the ability of our industries to innovate and compete must constantly be reexamined. As Justice Brandeis said, "There must be power in the States and Nation to remold, through experimentation, our economic practices and institutions to meet changing social and economic needs." The antitrust laws are, of course, no exception in this regard.

For years, I have urged the adoption of industrial modernization to revitalize keystone firms in the steel, automobile, rubber and other heavy industries. These industrywide agreements would be based on negotiations involving labor, industry, the financial sector, government, and other important players. Antitrust could in some instances play a significant role. But exemptions to existing laws would be granted only on a case-by-case basis, and they would not be granted without conditions. If the steel industry, for example, sought antitrust or regulatory relief, increased profits would be targeted toward modernization. By contrast, these agreements would not countenance the affected firms drilling for oil on the floor of the New York Stock Exchange.

Several weeks ago, the distinguished chairman of the House Judiciary Committee, Congressman PETER W. RODINO, addressed the Georgetown Conference on Private Antitrust Litigation. In his speech, Chairman RODINO said something that bears repeating:

> Antitrust, it would seem, is once again being made the whipping boy for everything from record trade deficits to the perceived loss in U.S. technological leadership. * * * If there is any connection between the antitrust laws and (our) seemingly intractable economic problems, it would be that more vigorous competition—not less enforcement—is needed.

In most cases, I agree. This administration betrays a startling lack of confidence in competition and the ability of small entrepreneurs to create jobs and new approaches to promote economic growth. Even large firms like IBM and 3M are using so-called intrapreneurialism and the creation of small, internal units to spur their own ability to innovate.

The lesson here is that increasing innovation, not increasing concentration, should be the standard for our economic policy regarding trade. As former Attorney General William French Smith said, "bigness is not necessarily bad." But I would suggest that unnecessary bigness is. Inherent in the administration's proposals is that we will rely on increased merger activity to solve our trade woes. That is a dangerous course.

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

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

CONGRESSMAN PETER RODINO ON ANTITRUST REFORMS

Mr. HART. Mr. President, several weeks ago, the distinguished chairman of the House Judiciary Committee, Congressman PETER RODINO, addressed the Georgetown Conference on Private Antitrust Litigation. Along with his many contributions to civil rights, equal rights and the cause of a just society, there is no contemporary Member of Congress who has brought more to the antitrust debate in this country than PETER RODINO.

Our party, indeed our Nation, is grateful for his unrelenting commitment to competition and industrial strength. As we begin a debate on the administration's proposals, which tie repeal of central antitrust statutes to our trade crisis, I urge my colleagues to review and consider carefully the guidance PETER RODINO has provided.

I ask unanimous consent that remarks of Congressman RODINO be printed at this point in the RECORD.

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

LET'S FIX ONLY WHAT'S BROKEN—SOME THOUGHTS ON PROPOSED REFORM OF PRIVATE ANTITRUST LITIGATION

(Remarks of Peter W. Rodino, Jr.)

I am pleased to be among this distinguished group of experts and scholars to offer my thoughts on private antitrust litigation.

Many of you have devoted substantial time to studying private antitrust litigation — or perhaps what is even more relevant to this conference — you participate actively in it as attorneys or economic experts. Collectively, I am sure we have in this one room today the highest concentration of learning and expertise on this subject yet to be seen.

Let me begin by paying tribute to Dean Pitofsky, to Professor White, and to the many others who have participated in helping to bring about a meaningful conference. Whatever one's views may be on the issues, there is no substitute for developing sound, underlying data about the workings of the private enforcement system. The emphasis of this conference on an empirical approach is a welcome departure from the often rhetorical debates of recent years. Building upon your work, others will undoubtedly seek to test and further develop your findings. Antitrust policymaking can only benefit from such a process.

Let me offer today three general observations about the current debate over private antitrust litigation. First, that this debate, though perhaps more sophisticated than earlier versions, is not original. Most of the underlying issues were visited during the debates leading up to passage of the Sherman Act in 1980. Second, although the private enforcement suit did not immediately rise to prominence, it has done so over the last 40 years to the point that it is now the body and soul of our antitrust enforcement system. Finally, although improvements in the private enforcement system should always be sought, precipitous or one-sided changes in the system are unwise and—in all likelihood—politically unacceptable. As in the 1890 debate, Congress is likely to tread a careful and pragmatic path between extremes.

I will elaborate—very briefly—on each of these points.

History, we are often told, is cyclical. What once seemed a novel—even revolutionary—notion is recast over time in familiar patterns. Certainly this has been the case with respect to antitrust enforcement. Current suggestions that the private antitrust remedy be abolished altogether, limited in application, reduced in measure, or transformed into a purely restitutionary device, are echoes of debates heard on the House and Senate floors in the years 1888 to 1890.

It should not be a surprise that then—as now—the antitrust enforcement debate tends to reflect a larger debate between two basic schools of thought. In 1890, the economic Darwinists wanted no federal intervention in the market place. They believed that any economic practice that persisted over time must be efficient and, therefore, beneficial to society. The populists, on the other hand, believed that trusts were destroying the economic and social fabric of American life. They wanted large combinations destroyed at any cost.

Today, the modern counterpart of this debate continues. Adherents of one school push for an unrestrained market place that, in their view, will most efficiently allocate the nation's resources. The modern day populists continue to urge strong and unyielding proscriptions on undue concentrations of power. In between are those who respect the workings of the free market, but concede the need for an active federal presence, perhaps including more coordinated industrial planning.

Over the years, Congress has generally kept to the high, middle ground. In 1890, Senator Hoar is credited with adding the treble damage provision—a modification of the double damages provision in Senator Sherman's original bill—during a mark up by the Senate Judiciary Committee. Accepting both a federal role and the notion of economic self-reliance, Senator Hoar noted the Committee's "positive reliance on the self-policing capacity of business." He went on—

"A man knows when he is hurt better than an agency or government can tell him. Make it worth his while—as the triple damage provision is intended to do—and injured members of the business community can be depended upon to police an industry." [1]

If the good Senator believed that—over time—private suits would become the mainstay of our antitrust enforcement system, he had good future vision. In the first fifty years after the Sherman Act was enacted, private actions were no more numerous than cases brought by the Federal Government.[2] But beginning in 1940, and accelerating during the years I have been in Congress, there has been a dramatic growth in private suits. Today, the private action is truly the heart of our antitrust enforcement system.

The numbers are clear. Over the last decade, well over 90% of antitrust cases filed in the Federal Courts have been private suits. Although a few cases filed by the Federal Government have made headlines—the AT&T case is a prime example—they no longer dominate judicial developments.[3]

One clear sign of the eclipse of federal government enforcement—and the newly achieved preeminence of private enforcement—is the Supreme Court's docket of antitrust-related cases. In the 1960s, federal government-initiated antitrust actions remained roughly at the same levels as private suits on the Supreme Court's antitrust docket. Thereafter, government-initiated suits dropped precipitously, virtually disappearing from the Supreme Court's docket in some years. In 1984, none of the Supreme Court's 24 reported antitrust decisions (including denials of certiorari) came in a case initiated by the Federal Government.

The result is the same if we look at the major antitrust opinions of the Supreme Court. Over the last two years, 8 of the Court's 9 significant antitrust rulings came in suits initiated by private parties.[4] The

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[1] 2 G. Hoar, *Autobiography of Seventy Years*, 363 (1903).

[2] Posner, "A Statistical Study of Antitrust Enforcement," 13 *J. Law & Econ.* 365 (1970).

[3] According to data compiled by Professor Garvey, 93.7% of all federal court antitrust suits filed in the years 1975 to 1983 were private cases. House Committee on the Judiciary, 98th Cong., 2d Sess., *Study of the Antitrust Treble Damage Remedy*, (Comm. Print 1984), at 14.

[4] Aspen Skiing Co. v. Aspen Highlands Skiing Corp., —— U.S. ——, 105 S.Ct. 2847 (1985); Copperweld Corp. v. Independence Tube Corp., —— U.S. ——, 104 S.Ct. 2731 (1984); Town of Hallie v. City of Eau Claire, —— U.S. ——, 105 S.Ct. 1713 (1985); Hoover v. Ronwin, —— U.S. ——, 104 S.Ct. 1989 (1985), *rehearing denied*, —— U.S. ——, 104 S.Ct. 3564; Jefferson Parish Hospital District No. 2 v. Hyde, —— U.S. ——, 104 S.Ct. 1551 (1984); Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., —— U.S. ——, 105 S.Ct. 3346 (1985); Monsanto Co. v. Spray-Rite Service Corp., —— U.S. ——, 104 S.Ct. 1464 (1984), *rehearing denied*, —— U.S. ——, 104 S.Ct. 2378; National Collegiate Athletic Association v. Board of Regents of the University of Oklahoma, —— U.S. ——, 104 S.Ct. 2948 (1984). In the sole government-initiated case considered by the Supreme Court in 1984, the Court did not adopt the position advanced by the Department, Southern Motor Carriers Rate Conference, Inc. v. United States, —— U.S. ——, 105, S.Ct. 1721 (1985).

Government has limited itself to filing amicus or intervenor briefs in these cases.

To be sure, the key role now being played by private suits may be due in large part to the conscious choice of the current Administration to de-emphasize antitrust enforcement. Bolstered by their ideological conviction that the marketplace sweeps away most inefficient restraints, the enforcement agencies have largely abdicated enforcement efforts in what they have termed non-cartel areas.

To many of us, the private suit takes on even greater importance at a time when the enforcement agencies have not fully carried through on their mandated responsibilities. No better example exists than the area of retail price maintenance. Despite repeated and very specific signals from Congress affirming the per se rule against vertically-imposed price restraints,[5] neither federal enforcement agency has brought an enforcement action in this area during the last 5 years. What is far more disquieting, this Administration has persisted in efforts to undermine that rule. In particular, the Department has intervened in private enforcement suits in support of elimination—or more limited interpretation—of the per se rule. And, in January of this year, the Department issued Vertical Restraints Guidelines whose undisguised goal is to limit in various ways the scope of the per se rule.[6]

I am aware, of course, of those amongst us who believe that vertical restraints—even vertical price fixing—should generally be condoned. I disagree. But the point is that, until Congress changes the law, it remains the enforcement mandate. And private enforcement, though not a fully satisfactory substitute, will help to tide us through periods of indifferent or hostile attitudes by public enforcement officials.

This leads me to my last observation. It is that substantial and precipitous change in the private antitrust enforcement mechanism is unwise at this time. The political outlook for such proposals is—fortunately—not promising.

A number of very responsible experts have suggested changes in the threefold damage remedy. These proposals warrant careful study. For example, some have suggested that liability in rule of reason cases might be limited to actual damages. Strong arguments can be made that this change would discourage litigation in marginal cases brought under the rule of reason standard. But this proposal raises troubling questions.

Many rule of reason cases are not marginal—serious anticompetitive injury may be occurring. And, as some of your contributors suggest, rule of reason cases are likely to be more expensive to try than cases subject to the per se rule. Detrebling the damage award could eliminate any chance that such cases will even be brought. With little or no deterrent from private enforcement, and a lax federal enforcement policy toward most rule of reason cases, business self-discipline could disappear. This result is particularly disturbing at a time when the Justice Department has urged that more and more types of antitrust conduct be judged under the rule of reason standard.

Another more general danger in tampering with the damages multiple is the likely ripple effect on substantive law. Again, some of the papers presented here document that changes in procedures or remedies inevitably impact upon the courts' interpretation of substantive law. We cannot ignore such ripple effects in assessing the various reform proposals. If we are troubled by potentially counterproductive types of private suits, we should address directly the substantive law doctrines that allow recoveries in these cases.

History tells us that major legislative initiatives in the antitrust field succeed only when they enjoy broad, bipartisan support. This was certainly true for the Sherman Act in 1890. In my era, it has been true for the Celler Kefauver Act in 1950, the Hart Scott Rodino Act in 1976, and, most recently, for 2 bills that I shepherded through the Congress: the National Cooperative Research Act (joint research and development) and the municipal Antitrust Act.

Recently, under the banner of improving U.S. industrial and trade performance, some high Administration officials have precipitously called for repeal of Section 7 of the Clayton Act and—insofar as it applies to acquisitions—of Section 1 of the Sherman Act. All of this is very disquieting to me.

I have watched the slow but steady evolution of the antitrust laws in the Congress since 1948. I have seen the Celler-Kefauver Amendments eliminate troublesome loopholes in Section 7. I participated in the crafting of the Hart-Scott-Rodino Act that established our highly successful premerger notification system. All of this—and much more—would be discarded under these hastily concocted recipes for bolstering U.S. industrial performance. Antitrust, it would seem, is once again being made the "whipping boy" for everything from record trade deficits to the perceived loss in U.S. technological leadership.

The proposals to repeal the merger laws remind one of the words of another Administration official, who in earlier days spoke of the use of "smoke and mirrors" to implement "Voodoo economics." That will not work. If there is any connection between the antitrust laws and these seemingly intractable economic problems, it would be that more vigorous competition—not less enforcement—is needed.

All of this should not suggest that further inquiry and debate—such as this conference will surely generate—are not useful. I welcome the continuing discussion of the purposes and goals of antitrust policy. A central question for some has been how—and to what degree—antitrust policy should accommodate the "new" economic learning. As economic understanding increases, it will—as it has in the past—impact on our interpretations of antitrust laws. But we have, as yet, not arrived at a point where economists even agree on macroeconomic policy for managing our fiscal and monetary affairs, let alone the optimal antitrust enforcement approach. As Nobel laureate George Stigler has noted, the science of economics is sufficiently imprecise that "there is no position . . . which cannot be reached by a competent use of respectable economic theory." [7]

Economics, in the end, does not "win" or "lose" a debate that subsumes more than mere economic goals; it informs that debate. At the extremes, that debate over the past 100 years has encompassed suggestions ranging from the nationalization of concentrated industries to the "hands-off" capitalism of the 19th century. In 1884, Henry Lloyd, in his famous article "Lords of Industry", articulated the same dialectic in a slightly different way. He observed that there were "two outstanding tendencies" in the distinctly American economic system: "the tendency to combination" on the one hand and the "tendency for social control" on the other. Lloyd concluded that the "first promotes wealth while the second promotes citizenship." [8] He added that for the welfare of the nation, we certainly need both. I must agree.

Today, the private antitrust enforcement suit, while sometimes criticized has become the very heart of our enforcement system. Continuing reexamination of that system is constructive and will pay dividends in the long term. We cannot expect—and we should not advocate—precipitously amending laws that have been on the books for almost a century. Those laws have—and will continue—to serve us well.

At a time when public enforcement efforts are diminished and antitrust is under attack from many fronts, I do not see the Judiciary Committee embracing any proposal that would substantially undercut the private remedy. The Committee will continue its efforts, however, to gather more information on the strengths and weaknesses of private enforcement and to examine particular problem areas. Our undertaking will be substantially advanced by the careful and scholarly work of this conference.

Thank you.

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

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

TELEVISION IN THE SENATE

Mr. ARMSTRONG. Mr. President, I bring the Senate bad news. A group which has been meeting first in the leader's office, the minority leader's office, and more recently the majority leader's office, has put together a package, the effect of which I fear will

[5] Beginning with fiscal year 1984, and for each subsequent fiscal year, the House Judiciary Committee has added a rider to the Department of Justice's authorization bill prohibiting the expenditure of funds for any Departmental activity that would seek in the courts a reversal of the per se rule against resale price maintenance. Identical language was approved as a provision in the DOJ appropriations bill for fiscal 1984 (H.R. 3222). [Subsequent to the delivery of these remarks, the Congress included, and President Reagan signed into law, the same provision in the Department of Justice's appropriations bill for fiscal year 1986, H.R. 2965, P.L. 99-180].

[6] H. Res. 303, introduced by Congressman Hamilton Fish, Jr. and cosponsored by Chairman Rodino and a bipartisan majority of the House Judiciary Committee, expresses the sense of the House that the Guidelines do not accurately reflect existing law, shall not be accorded the force of law, and should be withdrawn by the Attorney General. [Subsequent to delivery of these remarks, the Committee favorably reported H. Res. 303. On December 9, 1985, the House of Representatives approved H. Res. 303 by voice vote. The language of H. Res. 303, expressing the sense of the Congress, was also enacted as a part of the State, Justice, and Commerce appropriations bill for fiscal year 1986, H.R. 2965, P.L. 99-180].

[7] G. Stigler, "The Politics of Political Economists," *Essays in the History of Economics* 63 (1965).

[8] H. Lloyd, "Lords of Industry," 138 *Am. Rev.* 535-53 (1884).

be a disgusting proposition for televising the Senate.

As Senators will recall, the idea of live gavel-to-gavel television coverage of the U.S. Senate has been a project near and dear to my heart for a long time.

I think it is intolerable that we are in 1986 and we are not ready to do something that the Australian legislature did 50 years ago, for heaven's sake; that the House of Representatives did a decade ago; that most of the State legislatures do. Here we are agonizing over whether or not we should get into the 20th century as the 21st century prepares to get under way. However, that is our situation.

At long last, a few weeks ago the Rules Committee, after agonizing over the situation, brought forth a straightforward, simple proposal, not for full-scale television, but just for a test of television, with the notion that if we tested it and we had radio, that while that was under way we could see how it worked and find out if there were any rules changes that would be necessary in order to accommodate television coverage.

That is the proposition which was agreed to after not only substantial study by the Rules Committee but indeed by a lot of study.

The burden of my bad news is this: that the ad hoc committee, which has been meeting, of which I have been a member, has agreed that they are going to try to overturn that wise decision by the Senate Rules Committee and, instead of providing for a test of television and a period to study the rules changes that may be appropriate, we are going to try to come to a vote very quickly on the question of sweeping changes in the rules of the Senate.

I am concerned about this for a couple of reasons. First of all, because I think it is going to kill the proposal to televise the Senate and I really hate to see that happen. I must congratulate those who have either openly or covertly opposed televising the Senate for their skillfulness in getting the issue framed this way. It is just a fact that a lot of people who do not want to televise the Senate now, next year or ever, are behind some of these changes. Some of them, at least privately, are pretty frank to admit that that is their motive. They just do not think television is a good idea in the Senate. They have a lot of fears about whether or not by televising the Senate we will change the fundamental character of the institution. I do not think these fears entirely groundless.

I am persuaded, on balance, that the public's right to know outweighs the potential drawbacks of electronic coverage of television. The idea of television is, frankly, a lot more commonplace and better known to Senators than was the suggestion for open public galleries at the time the Senate came into existence. That was in its time quite a revolutionary idea. But we have all grown up with television and it is familiar to us. As I pointed out a moment ago the proceedings of most legislative bodies throughout the world and in the United States are, in fact, open to television coverage, including the committees and subcommittees of the Senate itself.

So I do not think this is a big step for us to take. But there are those who fear somehow there will be an impulse to grandstand; that if Senators get a chance to be on television, somehow this will be irresistible and, therefore, we are going to be in session night and day, 365 days a year. We will be just like the 7-Eleven Stores, I guess, open for business every day of the year. It will be a horrible burden on the Senate, the quality of life will suffer, and the legislative process will grind to a halt.

There are a few cynics who might wonder if the legislative process has already ground to a halt. We are already in session every day of the year, practically, except Christmas, anyway. But I do think these fears have some substance. Nonetheless, in my view, the paramount need for the public to see what is going on in this legislative Chamber outweighs such concerns.

What I regret is that after looking at the proposition, there is now an impulse to tie rules changes to the television proposition. The two leaders have been generous of their time to take a personal interest in this. Each of the leaders, to different degrees, supports the idea of televising the Senate, but it is their conclusion, and that of some of the other members of this ad hoc committee, that we ought to have at least 4 or 5 changes.

I would like to mention for the benefit of Senators what they are. It is my understanding that the leaders have already announced it is their intention to file this proposal in the RECORD tonight.

First is a change which will limit debate on the motion to proceed to no more than 2 hours. This is a change of a fundamental, indeed sweeping, nature and which I imagine will be very controversial, and justifiably so.

Second, a 20-hour limit on cloture with an increase in the number of votes required to invoke cloture from the present 60 votes to three-fifths of those who are present and voting. That is to say 67 votes if all Members are present and voting.

Third, a reduction of the 3-day rule on reports to 2 days.

Fourth, an elimination of the Committee of the Whole on treaties.

Another proposal which I understand will be added to the proposal which was not included in the last written draft of the proposal I saw will provide a method under which a germaneness requirement will be invoked without cloture. I do not know the details of it, but in its earlier iteration, the idea is that upon motion, and adoption of a motion by 60 votes, that a germaneness requirement would be imposed even though cloture had not been invoked.

There are also floating around some other proposals for rules changes some of which I think are well advised and some of which I am very skeptical of.

My concern, let me say to my colleagues, is twofold. First, I want to see this body televised. I would like to even now suggest that we throw the galleries open and just let nature take its course. If we were to adopt a unanimous-consent request at this very instant, at 10 minutes to 6 in the evening, that television would be permitted starting at once, the cameras would be grinding away by 7 o'clock tonight. We would be on the air, certainly, within a couple of hours, and by tomorrow we would have live gavel-to-gavel coverage.

There is nothing that prohibits us from doing that in the technical sense; is it only the reticence of Senators to permit it that has this long barred the cameras.

That is what I am for, Mr. President, television. I think that proposing these rules and others which I expect to be offered are likely going to sink this proposal. I hope I am mistaken in that, but I would be very surprised if that is not the outcome.

Mr. President, having mentioned briefly my concern about what these proposed rules changes do to the prospect of televising the Senate, I would like now to turn briefly to a discussion of a couple of the proposals on their merits. I am not dead set against all of these changes; in fact, there are at least three of them I could personally support in one way or another, even though I do not think this is the time and place to consider them.

I am very much concerned about the notion of limiting to no more than 2 hours debate on the motion to proceed to consideration of the proposed legislation. That is a change of drastic and fundamental nature. Some Senators may think it is a good idea. Some may think it will make the Senate operate more smoothly, although I myself do not believe that to be the case. The idea that the Senate is often delayed for a long period of time while considering a motion to proceed to a particular piece of legislation or a nomination or treaty is simply not borne out by the record. There are a handful of occasions when this has happened. Most recently, it happened on the motion to proceed to consideration of the line item veto constitutional amendment. That was filibustered primarily by members of the minority and we were

unable ever to get that measure before us.

I regret that. I favored the line item veto proposition; I wish it had not been filibustered to death. I wish it had been brought up for full consideration and been approved. But if you look back through the history of the Senate, the number of times when that has actually happened is very, very small.

Then what is the significance of it? The significance, it seems to me, is not to delay the Senate but, in fact, to enhance the procedures of the Senate, because when every Senator has the right to prolong debate on a motion to proceed, then it brings every Senator into the process and the accommodations which are the day-to-day work of the Senate. For example, if a bill is coming up in which a Senator is interested, he sends a notice through his Cloakroom to the leader, "Please protect my rights to be on the floor and object to a unanimous-consent request to proceed to a bill." That is a signal. It is a signal that that Senator has an amendment to offer or is opposed to the bill or wants to work something out. In 99 percent of the cases—indeed, in 99.99 percent of the cases—that is what happens: they get worked out. Only on the rarest of occasions do we actually see a filibuster on the motion to proceed.

Most of the time, these agreements or accommodations that get worked out are on rules, the little bills, the bills on which there is not any debate at all, maybe a bill which involves only two Senators or five Senators or members of only one committee, maybe a bill on which the Senate generally has no knowledge or interest. So what happens is that because of the opportunity of Senators to debate the motion to proceed, before the bill ever gets up, the leaders confer on the floor and the majority leader will ask, "Can we clear this bill?" And the other leader will say, "No, we cannot," and that triggers the process by which the accommodation is worked out. We have all seen it happen here a thousand times.

If that is not possible, if all it takes is 2 hours of debate and then an up-or-down vote on the motion to proceed, it seems to me that, first of all, the rights of Senators are seriously prejudiced and the probable outcome will not be to speed up or to delay the work of the Senate, because we will end up going to the bills and they will be on the floor and then they will be subject to a filibuster under these new rules.

Mr. President, somebody thinks that these five rules changes will enhance the quality of life, and indeed, the quality of life caucus, that informal group of Senators which is trying to do something to get us out of here at a reasonable hour in the evening, to put a stop to these late night sessions and so on, to somehow restore a degree of civility to the scheduling of the work of the Senate, has weighed in heavily in support of rules changes, as if such rules changes would enhance the quality of life.

I happen to consider myself a charter member of that club. Years ago, when I first came to the Senate, I objected vigorously and on many occasions to the prolonged or repeated night sessions. I think it is just awful when we have to work at night. I think it is awful when we have to be in session for 12 hours, 15 hours, 18 hours, 30 hours. But, Mr. President, these rules changes have nothing to do with that. They are a non sequitur. They raise a concern about the quality of life and proposed rules changes which are unrelated to those concerns.

If you want to put a stop to night sessions, there are ways to do that, ways which I, for one, would support. For example, without a rules change, the majority leader could make it a practice to stack votes. That could be done far enough in advance so that Senators could plan their lives.

For example, on Thursday night, if it were the wish of the majority leader, he could simply ask unanimous consent that all the votes which occurred after 6 o'clock on Monday would be stacked for the following day at 10 o'clock. Or he could ask the same for Tuesday or for Wednesday or as far in advance, a day at a time or a week at a time, as, in his judgment, would enhance the work of the Senate, the effect of it being to put an end to night sessions.

The other way, which I do not advocate but which was once a useful tactic in another legislative chamber, would be to require a supermajority vote for protracted or contested motions after a certain hour in the evening. When I was majority leader in the Colorado Senate, on the first day I assumed leadership, I proposed a rule, which was adopted, which simply said the passage of any bill on second or third reading after 6 o'clock at night would require a two-thirds majority vote. That put a stop to the night sessions in the Colorado Senate and that rule prevailed for a number of years, to the benefit of everybody.

So far as I could tell, we never missed passing a single bill because we quit having those horrible drunken night sessions. In fact, everybody thought that doing the legislature's work by daylight and in a little more workmanlike manner was a good thing. It is not clear to me why they went back, a decade after, on the rule.

Such changes, whether you like them or not, are addressed directly to the quality-of-life concern. The proposed changes in this package on TV in the Senate do not go to quality of life. I have already said I favor some of them. In fact, I favor at least three of the four in the original package, and three of the five which are going to be in the final package are not quality-of-life issues.

This whole quality-of-life matter came to a head on a Saturday afternoon when we had been in session all day and all night on a farm bill. Everybody got up and said, look, we cannot do this, we cannot stay up all day and all night handling amendments. In fact, the speeches took place while we were waiting to write up an agreement which had been reached because a couple of our Members felt so strongly about an issue that they were willing to keep us in all night.

I disagreed with them on the issue, I did not approve of the position they took, but I cannot help admiring a Member or two Members who feel strongly enough about their position or their constituents' desires to say, "By golly, I am going to stand up here and fight for it for as long as my strength prevails." That has been a tradition of this body. I am glad to say it is not a tradition we have to endure too often, but it is part of this process. The majority leader has done it, the minority leader, perhaps every Member at some point in his or her career has felt so strongly about an issue that he or she was willing to hold up the whole process to impede the passage of major legislation, to keep us in session overnight, maybe through a weekend, because that issue was so important to his or her particular constituency.

I think that is a proper thing. I do not like it; I do not like being the victim of that kind of schedule. I think Senators would be wise to not often reward such tactics—that is to say, to not often give in to such tactics because every time we do, every time we pass or defeat an amendment because of such tactics, we encourage others to employ long debate or endless amendments or quorum calls, similar tactics, more readily on some other occasions.

That is a quality-of-life issue. It has nothing really to do with reduction of the 3-day rule, which I favor, or elimination of the Committee of the Whole for treaties, which I favor, or even the postcloture filibuster change, which I also favor. I think that is a very significant reform of the rules.

The reason I say that is not really a quality-of-life issue is that the postcloture filibusters have been so rare that you cannot really regard that as part of the routine business of the Senate. I do not know, but I shall make it my business to find out presently, how often we have actually experienced postcloture filibuster in the Senate, but it has been a fairly infrequent occurrence and has only been a practice in recent years.

It is in my opinion a real abuse of the rules, and I think there is an emerging consensus that we ought to not do that. I do not feel the same way about the opportunity of Senators to speak at length on the motion to proceed to the consideration of legislation. I think that is quite a different issue and one which is very fundamental.

Mr. President, I hope we are going to be able to work out some kind of a compromise that will satisfy everybody. I felt it my obligation as a member of the ad hoc committee to talk to quite a number of Senators on both sides of the aisle. There are a lot of them who share the concerns which I have expressed. I do not know how many, but there are certainly several. I have talked to a number, both on the Republican and Democratic side of the aisle. There are some Senators who are not going to vote for this package of rules changes and television in the Senate because they do not like the rules changes. Then there is another group which does not want to televise the Senate. There is another group that will vote only for television if they get some or all of the rules changes. And so it is a very complicated equation, but what it comes down to is the more things you add to this proposal, the less likely in my judgment at least we are ever going to see a proposal enacted into the rules of the Senate.

Indeed, let me point out to my colleagues that televising the Senate does not require a change in the rules. It only requires a motion. I am not even sure it requires that. I think technically probably it does not require any action by the body except that the officers of the Senate are not going to go ahead unless there is some expression of will by the Senate that we wish them to do so. But clearly it does not require a change in rules.

Now, that is a crucial distinction because when you get right down to it, we are probably going to have to seek cloture on something to ever get this matter to a vote. The rules changes which are proposed by the ad hoc committee will take, if all Senators are present and voting, 67 votes for cloture. The television in the Senate proposal, as I understand it, if subject to cloture, could require only 60 votes. I only emphasize that because it makes it plain that what the people who are hanging rules changes on this proposal are doing is burdening the underlying proposition. And so I hope, as they think about it and read the proposal that appears in the RECORD, most Senators will feel as I do; that we ought to have a clean up or down vote or a clean up or down cloture on the question of televising the Senate. That is not just my idea. That is the idea of the Rules Committee. The Rules Committee looked at this and considered all kinds of rules changes—electronic voting, 5-minute rollcalls, a lot of different things, some of which were good ideas and a lot of which, in my view, were questionable, but they looked at the whole spectrum of things. By gosh, they had hearings, they took testimony, they looked at this for months, and finally they came to the same conclusion which I hope the Senate will reach, and that is let us not monkey around with the rules changes now. Let us go ahead and implement a brief test of television in the Senate, and while the test itself is underway consider rules changes and make those a separate order of business.

Mr. President, I am now going to yield the floor, but I want to close by again complimenting those who have been so helpful in trying to work this out. I have arrived at a different conclusion about the best course than have the two leaders. For slightly different reasons I think and with slightly different rationale, the majority leader and the minority leader have concluded that the surest way to endorse this proposal and to get it passed will be to package it up with a bunch of rules changes. I believe they are mistaken in this judgment, but nonetheless I appreciate the fact that they have been willing to, first of all, bring this matter before us, have given generously of their own personal time and commitment to the issue to try to overcome the objections. And it is a fearsome problem because there are some Senators on both sides who say, "Look, I am not going to be for this unless there are rules changes." There are others who say, as I would say, "I am for it without rules changes; I can take some rules changes if I have to but there are some I can't take." It is all very complicated. But the reason I wanted to come to the floor and speak tonight is in the hope that by doing so, I would alert the 90 or so Members of the Senate who were not a part of that ad hoc committee to what is going on because this hot potato is going to be in our laps very shortly. I do not know what the schedule is, whether it will be tomorrow or after that, but I believe it will be at least starting up tomorrow. I hope that very Senator, anyone who is listening to this discussion in his or her office on the squawk box or who will read this account in the RECORD, or members of their staff, will start looking at these rules changes and try to figure out what they can live with and what they cannot, because I very much hope that we can work it out. I hope that after debate—and perhaps it will be prolonged debate—there will be a general consensus to go back to the original proposal of the Rules Committee, which is to implement television now and set a debate on rules changes as a separate, stand-alone matter.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I believe we have reached an end point in all of our negotiations on TV in the Senate, at least in the bipartisan working group. There were only about 12 that attended the meetings. Probably every other group of 12 would have different ideas. But we are trying to at least determine what the will of the Senate is.

It is my intention to move that S. 28 be recommitted to the Committee on Rules and Administration. However, I will not do that until the minority leader is here.

First, I want to thank all those Members who participated in these sessions. The so-called substitute contains provisions that I do not agree with. I understand the distinguished Senator from Colorado has indicated that there are at least two provisions he does not agree with. I believe there is only one I could not agree with.

But, in any event, if we are going to have any vote one way or the other, then I believe one way to at least start that off is get it out here and let us have some votes, see what happens, and make a judgment. I am very flexible. I am prepared to do it any way we can. I know the Senator from Colorado would rather have the rules changes come at the end of the testing period. Others have different views. Others will not let us do the testing, at least my view is, unless we have some rules changes. There are some who really are not very excited about TV in the Senate in any event. And, of course, some would just want TV without any changes. So there are, I would guess, as many views as there are Senators.

I have no clear notion of how many people support any of the rules changes. But it would seem to me, in an effort to find out, and find out whether there is going to be TV in the Senate, a discussion on these changes will be useful. We have had 4 or 5 or 6 hours of meetings, some in Senator BYRD's office, some in my office. We have tried to reflect the views of Members who were there and those of Members who we knew had views but were not present.

I know Senator LONG's name was mentioned a number of times because of his interest, and a provision has been added on germaneness. Senator DANFORTH attended one of the meetings. He has a number of questions

about gavel-to-gavel coverage, about whether there should be television unless there are time agreements. There are others who have questions about equal time, how can we make certain that the time is equally divided. My view is you cannot. There is no way you can have equal time and operate the Senate. But there are some who would like to figure out or determine some formula.

My own view is that I am not certain gavel-to-gavel coverage is in the best interests of the viewing public or the Senate. It would seem to me that maybe we can rearrange the way we do business to have the special orders come later in the day and limit the special orders to 3 minutes or 5 minutes per Senator.

In visiting with the distinguished majority leader in the other body, Congressman WRIGHT, he was telling me of some of the difficulties, because maybe there are 3 hours a day of special orders at the end of the day and most every day it is the same Members of the House. So, in some 30-day period, you will have one Member with 25 hours of special orders, another with 27, and one with 28. I do not know what that all costs.

But, in any event, in an effort to at least continue the process—and I certainly extend my thanks to everyone who has been in the process—we should discuss these changes. I hope that when it is all finished, we will have some reasonable rules changes—I am not holding out for any extraordinary rules changes—and also a test period for TV and radio in the Senate, followed by public television and radio, hopefully some time this year.

Let me indicate that in the package that I will submit for myself and the distinguished minority leader—and I certainly wish to thank the distinguished minority leader for taking the initiative in the entire effort—the first section of the resolution provides for a test period of coverage of the Senate on television beginning no later than April 15, and ending on July 25. Coverage will be gavel to gavel. Only Senators speaking and the Presiding Officer shall be shown on television. There will be no panning of the Senate Chamber.

In addition, the rules changes are included: a 2-hour limit on the motion to proceed, a 20-hour limit on cloture, which would require 67 affirmative votes to invoke rules changes and two-thirds present and voting for all other matters, a reduction of the 3-day filing rule on reports to 2 days, and elimination of the Committee of the Whole for the treaties, a provision allowing the imposition of a germaneness requirement on amendments to bills pending on the Senate floor, and a provision requiring the conference reports be available on each Member's desk before they are in order to be called up or proposed.

These rules changes, would only become permanent after the test period upon adoption of a further resolution embodying them and such other changes as may be proposed by the Committee on Rules and Administration together with the proviso making television permanent. This resolution is to be considered under expedited procedures.

Again I would call attention to some who do not want these particular rules changes that these are temporary. There will be another vote. And it seems to me if those who are not so anxious to have television are willing to have a test period of TV and radio, maybe others would be willing to have a test period on some of the rules changes. They may not work. They may in some way impact personally those who have minority views or those who would otherwise use the present rules.

MOTION TO RECOMMIT WITH INSTRUCTIONS TO REPORT BACK FORTHWITH WITH AN AMENDMENT

In any event, Mr. President, I move that Senate Resolution 28 be recommitted to the Committee on Rules and Administration with instructions to report back forthwith the following amendment.

I ask that the amendment be printed in the RECORD along with a summary.

Mr. BYRD. Mr. President, the distinguished majority leader indicated the names of the cosponsors. I hope he will include Mr. STEVENS and Mr. FORD.

Mr. DOLE. It is proposed by Senators DOLE, BYRD, STEVENS, FORD, and hopefully others.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Strike all after the resolving clause and insert the following:

"That (a) the Senate hereby authorizes and directs that there be both television and radio broadcast coverage (together with videotape and audio recordings) of proceedings in the Senate Chamber.

(b) Such broadcast coverage shall be—

(1) provided in accordance with provisions of this resolution;

(2) provided continuously, except for any time when a meeting with closed doors is ordered; and

(3) provided subject to the provisions pertaining to the Senate gallery contained in the following Standing Rules of the Senate: rule XIX, paragraphs 6 and 7; rule XXV, paragraph 1(n); and rule XXXIII, paragraph 2; and

SEC. 2. The radio and television broadcast of Senate proceedings shall be supervised and operated by the Senate.

SEC. 3. The television broadcast of Senate proceedings shall follow the Presiding Officer and Senators who are speaking.

SEC. 4. (a) The broadcast coverage by radio and television of the proceedings of the Senate shall be implemented as provided in this section.

(b) The Architect of the Capitol, in consultation with the Sergeant at Arms and Doorkeeper of the Senate, shall—

(1) construct necessary broadcasting facilities for both radio and television (including a control room and the modification of Senate sound and lighting fixtures);

(2) employ necessary expert consultants; and

(3) acquire and install all necessary equipment and facilities to (A) produce a broadcast-quality "live" audio and color video signal of such proceedings, and (B) provide an archive-quality audio and color video tape recording of such proceedings: *Provided*, That the Architect of the Capitol, in carrying out the duties specified in clauses (1) through (3) of this subsection, shall not enter into any contract for the purchase or installation of equipment, for the employment of any consultant, or for the provision of training to any person, unless the same shall first have been approved by the Committee on Rules and Administration.

(c) The Sergeant at Arms and Doorkeeper of the Senate shall (1) employ such staff as may be necessary, working in conjunction with the Senate Recording and Photographic Studios, to operate and maintain all broadcast audio and color video equipment installed pursuant to this resolution, (2) make audio and video tape recordings and copies thereof as requested by the Secretary under clause (2) of this subsection, of Senate proceedings, (3) retain for ninety days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States copies of such recordings: Provided, That the Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in clauses (1) and (2) of this subsection, shall comply with appropriate Senate procurement and other regulations, and

(5) If authorized by the Senate at a later date the Secretary of the Senate shall (A) obtain from the Sergeant at Arms copies of audio and video tape recordings of Senate proceedings and make such copies available, upon payment to her of a fee fixed therefor by the Committee on Rules and Administration, and (B) receive from the Sergeant at Arms as soon as practicable, and retain for ninety days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States archive-quality copies of such recordings.

SEC. 5. (a) Radio coverage of Senate proceedings shall—

(1) begin as soon as the necessary equipment has been installed; and

(2) be provided continuously at all times when the Senate is in session (or is meeting in Committee of the Whole), except for any time when a meeting with closed doors is ordered.

(b) As soon as practicable but no later than April 15, there shall begin a test period during which tests of radio and television coverage of Senate proceedings shall be conducted by the staffs of the Committee on Rules and Administration and of the Office of the Sergeant at Arms and Doorkeeper of the Senate. Such test period shall end on July 25, 1986.

(a) During such test period—

(1) final procedures for camera direction control shall be established;

(2) television coverage of Senate proceedings shall not be transmitted, except that,

at the direction of the chairman of the Committee on Rules and Administration, such coverage may be transmitted over the coaxial cable system of the Architect of the Capitol; and

(3) recordings of Senate proceedings shall be made and retained by the Secretary of the Senate.

SEC. 6. The use of tape duplications of radio coverage of the proceedings of the Senate for political purposes is strictly prohibited; and any such tape duplication furnished to any person shall be made on the condition that it not be used for political purposes.

The use of tape duplications of TV coverage for any purpose outside the Senate is strictly prohibited until the Senate provides otherwise.

SEC. 7. Any changes in the regulations made by this resolution shall be made only by Senate resolution. However, the Committee on Rules and Administration may adopt such procedures and such regulations, which do not contravene the regulations made by this resolution, as it deems necessary to assure the proper implementation of the purposes of this resolution.

SEC. 8. Such funds as may be necessary (but not in excess of $3,500,000) to carry out this resolution shall be expended from the contingent fund of the Senate.

SEC. 9. That Rule XXX, paragraph 1(b), is amended to read as follows:

"(b) When a treaty is reported from a committee with or without amendment, it shall, unless the Senate unanimously otherwise direct, lie over one day for consideration; after which it may be read a second time, after which amendments may be proposed. At any stage of such proceedings the Senate may remove the injunction of secrecy from the treaty."

SEC. 10. That paragraph 2 of Rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. Notwithstanding the provisions of Rule II or Rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by two-thirds of the Senators present and voting—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators duly chosen and sworn—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree or if a complete substitute, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"After no more than twenty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The twenty hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

"If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.

SEC. 11. That Rule XVII, par. 5, of the Standing Rules of the Senate is amended to read as follows:

"5. Any measure or matter reported by any standing committee shall not be considered in the Senate unless the report of that committee upon that measure or matter has been available to Members for at least two calendar days (excluding Sundays and legal holidays) prior to the consideration of that measure or matter. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the Senate prior to the consideration of such measure or matter in the Senate. This paragraph—

(1) may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate; and

(2) shall not apply to—

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress, and

(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress."

SEC. 12. That Rule VIII of the Standing Rules of the Senate is amended by inserting at the end thereof the following new paragraph:

"3. Debate on any motion to proceed to the consideration of any matter, other than an amendment to the Standing Rules of the Senate, made at any time other than the morning hour shall be limited to two hours, to be equally divided between and controlled by the Majority Leader and Minority Leader or their designees, at the conclusion of which, without any intervening action, the Senate shall proceed to vote on the motion, provided, however, that a motion to table a motion to proceed shall be in order at any time."

SEC. 13. Rule XXVIII, dealing with conference reports, is amended by adding the words "when available on each Senator's desk" after the words in paragraph 1 "shall always be in order".

SEC. 14. That Rule XV of the Standing Rules of the Senate is amended—

(1) by inserting after "Motions" in the caption a semicolon and the following: "GERMANENESS";

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

"6. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, without intervening action, to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the Committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Ap-

peals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of germaneness of an amendment, or whenever the Presiding Officer submits the question of germaneness or relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment germane or relevant shall be two-thirds of the Senators present and voting. No amendment proposing sense of the Senate or sense of the Congress language that does not directly relate to the measure or matter before the Senate shall be considered germane."

Provided, That no changes to the standing rules of the Senate which shall become effective by virtue of this resolution shall continue in effect after the test period has been completed, unless a resolution which the Committee on Rules and Administration shall have two weeks following the end of the test period to report, containing these proposed rules changes together with any other proposed changes in Senate procedures that they deem wise together with a proviso making radio and television a permanent part of Senate deliberations has been adopted; such resolution to be considered privileged, with debate thereon to be limited to 20 hours, with amendments limited to 1 hour each, such time to come out of the 20 hours, all to be controlled in the usual form, and with no amendment in order after the conclusion of the 20 hours.

Mr. DOLE. Mr. President, I ask unanimous consent that the summary be printed in the RECORD.

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

SUMMARY OF T.V. IN SENATE, PLUS RULES CHANGES

The first section of the resolution provides for a test period for the coverage of the Senate on television to begin no later than April 15, and to end on July 25. Coverage will be gavel to gavel. Only Senators speaking, and the Presiding Officer, shall be shown on television. There will be no panning of the Senate Chamber.

In addition, rules changes, including a 2-hour limit on the motion to proceed, a 20-hour limit on cloture which would require 67 affirmative votes to invoke for a rules change, and two-thirds present and voting for all other matters, reduction of the 3-day rule on reports to two days, and elimination of committee of the whole for treaties, a provision allowing the imposition of a germaneness requirement on amendments to bills pending on the Senate floor, and a provision requiring that conference reports be available on each Senator's desk before they are in order to be called up, are proposed. These rules changes, however, would only become permanent after the test period upon adoption of a further resolution embodying them and such other changes as may be proposed by the Committee on Rules and Administration together with a proviso making television permanent to be considered under expedited procedures.

Mr. ARMSTRONG. Will the Senator yield?

Mr. DOLE. Yes.

Mr. ARMSTRONG. I would like to reemphasize something I said before the leader arrived, and that was the sense of appreciation that I feel toward him and the minority leader for bringing this television question to the Senate for discussion, and hopefully for a decision.

The leader recognizes that I am not completely in agreement with the approach that we are taking. In fact, I am concerned first that adding this package of amendments makes it more difficult to ever get to television in the Senate, and also that I am not entirely sympathetic to all of the changes that are being made.

But, Mr. President, the thing that really I ask be underscored by the process is this accommodation, and this idea that whenever a Senator has a chance to speak at any length and to offer any amendments in a freewheeling style the result is a meeting in the majority leader's office, or the minority leader's office, or the Cloakroom, or someplace where we try to work this out.

It is my hope that we are going to work it out. I do not think the package that has been laid down is going to be the final word on this. I hope it is not, frankly. But I hope we can work something out. I would like to make two other observations. I made a statement earlier. I do not want to try to replow that ground.

I would like to send to the desk only to be printed in the RECORD at this point a possible amendment to that proposal which has been offered by the leader, and the amendment would simply provide television in the Senate. It is not my language. It is the language reported by the Rules Committee eliminating the stricken material which I think was carelessly included so that we will have at least in the RECORD—I am not offering it as an amendment at this point—but so there will be before the body and published in the RECORD tonight two propositions. One, television; the other, television plus a package of changes. So if I may, I will send it to the desk and ask unanimous consent it appear in the RECORD at this point.

Let me also restate my understanding for the RECORD, and in fact direct an inquiry to the Chair about the parliamentary situation.

Were it to become necessary or desirable to seek cloture on either of the two proposals, that is television in the Senate, as embodied in my possible amendment, and television in the Senate plus rules changes embodied in the substitute motion offered by the leader—am I correct, Mr. President, that in order to cloture the leader's proposal it would take two-thirds of those present and voting; that is to say, 67 Members, if all Senators were here?

The PRESIDING OFFICER. That is correct.

Mr. ARMSTRONG. Am I also correct in my understanding that to gain cloture on my proposal it would require three-fifths; that is to say, 60 votes?

The PRESIDING OFFICER. That is correct.

Mr. ARMSTRONG. I emphasize this point because while I have some qualms about the provisions of certain proposed rules changes I really got started on this because I want television in the Senate. By gosh, I think that is important. It is harder to do in my view if we hook a bunch of other changes on it.

Finally, Mr. President, I thank the leader for yielding. Would the leader not think it would be a good idea in view of the nature of this matter if we were to permit broadcast of this particular debate? It probably would not be possible as a technical matter to make any elaborate arrangements for television coverage, although I judge that if we were tonight to simply ask unanimous consent that cameras be permitted with no change in lighting, with no other changes but say that in some small corner of the Chamber television cameras would be permitted only during the debate on this matter, that would serve the public interest, and it would also give Senators some foretaste of things to come.

In fact, if the leader has no objection to my doing so, I would propound that as a unanimous-consent request.

Mr. LONG. I object.

Mr. ARMSTRONG. Was objection heard?

Mr. DOLE. The Senator from Louisiana objected.

Mr. ARMSTRONG. Mr. President, let me offer a second suggestion—that there is a sort of a middle ground course between no broadcast coverage shutting the public out entirely and television coverage of this debate which would seem to be appealing. It would be in accordance with precedent of the Senate. It is something we have done before. It is something which will require no change or substitute, and it would not require any cameras or microphones in the Chamber, or in the gallery but simply to permit the use of the audio portion of the proceeding, and let that be picked up and broadcast by anyone who wishes to do so.

Mr. President, before I consider whether or not to offer that as a unanimous-consent request, may I inquire, is such broadcast now prohibited by the rules of the Senate?

The PRESIDING OFFICER. It is.

Mr. ARMSTRONG. In other words, even though the debate in the Senate, the comments and discussion and speeches of Senators and Presiding Officers are in fact in the microphones, and that is amplified and transmitted throughout the Capitol complex area, it would violate the rules of the Senate if a Senator or a broadcaster who had access to that signal were to

rebroadcast it, put it on the nightly news, or to use it in some other way? That would be prohibited by our rules?

The PRESIDING OFFICER. It is prohibited by our regulations.

Mr. ARMSTRONG. Mr. President, would it be in order under the rules for me to ask unanimous consent that for the period of this debate only—that is, the debate on broadcasting the proceedings of the Senate by radio and television—that for the period of the debate on this matter, it be in order for such audio coverage to be permitted? Would it be in order for me to ask unanimous consent?

The PRESIDING OFFICER. The request would be in order.

Mr. ARMSTRONG. Mr. President, I so ask unanimous consent.

Mr. LONG. I object.

Mr. ARMSTRONG. Mr. President, hope springs eternal. I shall perhaps at the right moment revisit this question. I hope at the right moment the Senator from Louisiana would be disposed to grant my request. I want to recall that that has been done before, that the Senate did appear on the radio much to its credit, and much to the enlightenment of the general public.

Mr. President, may I ask would it be in order for me to move that proceedings of this body be permitted on radio during the course of debate on this matter?

The PRESIDING OFFICER. Such a motion is not privileged, and upon objection would go over under the rule.

Mr. ARMSTRONG. Would the President say that again, please?

The PRESIDING OFFICER. Upon objection, the motion would go over under the rule.

Mr. ARMSTRONG. Would the President, without getting snarled up into whether it is under or over the rule explain the meaning of this?

Mr. BYRD. Mr. President, the distinguished Senator will find a table in the Calendar of Business which is titled "Resolutions and Motions, Over Under the Rule." What would happen would be that the distinguished Senator's motion, if objected to, would be placed on this table, and it would be No. 4 in the lineup of resolutions and motions to come over under the rule if rules VII and VIII were employed.

Mr. ARMSTRONG. Mr. President, I thank the minority leader. Of course, I am familiar with this provision. I thought it useful to make that record.

I do not offer such a motion at this time. It is not my purpose to delay tonight. But I want to emphasize that this would be a good matter to be broadcast for the same reason that the Panama Canal Treaty was broadcast. This is a matter of great public interest. It is a matter in which the public really has a great stake here.

What we are deciding is whether or not in the future the proceedings of the U.S. Senate will be available to radio and television viewers of this country. What could be more fitting than to have that debate televised or broadcast?

Perhaps tomorrow I shall again ask unanimous consent, or maybe think of another approach to this which would be agreeable to all Senators. In the meantime, let me again thank the two leaders for helping us bring this issue to a head and invite all the Senators who are not here tonight, but who are undoubtedly hanging on our every word in their offices listening to this by closed circuit radio, to give this matter their earnest attention and help us out with the debate tomorrow.

Mr. DOLE. I will respond briefly. I could ask for unanimous consent on these rules changes but I do not think I will do that this evening. I am sure there would be an objection on my right, my left, or both.

I think the Senator from Colorado has put his finger on the issue. I sooner or later have to make a judgment. We decided in our little group that if we tried to please everyone we would never get anywhere. We would just have meetings the rest of the year. It may finally come to a vote on just TV in the Senate with no rules changes. But I think we might part company with some of those who want to bring chaos out of this body. I appreciate the efforts of the Senator from Colorado. He has been one of the driving forces in this area. I hope we can reach some accommodation on modest rules changes.

I think the Senator is right. We should not try to rewrite every rule. If we want to do that, we should do it next year at the start of a new Congress. For the most part there does not seem to be any objection on changing the rule on cloture and limiting postcloture debate to 20 hours. I think the Senator from Colorado has a problem with the motion to proceed and the germaneness provision, as I understand his position.

Mr. ARMSTRONG. Mr. President, the Senator is absolutely correct. In fact, one of the things that I think is truly remarkable is the emerging consensus about any postcloture filibuster. When you talk about abuses of the process, that is one. The point which I made before the leader arrived is that while there is sort of a theoretical concern about filibuster of a motion to proceed, that has been farily rare and the number of occasions on which it has seemed at least to most Senators to be abused have been very, very rare indeed. In fact, I do not know that there is any case on record which has generally been called abusive. But on a postcloture situation, I do not think the Senator will have to seek cloture on that particular change. I think that will pass by a big margin.

Mr. BYRD. Mr. President, will the majority leader yield to me?

Mr. DOLE. I yield the floor.

Mr. LONG. Mr. President——

Mr. BYRD. Could I just file a notice in writing?

Mr. LONG. Yes.

Mr. BYRD. Mr. President, I hereby give notice in writing of the intention of myself and other cosponsors to propose the following rules changes which are at the desk:

The PRESIDING OFFICER. The notice will appear in the RECORD.

The proposed rules changes follow:

Strike all after the resolving clause and insert the following:

"That (a) the Senate hereby authorizes and directs that there be both television and radio broadcast coverage (together with videotape and audio recordings) of proceedings in the Senate Chamber.

(b) Such broadcast coverage shall be—

(1) provided in accordance with provisions of this resolution;

(2) provided continuously, except for any time when a meeting with closed doors is ordered; and

(3) provided subject to the provisions pertaining to the Senate gallery contained in the following Standing Rules of the Senate: rule XIX, paragraphs 6 and 7; rule XXV, paragraph 1(n); and rule XXXIII, paragraph 2; and

SEC. 2. The radio and television broadcast of Senate proceedings shall be supervised and operated by the Senate.

SEC. 3. The television broadcast of Senate proceedings shall follow the Presiding Officer and Senators who are speaking.

SEC. 4. (a) The broadcast coverage by radio and television of the proceedings of the Senate shall be implemented as provided in this section.

(b) The Architect of the Capitol, in consultation with the Sergeant at Arms and Doorkeeper of the Senate, shall—

(1) construct necessary broadcasting facilities for both radio and television (including a control room and the modification of Senate sound and lighting fixtures);

(2) employ necessary expert consultants; and

(3) acquire and install all necessary equipment and facilities to (A) produce a broadcast-quality "live" audio and color video signal of such proceedings, and (B) provide an archive-quality audio and color video tape recording of such proceedings: *Provided*, That the Architect of the Capitol, in carrying out the duties specified in clauses (1) through (3) of this subsection, shall not enter into any contract for the purchase or installation of equipment, for the employment of any consultant, or for the provision of training to any person, unless the same shall first have been approved by the Committee on Rules and Administration.

(c) The Sergeant at Arms and Doorkeeper of the Senate shall (1) employ such staff as may be necessary, working in conjunction with the Senate Recording and Photographic Studios, to operate and maintain all broadcast audio and color video equipment installed pursuant to this resolution, (2) make audio and video tape recordings and copies thereof as requested by the Secretary under clause (2) of this subsection; of Senate proceedings, (3) retain for ninety

days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States copies of such recordings: Provided, That the Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in clauses (1) and (2) of this subsection, shall comply with appropriate Senate procurement and other regulations, and

If authorized by the Senate at a later date (5) the Secretary of the Senate shall (A) obtain from the Sergeant at Arms copies of audio and video tape recordings of Senate proceedings and make such copies available, upon payment to her of a fee fixed therefor by the Committee on Rules and Administration, and (B) receive from the Sergeant at Arms as soon as practicable, and retain for ninety days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States archive-quality copies of such recordings.

SEC. 5. (a) Radio coverage of Senate proceedings shall—(1) begin as soon as the necessary equipment has been installed; and

(2) be provided continuously at all times when the Senate is in session (or is meeting in Committee of the Whole), except for any time when a meeting with closed doors is ordered.

(b) As soon as practicable but no later than April 15, there shall begin a test period during which tests of radio and television coverage of Senate proceedings shall be conducted by the staffs of the Committee on Rules and Administration and of the Office of the Sergeant at Arms and Doorkeeper of the Senate. Such test period shall end on July 25, 1986.

(c) During such test period—

(1) final procedures for camera direction control shall be established;

(2) television coverage of Senate proceedings shall not be transmitted, except that, at the direction of the chairman of the Committee on Rules and Administration, such coverage may be transmitted over the coaxial cable system of the Architect of the Capitol; and

(3) recordings of Senate proceedings shall be made and retained by the Secretary of the Senate.

SEC. 6. The use of tape duplications of radio coverage of the proceedings of the Senate for political purposes is strictly prohibited; and any such tape duplication furnished to any person shall be made on the condition that it not be used for political purposes.

The use of tape duplications of TV coverage for any purpose outside the Senate is strictly prohibited until the Senate provides otherwise.

SEC. 7. Any changes in the regulations made by this resolution shall be made only by Senate resolution. However, the Committee on Rules and Administration may adopt such procedures and such regulations, which do not contravene the regulations made by this resolution, as it deems necessary to assure the proper implementation of the purposes of this resolution.

SEC. 8. Such funds as may be necessary (but not in excess of $3,500,000) to carry out this resolution shall be expended from the contingent fund of the Senate.

SEC. 9. That Rule XXX, paragraph 1(b), is amended to read as follows:

"(b) When a treaty is reported from a committee with or without amendment, it shall, unless the Senate unanimously otherwise direct, lie over one day for consideration; after which it may be read a second time, after which amendments may be proposed. At any stage of such proceedings the Senate may remove the injunction of secrecy from the treaty."

SEC. 10. That paragraph 2 of Rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. Notwithstanding the provisions of Rule II or Rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

" 'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by two-thirds of the Senators present and voting—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators duly chosen and sworn—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree or if a complete substitute, and unless it has been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"After no more than twenty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The twenty hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

"If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

"No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

"Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

"Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

"After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours."

SEC. 11. That Rule XVII, par. 5, of the Standing Rules of the Senate is amended to read as follows:

"5. Any measure or matter reported by any standing committee shall not be considered in the Senate unless the report of that committee upon that measure or matter has been available to Members for at least two calendar days (excluding Sundays and legal holidays) prior to the consideration of that measure or matter. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make evey reasonable effort to have such hearings printed and available for distribution to the Senate prior to the consideration of such measure or matter in the Senate. This paragraph—

(1) may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate; and

(2) shall not apply to—

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress, and

(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress."

SEC. 12. That Rule VIII of the Standing Rules of the Senate is amended by inserting at the end thereof the following new paragraph:

"3. Debate on any motion to proceed to the consideration of any matter, other than an amendment to the Standing Rules of the Senate, made at any time other than the morning hour shall be limited to two hours, to be equally divided between and controlled by the Majority Leader and Minority Leader or their designees, at the conclusion of which, without any intervening action, the Senate shall proceed to vote on the motion, provided, however, that a motion to table a motion to proceed shall be in order at any time."

SEC. 13. Rule XXVIII, dealing with conference reports, is amended by adding the words "when available on each Senator's desk" after the words in paragraph 1 "shall always be in order".

SEC. 14. That Rule XV of the Standing Rules of the Senate is amended—

(1) by inserting after "Motions" in the caption a semicolon and the following: "GERMANENESS";

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

"6. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, without intervening action, to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the Committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of germaneness of an amendment, or whenever the Presiding Officer submits the question of germaneness or relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment germane or relevant shall be two-thirds of the Senators present and voting. No amendment proposing sense of the Senate or sense of the Congress language that does not directly relate to the measure or matter before the Senate shall be considered germane."

Provided, that no changes to the standing rules of the Senate which shall become effective by virtue of this resolution shall continue in effect after the test period has been completed, unless a resolution which the Committee on Rules and Administration shall have two weeks following the end of the test period to report, containing these proposed rules changes together with any other proposed changes in Senate procedures that they deem wise together with a proviso making radio and television a permanent part of Senate deliberations has been adopted; such resolution to be considered privileged, with debate thereon to be limited to 20 hours, with amendments limited to 1 hour each, such time to come out of the 20 hours, all to be controlled in the usual form, and with no amendment in order after the conclusion of the 20 hours.

Mr. LONG. Mr. President, first let me say to the majority leader that I thoroughly approve of his suggestion that the proposal for television in the Senate should be accompanied by rules changes. There are some of us who believe that there are many rules changes that have been much too long delayed. As one who once had the honor of serving on the Rules Committee and highly admire every Member who serves there, including its chairman, I honestly feel that the Senate is entitled to some recommendations from the committee that it has not received on that subject.

In the judgment of this Senator, and I have said it many times and other Senators have agreed with this because they have told me this, we just believe there is going to be a great deal more speechmaking under the unlimited rules of U.S. Senate than previously if this is on television. That is going to impede the Senate and keep people in much longer hours than before.

If we are going to do something that is going to greatly extend the time the Senate must meet, and that is what many of us think, we think this should be accompanied at a minimum by rules that would make the Senate more efficient.

That explains to some degree the pressure that has been on the majority leader to bring us some rules in here that would make the Senate a more effective and more efficient body.

I am delighted to see that the Senator does suggest some changes of the rules in his proposal.

Mr. DOLE. That is correct.

Mr. LONG. Ordinarily, when one moves to recommit with instructions to report back, there is a tradition that, generally speaking, the Senate wants to pass that bill immediately as the mover proposes. It is safe to assume that the Senator from Kansas, our majority leader, does not have that in mind in this case.

Mr. DOLE. Correct.

Mr. LONG. So the Senator anticipates that amendment would be offered to his proposal and that they would be considered on their merits.

Mr. DOLE. And I assume there would be efforts to strike out provisions of the present measure.

Mr. BYRD. If the Senator will yield to me for a response, one of the main reasons to recommit with instructions to report back is that this is the only way that we can get to the motion in which the distinguished majority leader is so interested; namely, a motion to proceed with a limited amount of debate. It is the only way we can protect such amendment against its being ruled out of order as nongermane in the event cloture is invoked on this package.

It is to allow also the distinguished Senator from Louisiana to be able to get an amendment in dealing with germaneness. If we did not have it in this package, and if cloture were invoked on the package, the Senator's amendment with respect to germaneness would be ruled out of order once cloture is invoked as not being germane. So it is for the abled Senator from Louisiana and the distinguished majority leader that those two changes in the rules in particular will be protected by the motion to recommit with instructions.

Mr. LONG. Mr. President, it might not be necessary to invoke that. The Senator from Louisiana wants to make it clear that he does not agree with the gavel-to-gavel proposal in this measure. The Senator from Louisiana feels that at a minimum the Senate itself should be privileged by a majority vote either to be on television or not to be on television. To pass something that says that we are on television whether we want it or not, whether the majority wants it or not, just does not meet with the feeling of the Senator from Louisiana as to what would be wise.

For example, Senator DANFORTH made a speech the other day and discussed the matter of a quorum call. The way I construe this resolution it would require that the Senate would be on television all the time and the camera would either be on the speaker or the Presiding Officer. If one suggests the absence of a quorum, and I have seen quorum calls go for more than an hour, a very long time, that would mean that the camera would have to focus on the Presiding Officer for an hour. So for an hour he would be on television.

The way it stands today, at least, a Senator who is presiding ought to be able to make a few notes or sign some of his mail or get his work done or answer a telephone call when nothing else is going on in the Chamber. Under that resolution he would be on television the whole time. He is not permitted to say anything under the rules, so he must sit there and be on television. People would wonder what is this, someone is just sitting there with his face on camera for a solid hour. That is under the resolution as it is at the moment.

It seems to this Senator that we ought to change that so that he would not have to be on television. There should also be a majority vote or unanimous consent to put us on television.

There are other changes I think some of us would like to suggest. Some would like to suggest, I suspect, that when on television, particularly if we are considering a measure—not in morning hour—we ought to be under a limitation on debate. If we want to

make such a proposal, we would like to have the Senator's proposal before us so we could consider that. I would like to ask, would he be so kind as to ask that his amendment be printed and available on every Senator's desk so every Senator could have it available to prepare amendments and so that some of the work is in front of us if we wish to offer further amendments?

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object and of course, I shall not object, may I ask that we do the same with the other proposal which is pending so we shall have them both on the desks at the same time?

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

Mr. DOLE. Mr. President, I thank the distinguished Senator from Louisiana. I have the same problem with gavel-to-gavel coverage, but I know the Senator from Colorado feels strongly it ought to be gavel-to-gavel, that whatever the Senate does should be before the public. Maybe we will have to have a commentator come in—I am serious about that—or at least have some explanation on the screen when there is a quorum call to explain why nothing appears to be happening. At least we may be able to get somebody to come over to preside when we are on quorum calls. I think maybe the Vice President would be interested in spending more time here.

In any event, there are a lot of possibilities I have not thought of, but it seems to me there ought to be some explanation. I assume that will be allowed so the viewing audience will know that we are in the process of a quorum call or whatever might be the circumstance.

Those are some of the problems. I think that is why we need a test period to see how it is going to operate.

I commend everybody who has been working on it. We have an opportunity now to get it done. I think what we need to do is make certain when it is done that the Senator from Louisiana, the Senator from Missouri [Mr. DANFORTH], and others are comfortable with it, that it does not seriously compromise those who do not want any rules changes at all, or very few. My view is that we are going to get this done. It may take a week or two, but we will get it done.

Mr. BYRD. Mr. President, on tomorrow, I shall have something to say which I think will explain as best I can what is included in this package. Suffice it for me tonight just to say a word of thanks to the distinguished majority leader and the others on the ad hoc committee from both sides of the aisle for the time they have given, for the determination they have displayed that the Senate will be given an opportunity to work its will on Senate TV coverage. I know all kinds of horrid stories can be conjured up and all kinds of fears may exist in this Chamber with respect to televised coverage of the debate. These fears are genuine. But is seems to me, as the distinguished majority leader has said, that this is why there should be a test period. I believe if all Senators work together in good faith and we can get this test period, many of these problems will be overcome.

There may be some problems that will be difficult. But with 100 Senators acting in good faith and in the best interests of what they seek for the country and the Senate, it seems to me we ought to be able to come to some final conclusion, which may still have some bugs, but in time, we hopefully can iron out those flaws.

I close by thanking again the distinguished majority leader for working with others to help bring this matter to an eventual conclusion. It will take some time, but we will never know precisely what the problems are and whether they can be circumvented or overcome unless we at least make an effort. That is what we are doing.

Mr. DOLE. I thank the distinguished minority leader for his continued support and tireless efforts to reach some consensus.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON THE COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT—PM 114

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I am pleased to transmit to the Congress the 15th Annual Report of the Council on Environmental Quality.

By most conventional measures of environmental quality, the air and the waters of the United States continue to improve as a result of the enormous national commitment to these goals that has come about since 1970. Likewise, we continue to be ever more careful stewards of our lands and their abundant natural resources—wildlife, soils, minerals, fuels, and forests. We are moving aggressively to eliminate serious contamination of valuable land and ground water from the past mismanagement of hazardous wastes, and I have urged the Congress to reauthorize the Federal "superfund" program so that our momentum in this important work is not lost.

As the largest sources of environmental pollution have been controlled, and critical lands protected, our attention is drawn to highly specialized problems—such as detecting and determining the significance of trace levels of chemical substances in the air, in surface and ground waters, in fish tissue, and in soils. Further progress in eliminating environmental pollutants wherever they are found to have significant impacts is leading to the control of larger numbers of smaller, more dispersed sources of potential environmental contamination, including small firms, farmers, and individuals. This trend has enormous implications, both in terms of the costs of removing such small amounts of pollution from such large volumes of the medium in which it is found, and because it seems to require detailed regulatory interventions into individual lives. Recognizing this, the Council on Environmental Quality's report documents and suggests a broader range of environmental policy alternatives that ought to be considered.

The policy recommendations contained herein are based on two fundamental propositions. The first is that the spirit, creativity, and personal drive of individual Americans will always be this Nation's greatest resource. It is the human genius that turns physical substances into resources, and human creativity in a free society is never exhaustible. Second, human institutions can encourage or constrain the ability of people to make the best use of their resources and to solve environmental problems. Rational policies that recognize and make effective use of economic incentives should help to improve the management of our environment and natural resources by stimulating new achievements on the part of the American people. Efficient use of the Nation's resources, guided whenever possible by free markets rather than centralized controls, will work to promote environmental health, economic productivity, and fiscal responsibility.

Some of the specific policies that follow from these perceptions are discussed in this report. They include enlisting volunteer efforts, long charac-

teristic of this Nation, on behalf of parks, wildlife, and natural and historic preservation.

The Federal Government's own activities should avoid adversely affecting environmental quality. This is now accomplished chiefly through the environmental impact assessment process. Another means to implement such a policy is contained in the Coastal Barrier Resources Act, which removed Federal subsidies for the development of these sensitive lands. Studies are currently underway to assess its effectiveness and to consider its applicability to other areas of critical environmental concern.

Efforts to create markets and to consider market-like management practices, which are being tried by Federal agencies in air quality and some land and water resource management programs, can be extended into the other areas. A variety of successful State, local, and private market-oriented initiatives that have solved pressing water resources problems without Federal funds is documented in this report. And on the public lands, proposed user fee revenues would be invested in maintaining facilities that personally benefit recreationists and others, so that only the real public benefits would be paid by the taxpayer.

Finally, environmental protection regulations should be fashioned so that innovation and the substitution of progressively safer new products and technologies for old ones are not inhibited, especially where risk reduction or increased benefits will be the likely result. We must be alert lest government restrictions, however benevolently aimed at protecting the public as a whole, begin to hamper the creativity and productivity of entrepreneurs and other individuals who also can bring about social advances.

This administration is dedicated to promoting conservation and stewardship. Conservation means the efficient use of natural resources. Stewardship entails a love of the land and a determination to pass onto future generations a high quality environment suitable for human living. A strong nation is one that is loved by its people and, as Edmund Burke put it, for a country to be loved it ought to be lovely. The ideas of conservation and stewardship suggest also that economic productivity is not a proper end in intself, but is only a means to the end of improved lives for all Americans. Riches alone do not guarantee the maintenance of a social order in which people can take pride.

But conservation and stewardship should never come to mean opposition to change through the fear that new development will more likely bring personal decline than social advance. The discomforts of change will be more than compensated by the benefits of a dynamic economy, in securing opportunity for new generations and in rewarding individual enterprise and initiative. A society of rising accomplishment and enhanced expectations will provide a better life for its people: a cleaner environment, and improved health and nutrition, superior educational, cultural, and recreational opportunities.

Inspired by promise, sustained by hope, past generations of Americans built a free and prosperous Nation based upon the principles of individual initiative and personal responsibility and upon private institutions of many types. They worked to turn our abundant natural resources to productive use and they learned to love their new land with its grand vistas, its mountains and forests, its fertile fields, and its bustling cities. Environment and natural resources policy can be used to help further these ideals so that liberty, prosperity, and a beautiful and healthful natural environment will continue to bless the lives of the American people. Then surely our good times will not have passed; indeed, our best days will be yet to come.

RONALD REAGAN.
THE WHITE HOUSE, *February 19, 1986.*

ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR DEMOCRACY—MESSAGE FROM THE PRESIDENT—PM 115

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the provisions of Public Law 98-164, as amended, I herewith transmit the second annual report of the National Endowment for Democracy, which covers the period from October 1, 1984, through September 30, 1985.

I am pleased to forward this report, which summarizes the very important work that this organization has accomplished in the past year. The National Endowment for Democracy is a key instrument in our ability to support what we believe in around the world. The Endowment permits us to give assistance to democracy by strengthening those key sectors of society that represent the basis of a free society. One of the strengths of this organization is that it is constructed on a bipartisan basis. Its activities range from Chile to Poland, from South Africa to Nicaragua, and from the Philippines to Cuba. Although the Endowment has been in operation for less than 2 years, the enthusiasm and support with which the world's democrats have greeted this initiative has been very gratifying. The support of the Congress is essential for the continued growth of this vital program. This Administration strongly backs the National Endowment for Democracy and will work closely with the Congress to ensure the continued growth and expansion of this vital effort.

RONALD REAGAN.
THE WHITE HOUSE, *February 19, 1986.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 4:10 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1574. An act to provide for public education concerning the health consequences of using smokeless tobacco products;

S. 2036. An act to make certain technical corrections to amendments made by the Food Security Act of 1985, and for other purposes;

H.R. 1185. An act to amend the act establishing the Petrified Forest National Park; and

H.R. 4061. An act to amend title 5, United States Code, to expand the class of individuals eligible for refunds or other returns of contributions from contingency reserves in the Employees Health Benefits Fund; to make miscellaneous amendments relating to the Civil Service Retirement System and the Federal Employees Health Benefits Program, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. THURMOND].

ENROLLED BILLS PRESENTED

The Secretary of the Senate announced that on today, February 19, 1986, she had presented to the President of the United States the following enrolled bills:

S. 1574. An act to provide for public education concerning the health consequences of using smokeless tobacco products; and

S. 2036. An act to make certain technical corrections to amendments made by the Food Security Act of 1985, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2471. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on competition advocacy for fiscal year 1985; to the Committee on Governmental Affairs.

EC-2472. A communication from the Special Counsel, Merit Systems Protection Board, transmitting, pursuant to law, a report on the findings and conclusion of the Director's allegations into time and attendance abuses in the Vietnamese Service at the Voice of America; to the Committee on Governmental Affairs.

EC-2473. A communication from the Chairman of the Federal Home Loan Bank Board, transmitting, pursuant to law, a report on competition advocacy for fiscal year 1985; to the Committee on Governmental Affairs.

EC-2474. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on competition advocacy for fiscal year 1985; to the Committee on Governmental Affairs.

EC-2475. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report on competition advocacy for fiscal year 1985; to the Committee on Governmental Affairs.

EC-2476. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on competition advocacy for fiscal year 1985; to the Committee on Governmental Affairs.

EC-2477. A communication from the Chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2478. A communication from the President pro tempore of the American Council of Learned Societies, transmitting, pursuant to law, the annual report of the Council for July 1, 1984 to June 30, 1985; to the Committee on the Judiciary.

EC-2479. A communication from the Acting Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2480. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the Black Lung Benefits Act during calendar year 1984; to the Committee on Labor and Human Resources.

EC-2481. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for assistance to local educational agencies in areas affected by Federal activities and arrangements for education of children where local educational agencies cannot provide suitable free public education; to the Committee on Labor and Human Resources.

EC-2482. A communication from the Chairman of the National Advisory Council on Continuing Education, transmitting, pursuant to law, the annual report of the Council for fiscal year 1985; to the Committee on Labor and Human Resources.

EC-2483. A communication from the Chairperson of the National Council on the Handicapped, transmitting, pursuant to law, a report on Federal laws and programs serving people with disabilities; to the Committee on Labor and Human Resources.

EC-2484. A communication from the Secretary of Education, transmitting, pursuant to law, notice of Final Funding Priorities—National Institute of Handicapped Research—Research and Training Centers; to the Committee on Labor and Human Resources.

EC-2485. A communication from the Commissioner of the Rehabilitation Services Administration, Department of Education, transmitting, pursuant to law, a report on the status of several reports and evaluations authorized by the Rehabilitation Act of 1973; to the Committee on Labor and Human Resources.

EC-2486. A communication from the Director of the National Science Foundation, transmitting a draft of proposed legislation to authorize appropriations for the National Science Foundation for fiscal years 1986 and 1987; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-559. A resolution adopted by the city council of Denton, TX, opposing the rescission of Entitlement Community Development Block Grant funds; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations and the Committee on the Budget.

POM-560. A resolution adopted by the legislature of the Territory of Guam; to the Committee on Energy and Natural Resources.

"RESOLUTION NO. 258

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the residents of the U.S. Territory of Guam who are United States citizens and federal income taxpayers are desirous of obtaining greater and more effective representation in the Congress of the United States of America by securing representation in the Senate to complement our present representation in the U.S. House of Representatives; and

"Whereas, it is the collective belief of the Guamanian people that although we presently have a non-voting delegate in the House of Representatives, it is in reality insufficient representation by virtue of the fact that the United States Congress is comprised of a House of Representatives and a Senate; and

"Whereas, the people of Guam find it wholly inadequate and less meaningful to only allow representation in one house, when, in a two-house system, all legislation adopted by either house necessarily must pass through the other; and

"Whereas, without an elected U.S. Senator from Guam to whole-heartedly represent our interests on a full-time basis and who will be in a more able position to better understand our problems and position on island issues, Guam will continue to be forced to find a U.S. Senator from among the fifty states who is sympathetic to Guam's cause and who will be willing to assist us in sponsoring legislation or in pushing House-adopted legislation through the Senate; and

"Whereas, this procedure does not appear to be in the best interests of Guam, especially since we can hardly expect another state's elected representative who owes no obligation to Guam and who has no legal responsibility to its people to conscientiously and diligently work on Guam's behalf; and

"Whereas, occasions may arise wherein the interests of Guam may conflict with the interests of a sponsor's home state, thereby creating a conflict of interest which would not be favorable to Guam; and

"Whereas, the people find that the granting to Guam of only a non-voting delegate to the U.S. House of Representatives is analogous to giving a barefooted indigent only one shoe when a pair of shoes are needed and is thus a nonsensical privilege which undercuts the democratic principle of a representative form of government; and

"Whereas, without representation in both houses of the U.S. Congress, it cannot be claimed that the U.S. citizen residents of Guam have given their consent to be taxed and governed to the U.S. federal government; and

"Whereas, a fundamental belief of American colonists which provided the catalyst for the Declaration of Independence from Britain on July 4, 1776, was "no taxation without representation" as well as a long list of other valid grievances against the British Crown; and

"Whereas, the laws, policies and edicts of the British Crown unfairly and severely affected the lives of American colonists making their existence intolerable without their consent; and

"Whereas, in a similar sense federal laws, regulations and policies affect the lives of all U.S. Citizens in Guam, albeit not in the intolerable degree suffered by American colonists, but still without their consent; and

"Whereas, periodically, these laws, regulations and policies are unfair to the people of Guam; and

"Whereas, even the Organic Act of Guam which serves as the constitution of Guam up to the present was adopted in 1950 without the involvement or approval of the people of Guam and serves as a clear example of being governed without consent; and

"Whereas, the people of Guam understand that the U.S. Constitution allows only states two U.S. Senators each who each has the power to vote in the Senate; and

"Whereas, although Guam is not a state, it is the interpretation of the people Guam that the U.S. Senate is not prohibited from granting Guam one seat in the house so long as that seat is not entitled to a vote; and

"Whereas, in brief, the people of Guam desire nothing less than full-time representation in both houses of Congress by persons elected by the people of Guam who would fully and conscientiously champion their interests; and

"Whereas, in granting this request, the federal government would be demonstrating to the whole world the highest ideal of American democracy which is a representative form of government: Now, therefore, be it

"*Resolved*, That the Eighteenth Guam Legislature, on behalf of the people of Guam, who have indicated through a petition their desire for the creation of a non-voting seat in the U.S. Senate for the territory of Guam, respectfully request the United States Congress, and especially the U.S. Senate, to create such a seat for Guam; and be it further

"*Resolved*, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the President Pro Tempore of the U.S. Senate; to the Speaker of the U.S. House of Representatives; to the Chairperson of the Senate Committee on Energy and Natural Resources; to the Chairperson of the Senate Committee on Rules and Administration; to the Chairperson of the House Committee on Interior; to the Chairperson of the House Committee on Rules; to Congressman Ben G. Blaz and to the Governor of Guam."

POM-561. A resolution adopted by the board of supervisors of the county of Los Angeles, CA, favoring a check-off box on the 1986 Federal tax form to provide funds

for the purchase of the new space shuttle; to the Committee on Finance.

POM-562. A resolution adopted by the city council of Olmsted, OH, favoring the continuation of the general revenue sharing program; to the Committee on Finance.

POM-563. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Foreign Relations.

"HOUSE RESOLUTION No. 911

"Whereas, An end to the destruction and human suffering caused by strife in Northern Ireland is urgently necessary; and

"Whereas, The report of the New Ireland Forum of 2 May 1984 set out the position of Irish nationalists on the problem and made an important contribution to the Anglo-Irish negotiations over the past year; and

"Whereas, The Governments of Ireland and the United Kingdom have recently concluded negotiations and reached accord on the Anglo-Irish Agreement of 1985; and

"Whereas, This agreement reiterates the total rejection of any attempt to promote political objectives by violence or the threat of violence; and

"Whereas, The agreement has been warmly welcomed by President Reagan and the United States Congress; and

"Whereas, This agreement is aimed at establishing peace and stability in Northern Ireland and at promoting reconciliation between the two traditions in Ireland; and

"Whereas, This agreement provides for an unprecedented role for the Government of Ireland in relation to Northern Ireland through the creation of a standing intergovernmental conference; and

"Whereas, The operation of the intergovernmental conference should provide a means for the expression and accommodation of the rights and identities of the two traditions in Northern Ireland: Therefore, be it

"*Resolved*, by the House of Representatives of the eighty-fourth General Assembly of the State of Illinois, that the parties responsible for these negotiations be congratulated on reaching an agreement aimed at promoting peace and stability in Northern Ireland and improving the situation of all its people, especially the Nationalist community; and be it further

"*Resolved*, That every possible support be extended to the Governments of Ireland and the United Kingdom in the task of implementing the agreement; and be it further

"*Resolved*, That the United States Congress and the President of the United States move as quickly as possible to provide the international economic assistance now being sought to fund vitally needed development programs aimed at relieving chronic unemployment and at promoting development of areas in both parts of Ireland which have been most serverly hit by the instability of recent years; and be it further

"*Resolved*, That suitable copies of this resolution be presented to the Consul Generals of Ireland and the United Kingdom, the President of the United States, the Speaker of the House of Representatives, the President of the Senate, and the members of the Illinois Congressional delegation."

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. WILSON (for himself and Mr. SYMMS):

S. 2077. A bill to amend the Agricultural Act of 1949 to prohibit participating producers from devoting their permitted crop acreage to nonprogram crops if an acreage limitation program is in effect; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for himself, Mr. GOLDWATER, Mr. COHEN, Mr. MURKOWSKI, Mr. MCCONNELL, and Mr. KASTEN):

S. 2078. A bill to direct the Secretary of Defense, for contingency planning purposes, to conduct a comprehensive study and investigation to determine the feasibility and cost of relocating to an alternative site or sites in the Pacific region the military facilities of the United States located in the Republic of the Philippines; to the Committee on Armed Forces.

By Mr. NICKLES:

S. 2079. A bill to amend the Legislative Reorganization Act of 1946 to reduce the compensation of Members of Congress for any fiscal year in which outlays for nondefense programs are required to be reduced under an order issued by the President for such fiscal year pursuant to section 252 of the Balanced Budget and Emergency Deficit Act of 1985 by the uniform percentage by which outlays for such programs are required to be reduced under such order; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 2080. A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections; to the Committee on Rules and Administration.

By Mr. GRASSLEY:

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend"; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. KASTEN, Mr. NICKLES, Mr. DIXON, Mr. HECHT, Mr. ABDNOR, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. CHILES, Mr. GORE, Mr. LEVIN, Mr. LEAHY, and Mr. EXON):

S.J. Res. 275. Joint resolution designating May 11 through May 17, 1986, as "Jewish Heritgage Week"; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. STEVENS, Mr. MATHIAS, Mr. GORE, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LEAHY, Mr. HEFLIN, Mr. SIMON, Mr. GLENN, Mr. WARNER, and Mr. BURDICK):

S.J. Res. 276. Joint resolution to designate February 19, 1987, as "National Day for Federal Retirees"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 346. Resolution expressing the sense of the Senate on Terrorism; to the Committee on Foreign Relations.

By Mr. DOLE (for himself, Mr. LUGAR, Mr. THURMOND, Mr. HELMS, Mr. TRIBLE, Mr. EAST, Mr. HUMPHREY, Mr. GARN, Mr. WALLOP, Mr. BOSCHWITZ, Mr. MATTINGLY, Mr. DENTON, Mrs. HAWKINS, Mr. SYMMS, and Mr. KASTEN):

S. Res. 347. Resolution expressing the sense of the Senate regarding further amendment of the International Convention on the Prevention and Punishment of the Crime of Genocide; considered and agreed to.

By Mr. DOLE (for himself, Mr. COCHRAN, Mr. STENNIS, and Mr. BYRD):

S. Res. 348. Resolution relative to the death of the Honorable James O. Eastland, of Mississippi; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. WILSON (for himself and Mr. SYMMS):

S. 2077. A bill to amend the Agricultural Act of 1949 to prohibit participating producers from devoting their permitted crop acreage to nonprogram crops if an acreage limitation program is in effect; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. WILSON and Mr. SYMMS, and the text of the legislation appear earlier in today's RECORD.)

By Mr. DOLE (for himself, Mr. GOLDWATER, Mr. COHEN, Mr. MURKOWSKI, Mr. MCCONNELL, and Mr. KASTEN):

S. 2078. A bill to direct the Secretary of Defense, for contingency planning purposes, to conduct a comprehensive study and investigation to determine the feasibility and cost of relocating to an alternative site or sites in the Pacific region the military facilities of the United States located in the Republic of the Philippines; to the Committee on Armed Services.

(The remarks of Mr. DOLE and the text of the legislation appear earlier in today's RECORD.)

By Mr. NICKLES:

S. 2079. A bill to amend the Legislative Reorganization Act of 1946 to reduce the compensation of Members of Congress for any fiscal year in which outlays for nondefense programs are required to be reduced under an order issued by the President for such fiscal year pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by the uniform percentage by which outlays for such programs are required to be reduced under such order; to the Committee on Governmental Affairs.

CONGRESSIONAL PAY AND GRAMM-RUDMAN

● Mr. NICKLES. Mr. President, when Congress approved the Gramm-Rudman Balanced Budget and Emergency Deficit Control Act, it was intended to provide fair and equitable treatment of Federal programs covered by its sequester order. In a closer review, this is not the case. Congressional pay has been exempted from the automatic reductions called for under the act.

Aside from the issue of fairness, however, the automatic spending re-

ductions should never go into effect if Congress does its job. The $11.7 billion that is scheduled for sequester can be achieved through congressional action as opposed to inaction. One option is requiring the Senate Budget Committee to report out an alternative plan for savings attributable to the nondefense programs. Currently in conference is legislation which would achieve $2.4 billion more in nondefense savings than under the sequester order. I refer to the Consolidated Omnibus Reconciliation Act of 1985 which, unfortunately, was sent to conference on the last day of session in 1985. This action has effectively killed any savings contained in the bill. By combining these savings with the $5.4 billion of sequestered defense funds, we can exceed the total sequester order by more than $1.5 billion. If we act now we can do what is responsible.

Under Gramm-Rudman we find that farm programs are reduced by $993 million, most of which come from the Commodity Credit Corporation. These savings are achieved by reductions in the loan amounts, deficiency payments, and any direct commodity purchases. We also find that Federal COLA's are frozen this year for military and civil service retirement. The cost-savings under Gramm-Rudman hits most non-low-income item of the budget but exempts the salaries of Members of Congress. If our farmers, Federal retirees, and others are being forced to tighten their belts, then I believe Members of Congress should be, too.

But in the midst of these substantial reductions, the pay of Members of Congress escaped the Gramm-Rudman ax. Since Member's pay is not appropriated by Congress and also the account containing the pay is not contained in the budget appendix, the CBO, OMB, and the GAO found it was not subject to sequester. However accurate this interpretation, it should be changed to included the pay account.

Reducing congressional pay is not without precedent. In 1907, pay was raised to $7,500, and in 1925, to $10,000. But during the Depression, Congress took a pay cut and salaries were reduced to $9,000 in 1932 and $8,500 in 1933. Today we face a $2 trillion debt and annual deficits that continue out of control. We need to follow the example of our predecessors and let the American people know that their elected Representatives in Congress are willing to share in the sacrifice that must be made to balance our bloated budget.

My bill will reduce congressional pay by 4.3 percent for this fiscal year and will subject the Member's pay account in future years to the sequestration under the act. This is the same treatment for accounts presently under the sequestration process. I know that most Members are concerned that any reductions in spending be handled fairly. In that spirit, I hope we can achieve the proper legislative reponse.●

By Mr. RIEGLE:

S. 2080. A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections; to the Committee on Rules and Administration.

SINGLE POLL CLOSING TIME FOR PRESIDENTIAL GENERAL ELECTIONS

Mr. RIEGLE. Mr. President, I rise today to introduce a bill to establish a single poll closing time in the continental United States for Presidential general elections. This legislation is identical to H.R. 3525 which was passed by the House on January 29.

This bill addresses a problem that has become increasingly associated with the Presidential election process. The problem involves projections by the mass media concerning the outcome of an election prior to the closing of voting in all parts of the country. Such intrusions into the election process are thought to discourage remaining voters. More importantly, the long-term implications for our democracy may be the fostering of a belief that elections can be over and decided before every citizen has had an opportunity to cast his or her ballot.

With the advent of sophisticated broadcast and polling technology to monitor elections in the last two decades, the problem of election projections has developed into a genuine controversy for politicians and voters alike. In 1980, this controversy came to a head when television networks projected President Reagan's victory over Carter before all the polls had closed. As early as 6:30 p.m. e.s.t., two widely viewed network news anchors were indicating that, according to the results of their network's exit polls, a big Reagan victory was in the making. At that time, only two States, Kentucky and Indiana, had finished voting.

By 8:15 p.m. e.s.t., NBC News projected Reagan the winner on the basis of exit poll data. Voting polls were still open in several Eastern States, in approximately a third of the States in the central time zone, and in all States in the mountain, Pacific, Hawaiian, and Alaskan time zones. In California, the largest State in the country, polls were to remain open another 2 hours.

A tremendous outcry ensued from the public claiming that projections of the Presidential election had discouraged people from going to the polls. A 1980 national election study conducted by the University of Michigan concluded that early projection in 1980 had resulted in a 6- to 11-percent decline in overall voter turnout. Numerous Federal, State and municipal elections were also substantially impacted by the lowered voter turnout.

In response to this outcry, Congress passed a resolution before the 1984 election calling on broadcasters to voluntarily refrain from characterizing or projecting the results of an election before all polls had closed. In addition, all networks agreed they would avoid making projections for State races until all polls had closed in a State. But the west coast problem remained. All three networks projected Reagan the winner in a landslide by 8:31 p.m. e.s.t., almost 3 hours before voting stopped in the West. Curtis Gan, director of the Committee for Study of the Electorate, cited "voter TV discouragement" for the fewer votes cast in many States with late closing polls and Western States in later time zones.

As the networks have made a commitment of voluntary restraint with respect to exit poll projections, we can now proceed to the idea of a nationwide uniform poll closing time which will eliminate once and for all the problem of having the outcome of an election determined and announced before people in all parts of the country have an opportunity to vote. This bill will establish a single poll closing time of 9 p.m. eastern standard time—8 p.m. c.s.t. and 7 p.m. m.s.t.—for all States except Alaska and Hawaii in Presidential years. In order to provide as long a voting day as possible in the West, the bill will also extend daylight saving time in Pacific time zone States—Washington, Oregon, California, Nevada, and the Idaho panhandle—for a maximum of 2 weeks. Polls in Pacific time zones would then remain open until 7 p.m. Pacific daylight time. Since 7 p.m. Pacific daylight time is the same as 9 p.m. e.s.t., uniformity would be achieved.

The 9 p.m. e.s.t. zone poll closing raises administrative problems that are relatively modest when compared with other alternatives such as 24 hour voting, Sunday voting, and making election day a holiday. Twenty-seven percent of the States will not have to change their poll closing times at all. States that will be required to extend their hours will be extending them less than under any other proposal. None will change more than 3 hours and, if those few choose to adjust their opening times, the change will be less.

In conclusion, as a nation that values free elections as the basis of our democratic system, I believe that a uniform poll closing time will protect the voters from the infection of voting projections and will have considerable impact on voter turnout at the polls. This solution is the least intrusive to first amendment rights and is the only realistic one to a problem that modern technology has created. I urge all my

colleagues to join me in supporting this legislation.

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. 2080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SINGLE POLL CLOSING TIME FOR PRESIDENTIAL GENERAL ELECTIONS IN THE CONTINENTAL UNITED STATES.

Chapter 1 of title 3, United States Code, is amended by—

(1) redesignating section 21 as section 22; and

(2) inserting after section 20 the following new section:

"§ 21. Single poll closing time in continental United States

"(a) Each polling place in the continental United States shall close, with respect to a Presidential general election, at 9:00 o'clock post meridiem, eastern standard time. Any person who, as determined under the law of the State involved, arrives at a polling place after that time shall not be permitted to vote in the Presidential general election.

"(b) Notwithstanding subsection (a), a polling place shall close, with respect to a Presidential general election, as provided by the law of the State involved, in the case of a polling place at which each person who is eligible to vote has voted.

"(c) As used in this section, the term—

"(1) 'continental United States' means the States of the United States (other than Alaska and Hawaii) and the District of Columbia;

"(2) 'Presidential general election' means the election for electors of President and Vice President; and

"(3) 'State' means a State of the United States and the District of Columbia.".

SEC. 2. EXTENDED DAYLIGHT SAVING TIME IN PACIFIC TIME ZONE IN PRESIDENTIAL ELECTION YEARS.

Section 3 of the Uniform Time Act of 1966 (15 U.S.C. 260a) is amended by adding at the end the following new subsection:

"(d)(1) Notwithstanding subsection (a) of this section, in each year in which a Presidential general election takes place, the period of time during which the standard time shall be advanced with respect to the Pacific time zone shall end at 2:00 o'clock ante meridiem on the first Sunday after the date of that election.

"(2) As used in this subsection, the term 'Presidential general election' means the election for electors of President and Vice President.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—The table of sections for chapter 1 of title 3, United States Code, is amended—

(1) by striking out the item relating to section 21 and inserting in lieu thereof the following:

"22. Definitions."; and

(2) by inserting after the item relating to section 20 the following new item:

"21. Single poll closing time in continental United States.".

(b) AMENDMENTS TO UNIFORM TIME ACT OF 1966.—Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking out "2 o'clock antemeridian each place it appears and inserting in lieu thereof "2:00 o'clock ante meridiem".

By Mr. GRASSLEY:

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend"; to the Committee on the Judiciary.

NATIONAL FAMILY REUNION WEEKEND

Mr. GRASSLEY. Mr. President, as a firm believer in family as the oldest and most important institution in America, I am introducing a bill to proclaim the first weekend in August as "National Family Reunion Weekend."

At its best, family functions as the ideal network for fostering well-rounded, well-adjusted individuals. As changes in society continue to alter the fabric of the family unit, families are increasingly seeking support systems to help them adjust to new demands.

Mr. President, like President Reagan, I believe the foundation for building a better and stronger America begins at home with the family. Traditional values, morals and responsibilities are cultivated within the home through family bonds. In an attempt to help restore and reinforce the benefits of a healthy family life I am asking the President to urge families all across America to plan and attend family reunions. Whether it be 10, 50 or hundreds of kin uniting, the reunion will generate continuity between generations. Older members will bring stories of the past, preserving the family history. And the new generations will bring their dreams for the future; thus sparking unity and continuity within the extended family.

Mr. President, I'd like to recognize the Better Homes and Gardens Family Network—based in my home State of Iowa. The Family Network is an organization that has emerged from Meredith Corporation's commitment to improving family life through information and inspiration, and has been created to examine, strengthen, and celebrate American families. The Network exists as a resource, available to people who are interested in tracing their family genealogy or planning a successful reunion.

Mr. President, I hope that the passage of this legislation would help strengthen and preserve American family as an institution. Through Congress' recognition of "Family Reunion Weekend" I believe we will set the tone for building a better Nation today, and for future generations.

By Mr. D'AMATO (for himself, Mr. KASTEN, Mr. NICKLES, Mr. DIXON, Mr. HECHT, Mr. ABDNOR, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. CHILES, Mr. GORE, Mr. LEVIN, Mr. LEAHY, and Mr. EXON):

S.J. Res. 275. Joint resolution designating May 11 through May 17, 1986, as "Jewish Heritage Week"; to the Committee on the Judiciary.

JEWISH HERITAGE WEEK

● Mr. D'AMATO. Mr. President, I rise today to offer a joint resolution designating the week of May 11, 1986, as "Jewish Heritage Week." The United States prides itself on its diverse heritage. This rich and colorful heritage results from the values and ideals brought to our Nation by the people of a multitude of races and religions.

Among these immigrants, the Jewish community contributed significantly to the cultural and spiritual growth of a new nation. Many members of the Jewish community have brought distinction and honor to virtually every field of endeavor, including the arts, humanities, and sciences. Our Jewish citizens have fought and died to preserve and to protect the freedom for which the United States stands.

Indeed, our Judeo-Christian culture owes much to the Jewish community. The Jewish people cherish a tradition and culture which spans the course of many thousands of years. Their perseverance through the many tests of time has made the Jewish community vital members of our society.

Each spring, Jews throughout the United States and around the world observe a number of significant dates. Beginning with the observance of Passover, which commemorates their passage from bondage to freedom, continuing with the observance of the anniversary of the Warsaw Ghetto Uprising, and concluding with the celebration of Israeli Independence Day, American Jews rededicate themselves to the concepts of liberty, equality, and democracy.

In recognition of the told and untold contributions of Jews, who have become an integral part of the American heritage, I am introducing the following joint resolution requesting that the President designate May 11 through May 27, 1986 as "Jewish Heritage Week." I urge my colleagues to join me in cosponsorship of this important joint resolution.

Mr. President, I ask unanimous consent that this joint resolution be printed in the RECORD.

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

S.J. RES. 275

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country;

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jews to our country and society; and

Whereas the months of March, April, and May contain events of major significance in the Jewish calendar—Passover, the anniver-

sary of the Warsaw Ghetto Uprising, Israeli Independence Day, Solidarity Sunday for Soviet Jewry, and Jerusalem Day: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 11 through May 17, 1986, as "Jewish Heritage Week" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe "Jewish Heritage Week" with appropriate ceremonies, programs, and activities.●

By Mr. DOMENICI (for himself, Mr. STEVENS, Mr. MATHIAS, Mr. GORE, Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LEAHY, Mr. HEFLIN, Mr. SIMON, Mr. GLENN, Mr. WARNER, and Mr. BURDICK):

S.J. Res. 276. Joint resolution to designate February 19, 1987, as "National Day For Federal Retirees"; to the Committee on the Judiciary.

NATIONAL DAY FOR FEDERAL RETIREES

● Mr. DOMENICI. Mr. President, today I am introducing a measure in recognition of the National Association for Retired Federal Employees [NARFE], as NARFE celebrates its 65th birthday today, February 19, 1986.

Mr. President, NARFE was founded to represent the interests of our Nation's retired Federal employees. These employees are the backbone of our Nation's Government, the people who implement the administration's and the Congress' policy. These are the men and women who make the Government work for the people.

Our Nation's executive and legislative branches are of a transient nature, with a new administration every 4 or 8 years, and a new Congress every 2 years. It is our Nation's Federal employees who provide the stability in our Federal Government. Many of these workers have served their Nation for 20, 30, in a few cases even 40 years. That is 30 or 40 years of expertise and efficiency.

After so many years of dedicated effort on behalf of their Nation, retired Federal employees are assured of a solid annuity. NARFE has worked diligently on behalf of all retired Federal employees, and has grown in membership in the process. It started out with 14 members on February 19, 1921, and has grown to almost 500,000 members on NARFE's 65th anniversary. Today, there are over 1,600 NARFE chapters throughout the United States.

In recognition of the endless contributions career Federal employees have made to their Nation, I hereby request that the President of the United States of America proclaim February 19, 1987 as "National Day for Federal Retirees." I urge my colleagues to join me in this recognition.●

ADDITIONAL COSPONSORS

S. 203

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 203, a bill to provide a one-time amnesty from criminal and civil tax penalties and 50 percent of the interest penalty owed for certain taxpayers who pay previous underpayments of Federal tax during the amnesty period, to amend the Internal Revenue Code of 1954 to increase by 50 percent all criminal and civil tax penalties, and for other purposes.

S. 524

At the request of Mr. ARMSTRONG, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of S. 524, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 625

At the request of Mrs. HAWKINS, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 625, a bill to include the offenses relating to sexual exploitation of children under the provisions of RICO and authorize civil suits on behalf of victims of child pornography and prostitution.

S. 869

At the request of Mr. MITCHELL, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 869, a bill to provide that the pensions received by retired judges who are assigned to active duty shall not be treated as wages for purposes of the Social Security Act.

S. 1223

At the request of Mr. ARMSTRONG, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor 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. 1429

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1429, a bill to amend title 18, United States Code, to authorize prosecution of terrorists who attack U.S. nationals abroad, and for other purposes.

At the request of Mr. SPECTER, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 1429, supra.

S. 1710

At the request of Mr. MITCHELL, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1710, a bill to establish a motor carrier administration in the Department of Transportation, and for other purposes.

S. 1815

At the request of Mr. HATCH, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1815, a bill to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce.

S. 1841

At the request of Mr. DODD, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1841, a bill to require depository institutions to disclose to their customers their practices relating to the availability of funds in connection with check deposits, to require the timely payment of interest on deposits to interest bearing accounts, to improve the check clearing system, and for other purposes.

S. 1889

At the request of Mr. DENTON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1889, a bill to amend title 11 of the United States Code, relating to bankruptcy, to prevent discharge of administratively ordered support obligations.

S. 1917

At the request of Mr. BRADLEY, the names of the Senator from Missouri [Mr. EAGLETON], the Senator from Rhode Island [Mr. PELL], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1952

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1952, a bill to provide for the striking of medals to commemorate the Young Astronaut Program.

S. 2048

At the request of Mr. WEICKER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2048, a bill to encourage international efforts to designate the shipwreck of the R.M.S. *Titanic* as an international maritime memorial and to provide for reasonable research, exploration and, if appropriate, salvage activities with respect to the shipwreck.

S. 2052

At the request of Mr. CRANSTON, the names of the Senator from Florida [Mrs. HAWKINS], the Senator from California [Mr. WILSON], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 2052, a bill to establish, for the purpose of implementing any order issued by the President for fiscal year 1986 under any law providing for sequestration of new loan guarantee commitments, a guaranteed loan limitation amount applicable to chapter 37 of title 38, United States Code, for fiscal year 1986.

S. 2054

At the request of Mr. NICKLES, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2054, a bill to provide that the National Aeronautics and Space Administration may accept gifts and donations for a space shuttle which may be named Challenger II.

SENATE JOINT RESOLUTION 251

At the request of Mr. HATCH, the names of the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Nevada [Mr. LAXALT], the Senator from North Dakota [Mr. BURDICK], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. RIEGLE], the Senator from Kansas [Mr. DOLE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Georgia [Mr. NUNN], the Senator from California [Mr. WILSON], the Senator from Idaho [Mr. MCCLURE], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 251, a joint resolution to designate the week of May 11, 1986 through May 17, 1986, as "National Science Week, 1986."

SENATE JOINT RESOLUTION 253

At the request of Mr. HATCH, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 253, a joint resolution to designate the week of March 2, 1986, through March 8, 1986, as "Women's History Week."

SENATE JOINT RESOLUTION 256

At the request of Mr. TRIBLE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 256, a joint resolution designating August 12, 1986, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 261

At the request of Mr. DOMENICI, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. LAXALT], and the Senator from Montana [Mr. MELCHER] were added as cosponsors of Senate Joint Resolution 261, a joint resolution to designate the week of April 14, 1986 through April 20, 1986, as "National Mathematics Awareness Week."

SENATE JOINT RESOLUTION 262

At the request of Mr. WALLOP, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Maine [Mr. MITCHELL], and the Senator from Washington [Mr. EVANS] were added as cosponsors of Senate Joint Resolution 262, a joint resolution to authorize and request the President to issue a proclamation designating June 2, 1986 through June 8, 1986, as "National Fishing Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. HEINZ, the names of the Senator from California [Mr. CRANSTON], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. SIMON], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 265, a joint resolution authorizing and requesting the President to designate the week of March 9, 1986 through 15, 1986, as "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 271

At the request of Mr. RIEGLE, the names of the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 271, a joint resolution designating "Baltic Freedom Day."

SENATE RESOLUTION 82

At the request of Mr. D'AMATO, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Resolution 82, a resolution to preserve the deduction for State and local taxes.

SENATE RESOLUTION 242

At the request of Mr. MATTINGLY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 242, a resolution to express the sense of the Senate that Congress should not change the Federal income tax treatment of State and local debt obligations.

SENATE RESOLUTION 304

At the request of Mr. TRIBLE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Resolution 304, a resolution to express the sense of the Senate that the present 3-year basis recovery rule on taxation of retirement annuities be maintained.

SENATE RESOLUTION 344

At the request of Mr. HEINZ, the names of the Senator from Maine [Mr. COHEN] and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Resolution 344, a resolution expressing the sense of the Senate with respect to the proposed rescission of budget authority for housing for the elderly and handicapped under section 202 of the Housing Act of 1959.

SENATE RESOLUTION 345

At the request of Mr. DECONCINI, his name was added as a cosponsor of Senate Resolution 345, a resolution expressing the sense of the Senate that the recent Presidential elections in the Philippines were marked by such widespread fraud that they cannot be considered a fair reflection of the will of the people of the Philippines.

At the request of Mr. BYRD, the names of the Senator from Texas [Mr. BENTSEN], the Senator from New York [Mr. MOYNIHAN], the Senator from Vermont [Mr. LEAHY], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Resolution 345, supra.

At the request of Mr. KASTEN, his name was added as a cosponsor of Senate Resolution 345, supra.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of Senate Resolution 345, supra.

At the request of Mr. GLENN, his name was added as a cosponsor of Senate Resolution 345, supra.

At the request of Mr. DOLE, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Florida [Mr. CHILES], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Resolution 345, supra.

AMENDMENT NO. 1585

At the request of Mr. SYMMS, the names of the Senator from Nevada [Mr. HECHT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Alabama [Mr. DENTON], the Senator from South Carolina [Mr. THURMOND], the Senator from North Carolina [Mr. EAST], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of amendment No. 1585 intended to be proposed to Executive O, 81-1, International Convention on the Prevention and Punishment of the Crime of Genocide.

SENATE RESOLUTION 346—EXPRESSING THE SENSE OF THE SENATE ON TERRORISM

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 346

Whereas international terrorism poses a grave threat to the security of western democracies;

Whereas the North Atlantic Treaty Organization (NATO) countries are prime targets of state-sponsored international terrorism;

Whereas NATO is designed to provide a cohesive, unified effort to protect our joint security interests;

Whereas the NATO foreign ministers have publicly recognized the fundamental importance of suppressing terrorism to NATO security and pledged their determination to work toward that goal;

Whereas President Reagan has announced full United States economic sanctions against Libya for its role in the terrorist attacks in Rome and Vienna airports on December 27 which cost 19 lives, including Europeans and Americans;

Whereas western European nations account for $12 billion in Libyan trade each year;

Whereas western Europe is frequently the target of state-sponsored terrorism;

Whereas Libya in 1985 sponsored five attacks against exiled Libyan dissidents living in Greece, West Germany, Cyprus, Italy, and Austria;

Whereas a shoot-out from the Libyan Mission in London in April, 1984, cost the life of a British policewoman;

Whereas there has been a clear and consistent pattern of Libyan aid to almost every major international terrorist group, including the Provisional Irish Republican Army, the Basque ETA, and Italy's Red Brigade;

Whereas Libyan diplomatic offices in foreign countries are often used as bases of support for terrorist operations;

Whereas Libya has served as a haven for terrorists fleeing Europe, including some of the slayers of the Israeli Olympic athletes at Munich in 1972;

Whereas joint action by the international community holds greater promise for reducing the export of terrorism from Libya and other terrorist countries than sanctions by the U.S. alone; Now therefore, be it

Resolved, that it is the sense of the Senate that combatting the threat of state-sponsored international terrorism is consistent with the North Atlantic Treaty Organization (NATO) mission; that each NATO member's participation in the Organization is based on every other member's participation and willingness to share the burden of maintaining the mission of the Alliance; that continued United States participation in NATO at current levels assumes the cooperation of our allies in international efforts, including economic sanctions, aimed at combatting state sponsored terrorism; and that the President should convey this sense of the Senate to our NATO allies.

2. The Secretary of the Senate shall transmit a copy of the resolution to the President.

Mr. SPECTER. Madam President, I am submitting today a resolution expressing the sense of the Senate that combating the threat of state-sponsored international terrorism is consistent with the North Atlantic Treaty Organization [NATO] mission; that each NATO member's participation in the Organization is based on every other member's participation and willingness to share the burden of maintaining the mission of the alliance; that continued U.S. participation in NATO at current levels assumes the cooperation of our allies in international efforts, including economic sanctions aimed at combating state sponsored terrorism; and that the President should convey this sense of the Senate to our NATO allies.

Madam President, it is universally recognized that terrorism is an enormous problem in the world today and that Libya has been the source of much state-sponsored terrorism.

It has been very difficult to deal effectively with the problems of terrorism; but after extensive consideration, the United States imposed an economic boycott on Libya and sought the cooperation of the NATO allies. Regrettably, very little was done by way of our NATO allies in supporting the very important economic sanctions imposed by the United States.

The sense of this resolution is to call upon our NATO allies to assist the United States in the economic pressure on Libya as a significant movement to stop the threat of terrorism. Last year, when the Department of Defense authorization bill was being considered, many in this body felt that the United States was assuming more of a burden than it should, and some 41 Senators voted to limit U.S. participation so that other NATO members would come forward and shoulder more of their fair share.

Madam President, if the allies in NATO do not support the United States on an important matter like economic sanctions against Libya, then it may well be that we ought to consider restricting our support of NATO in order to secure more cooperation from our NATO allies. Events will tell whether or not the NATO nations will be willing to assist us. But this is an issue which this Senator may well raise when the Department of Defense authorization bill is considered on the floor of the U.S. Senate, if in fact our NATO allies do not take more of a hand in supporting the very important economic sanctions which the United States is pursuing at the present time against Libya.

I offer this resolution in the hope that it will convey the seriousness with which Congress views the threat posed by state-sponsored terrorism and the urgent need for a unified international response, starting with NATO cooperation in economic sanctions against Libya. It is not meant as a threat from a heavy contribution of men, money and resources to NATO. It is the warning of one neighbor that the community must work together if it is going to defeat a common enemy.

On January 7, 1986, President Reagan announced a complete United States economic boycott of Libya for its involvement in terrorism, particularly in the airport attacks in Rome and Vienna on December 27, 1985. I joined many others in applauding the President's action; it is a measure I have been urging for some time. Following Senate hearings held at my request in November 1984, on trade with terrorist countries, and after gaining the support of Secretary of State Shultz during a hearing in March 1985, I introduced legislation to authorize an economic boycott of Libya on April 3, 1985. The provision was ultimately adopted by Congress as part of the foreign aid authorization bill for fiscal year 1986 and was used by the President as authority for executive Order 12538 signed on November 15, 1985, to ban imports of refined petroleum products from Libya. This new authority was also used in implementing the most recent comprehensive sanctions.

Although this new American embargo will have a limited impact on Libya's economy, because United States trade with that terrorist nation had already been severely limited, it is a necessary step. It sends a clear message that the United States considers Libya a pariah state and will not contribute to that economy in any way. I believe it is also an important prerequisite to any possible military action; we should use military force, if at all, only after all other options have been exhausted.

To translate this largely symbolic gesture into effective leverage for change, however, we must have international cooperation, particularly from our NATO allies. Western European powers account for $12 billion in Libyan trade each year, compared to America's trade interest which was $336 million. Libya's largest trading partners are Italy and West Germany, followed by Spain and France. In 1984, Libya sold $2.5 billion in products to Italy and $2 billion in exports to West Germany, mostly in oil. In return, Libya bought $1.8 billion worth of goods from Italy and $885 million from the Germans. Britain has reduced trade since breaking relations with Libya over the 1984 shooting of a policewoman in London. Yet, it still spends an estimated $300 million yearly there.

The loss of the economic contributions of these Western European nations would deal a severe blow to Libyan President Mu'ammar Qadhafi. Moreover, joint action would signal universal condemnation of state sponsored terrorism in a clear and unambiguous way.

Unfortunately, the response of our allies to U.S. calls for international cooperation has been largely negative. Great Britain and West Germany have reiterated their opposition to economic sanctions. Belgium has apparently indicated it intends to proceed with a trade mission to Libya in the near future designed to actually increase their trade, very likely filling the void left by the U.S. and other allied sanctions.

There have been some positive indications of allied cooperation, but they are limited. Italian Foreign Minister Andreotti has announced Italy's intention not to export "particularly dangerous weapons" to Libya, and not to replace American business interests leaving Libya. But these measures, while commendable, will hardly put a dent in the Libya-Italy trade figures. Canada has indicated it will ban exports of oil drilling equipment and will cease government insurance of exports to Libya, and Norway has said it will back President Reagan in principle but still has not decided on concrete measures. Much more needs to be done before Colonel Qadhafi begins to feel the intended pressure.

On June 20, 1984, Senators ROTH and NUNN offered an amendment to the defense authorization bill for fiscal year 1985 proposing U.S. troop reductions if NATO failed to improve its conventional defense capability.

Senator NUNN explained on the Senate floor that:

The troop reductions are not in this amendment from the point of view of punishing, from the point of view of blackmail, from the point of view of threatening. They are here because the simple reality is, if we do not have allies that are going to do their part, there is no need for the American taxpayer to continue to spend billions and billions and billions and billions of dollars on troops, on ammunition, on airlift, on all types of equipment for modernization.

Senator NUNN was urging our allies to bear their fair share of the burden to protect allied security interests.

The resolution I offer today stems from the same concern. Terrorism poses as great a threat to the survival of the open, democratic societies NATO was created to protect as any army from the East. And it demands an equally unified and strong effort to combat it.

Our allies acknowledge the important role of NATO in combating terrorism. In December 1983, the NATO ministers met and issued the following declaration:

The Allies condemn terrorist acts, which are a threat to democratic institutions and to the conduct of normal international relations. Recalling the relevant provision of the Bonn Declaration, they reiterate their determination to take effective measures for the prevention and suppression of such criminal acts.

More recently, following a meeting in June 1985, they reiterated this joint commitment:

We strongly condemn terrorism and will continue to work to eliminate this threat to our citizens and to the democrat values we hold in common.

They "stressed the need for the most effective cooperation possible to prevent and suppress this scourge."

We ask simply that they live up to these commitments. It is not adequate to say "economic sanctions do not work." It may be true that unilateral sanctions imposed by any one country alone will not deter Qadhafi. But, joint economic sanctions by all NATO allies cannot help but have a powerful impact.

The allies complain that domestic economic pressures prevent further action on sanctions. Yet, the economic costs of the continuing threat of terrorism are also significant. Across Western Europe, nations are feeling the pinch of greatly increased security costs, lost tourism, and lost business investment. For example, Greece is estimated to have suffered some $300 million in lost tourism since the TWA hijacking in June 1985. And the estimated costs to Europe and the Middle East have been put as high as $1 billion. Nor can we ignore the incalculable value of the human lives lost to state-sponsored terrorism.

Cooperation with U.S. economic sanctions need not require a full embargo. Interim measures can be effective if carefully targeted for maximum impact on Libya's economy or ability to support terrorism. For example, a unified embargo on the sale of military spare parts to Libya or spare parts and components for key civilian sectors such as oil production, communications, and airlines could quickly bring the Libyan economy to its knees.

If this resolution fails to send a loud enough message, it may be necessary to take a cue from Senators NUNN and ROTH and propose a reduction in U.S. NATO troops until some form of cooperative program against terrorism is established. I will ask the Senate Armed Services Committee to consider hearings on such a proposal.

Some will warn that this kind of measure would be "cuting off our nose to spite our face." In fact, it is more analogous to covering up your good eye for a time to encourage the other eye to grow stronger. The result will not be a weaker alliance, but ultimately a stronger one, each member working to its fullest ability toward a common objective.

It is my hope that such an amendment will not be necessary; that adoption of this resolution will send a message loud and clear to our NATO allies that we consider defense against state-sponsored terrorism a fundamental responsibility of our alliance and of the entire civilized world.

SENATE RESOLUTION 347—REGARDING FURTHER AMENDMENT OF THE GENOCIDE CONVENTION

Mr. DOLE (for himself, Mr. LUGAR, Mr. THURMOND, Mr. HELMS, Mr. TRIBLE, Mr. EAST, Mr. HUMPHREY, Mr. GARN, Mr. WALLOP, Mr. BOSCHWITZ, Mr. MATTINGLY, Mr. BENTSEN, Mrs. HAWKINS, Mr. SYMMS, and Mr. KASTEN) submitted the following resolution; which was considered and agreed to:

S. RES. 347

Whereas the Senate has given its advice and consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide (hereafter in this preamble referred to as the "Convention");

Whereas such Convention excludes from its coverage genocide committed against political groups;

Whereas the Senate finds that instances of political genocide have occurred in Tibet and Cambodia;

Whereas the Senate finds that politically motivated genocide is being carried out in Afghanistan;

Whereas the Senate believes that the protections afforded by the Convention should be extended to all forms of genocide;

Whereas Article XVI of the Convention provides that any party to the Convention may notify in writing the Secretary General of the United Nations of its desire to amend the Convention; and

Whereas Article XVI of the Convention also provides that the General Assembly of the United Nations may take action, after such notification, to amend the Convention: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) upon depositing the instrument of ratification to the International Convention on the Prevention and Punishment of the Crime of Genocide with the Secretary General of the United Nations, the President should notify in writing the Secretary General of the desire of the United States to amend the Convention to include acts constituting political genocide within the definition of the term "genocide"; and

(2) the President should instruct the Permanent Representative of the United States to the United Nations to take all steps necessary to see that such an amendment is adopted.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

SENATE RESOLUTION 348—RELATIVE TO THE DEATH OF THE HONORABLE JAMES O. EASTLAND, OF MISSISSIPPI

Mr. DOLE (for himself, Mr. COCHRAN, Mr. STENNIS, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 348

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable James O. Eastland, late a Senator from the State of Mississippi, a former President of the Senate pro tempore, and a former Chairman of the Senate Committee on the Judiciary.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

NOTICE OF INTENTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. BYRD submitted notice in writing of his intention (together with Mr. DOLE, Mr. STEVENS, and Mr. FORD) to propose the following changes in the Standing Rules of the Senate:

Strike all after the resolving clause and insert the following:

"That (a) the Senate hereby authorizes and directs that there be both television and radio broadcast coverage (together with videotape and audio recordings) of proceedings in the Senate Chamber.

(b) Such broadcast coverage shall be—

(1) provided in accordance with provisions of this resolution;

(2) provided continuously, except for any time when a meeting with closed doors is ordered; and

(3) provided subject to the provisions pertaining to the Senate gallery contained in the following Standing Rules of the Senate: rule XIX, paragraphs 6 and 7; rule XXV, paragraph 1(n); and rule XXXIII, paragraph 2; and

SEC. 2. The radio and television broadcast of Senate proceedings shall be supervised and operated by the Senate.

SEC. 3. The television broadcast of Senate proceedings shall follow the Presiding Officer and Senators who are speaking.

SEC. 4. (a) The broadcast coverage by radio and television of the proceedings of the Senate shall be implemented as provided in this section.

(b) The Architect of the Capitol, in consultation with the Sergeant at Arms and Doorkeeper of the Senate, shall—

(1) construct necessary broadcasting facilities for both radio and television (including a control room and the modification of Senate sound and lighting fixtures);

(2) employ necessary expert consultants; and

(3) acquire and install all necessary equipment and facilities to (A) produce a broadcast-quality "live" audio and color video signal of such proceedings, and (B) provide an archive-quality audio and color video tape recording of such proceedings: *Provided*, That the Architect of the Capitol, in carrying out the duties specified in clauses (1) through (3) of this subsection, shall not enter into any contract for the purchase or installation of equipment, for the employment of any consultant, or for the provision of training to any person, unless the same shall first have been approved by the Committee on Rules and Administration.

(c) The Sergeant at Arms and Doorkeeper of the Senate shall (1) employ such staff as may be necessary, working in conjunction with the Senate Recording and Photographic Studios, to operate and maintain all broadcast audio and color video equipment installed pursuant to this resolution, (2) make audio and video tape recordings and copies thereof as requested by the Secretary under clause (2) of this subsection, of Senate proceedings, (3) retain for ninety days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States copies of such recordings: *Provided*, That the Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in clauses (1) and (2) of this subsection, shall comply with appropriate Senate procurement and other regulations, and

(4) If authorized by the Senate at a later date the Secretary of the Senate shall (A) obtain from the Sergeant at Arms copies of audio and video tape recordings of Senate proceedings *and make such copies* available, upon payment to her of a fee fixed therefor by the Committee on Rules and Administration, and (B) *receive from the Sergeant at Arms as soon as practicable, and* retain for ninety days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States archive-quality copies of such recordings.

SEC. 5. (a) Radio coverage of Senate proceedings shall—

(1) begin as soon as the necessary equipment has been installed; and

(2) be provided continuously at all times when the Senate is in session (or is meeting in Committee of the Whole), except for any time when a meeting with closed doors is ordered.

(b) As soon as practicable but no later than April 15, there shall begin a test period during which tests of radio and television coverage of Senate proceedings shall be conducted by the staffs of the Committee on Rules and Administration and of the Office of the Sergeant at Arms and Doorkeeper of the Senate. Such test period shall end on July 25, 1986.

During such test period—

(1) final procedures for camera direction control shall be established;

(2) television coverage of Senate proceedings shall not be transmitted, except that, at the direction of the chairman of the Committee on Rules and Administration, such coverage may be transmitted over the coaxial cable system of the Architect of the Capitol; and

(3) recordings of Senate proceedings shall be made and retained by the Secretary of the Senate.

SEC. 6. The use of tape duplications of radio coverage of the proceedings of the Senate for political purposes is strictly prohibited; and any such tape duplication furnished to any person shall be made on the condition that it not be used for political purposes.

The use of tape duplications of TV coverage for any purpose outside the Senate is strictly prohibited until the Senate provides otherwise.

SEC. 7. Any changes in the regulations made by this resolution shall be made only by Senate resolution. However, the Committee on Rules and Administration may adopt such procedures and such regulations, which do not contravene the regulations made by this resolution, as it deems necessary to assure the proper implementation of the purposes of this resolution.

SEC. 8. Such funds as may be necessary (but not in excess of $3,500,000) to carry out this resolution shall be expended from the contingent fund of the Senate.

SEC. 9. That Rule XXX, paragraph 1(b), is amended to read as follows:

"(b) When a treaty is reported from a committee with or without amendment, it shall, unless the Senate unanimously otherwise direct, lie over one day for consideration; after which it may be read a second time, after which amendments may be proposed. At any stage of such proceedings the Senate may remove the injunction of secrecy from the treaty."

SEC. 10. That paragraph 2 of Rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. Notwithstanding the provisions of Rule II or Rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by two-thirds of the Senators present and voting—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators duly chosen and sworn—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree or if a complete substitute, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"After no more than twenty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The twenty hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

"If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

"No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

"Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

"Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

"After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours."

SEC. 11. That Rule XVII, par. 5, of the Standing Rules of the Senate is amended to read as follows:

"5. Any measure or matter reported by any standing committee shall not be consid-

ered in the Senate unless the report of that committee upon that measure or matter has been available to Members for at least two calendar days (excluding Sundays and legal holidays) prior to the consideration of that measure or matter. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the Senate prior to the consideration of such measure or matter in the Senate. This paragraph—

"(1) may be waived by joint agreement of the Majority Leader and the Minority Leader of the Senate; and

"(2) shall not apply to—

"(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress, and

"(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress."

SEC. 12. That Rule VIII of the Standing Rules of the Senate is amended by inserting at the end thereof the following new paragraph:

"3. Debate on any motion to proceed to the consideration of any matter, other than an amendment to the Standing Rules of the Senate, made at any time other than the morning hour shall be limited to two hours, to be equally divided between and controlled by the Majority Leader and Minority Leader or their designees, at the conclusion of which, without any intervening action, the Senate shall proceed to vote on the motion, provided, however, that a motion to table a motion to proceed shall be in order at any time."

SEC. 13. Rule XXVIII, dealing with conference reports, is amended by adding the words "when available on each Senator's desk" after the words in paragraph 1 "shall always be in order".

SEC. 14. That Rule XV of the Standing Rules of the Senate is amended—

(1) by inserting after "Motions" in the caption a semicolon and the following: "GERMANENESS";

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

"6. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill on resolution, shall thereafter be in order. The motion shall be privileged and shall be decided after one hour of debate, without intervening action, to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the Committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of germaneness of an amendment, or whenever the Presiding Officer submits the question of germaneness or relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment germane or relevant shall be two-thirds of the Senators present and voting. No amendment proposing sense of the Senate or sense of the Congress language that does not directly relate to the measure or matter before the Senate shall be considered germane."

Provided, That no changes to the standing rules of the Senate which shall become effective by virtue of this resolution shall continue in effect after the test period has been completed, unless a resolution which the Committee on Rules and Administration shall have two weeks following the end of the test period to report, containing these proposed rules changes together with any other proposed changes in Senate procedures that they deem wise together with a proviso making radio and television as permanent part of Senate deliberations has been adopted; such resolution to be considered privileged, with debate thereon to be limited to 20 hours, with amendments limited to 1 hour each, such time to come out of the 20 hours, all to be controlled in the usual form, and with no amendment in order after the conclusion of the 20 hours.

AMENDMENTS SUBMITTED

RADIO AND TELEVISION COVERAGE OF SENATE PROCEEDINGS

ARMSTRONG AMENDMENT NO. 1586

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to the motion by Mr. DOLE to recommit with instructions the resolution (S. Res. 28) to improve Senate procedures; as follows:

In lieu of the language of the amendment in the instructions, insert the following:

That (a) the Senate hereby authorizes and directs that there be both television and radio broadcast coverage (together with videotape and audio recordings) of proceedings in the Senate Chamber.

(b) Such broadcast coverage shall be provided in accordance with the provisions of this resolution.

SEC. 2. The radio and television broadcast of Senate proceedings shall be—

(a) supervised and operated by the Senate, and

(b) made available on a "live" basis and free of charge to (1) any accredited member of the Senate Radio and Television Correspondents Gallery, (2) the coaxial cable system of the Architect of the Capitol, and (3) such other news gathering, educational, or information distributing entity as may be authorized by the Committee on Rules and Administration to receive such broadcasts.

SEC. 3. The television broadcast of Senate proceedings shall follow the Presiding Officer and Senators who are speaking.

SEC. 4. (a) The broadcast coverage by radio and television of the proceedings of the Senate shall be implemented as provided in this section.

(b) The Architect of the Capitol, in consultation with the Sergeant at Arms and Doorkeeper of the Senate, shall—

(1) construct necessary broadcasting facilities for both radio and television (including a control room and the modification of Senate sound and lighting fixtures);

(2) employ necessary expert consultants; and

(3) acquire and install all necessary equipment and facilities to (A) produce a broadcast-quality "live" audio and color video signal of such proceedings, and (B) provide an archive-quality audio and color video tape recording of such proceedings:

Provided, That the Architect of the Capitol, in carrying out the duties specified in clauses (1) through (3) of this subsection, shall not enter into any contract for the purchase or installation of equipment, for the employment of any consultant, or for the provision of training to any person, unless the same shall first have been approved by the Committee on Rules and Administration.

(c) The Sergeant at Arms and Doorkeeper of the Senate shall (1) employ such staff as may be necessary, working in conjunction with the Senate recording and photographic studios, to operate and maintain all broadcast audio and color video equipment installed pursuant to this resolution, (2) make audio and video tape recordings of Senate proceedings, (3) make copies of such recordings available, upon payment to him of a fee fixed therefor by the Committee on Rules and Administration, to Members of the Senate and to each person described in subsection (b)(1) and (3) of section 2 of this resolution, and (4) retain for ninety days after the day any Senate proceedings took place, such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States copies of such recordings: *Provided*, That the Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in clauses (1) and (2) of this subsection, shall comply with appropriate Senate procurement and other regulations.

(d) The Librarian of Congress and the Archivist of the United States shall each receive, store, and make available to the public, at no cost for viewing or listening on the premises where stored and upon payment of a fee equal to the cost involved through distribution of taped copies, recordings of Senate proceedings transmitted to them by the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 5. (a) Radio coverage of Senate proceedings shall—

(1) begin as soon as the necessary equipment has been installed; and

(2) be provided continuously at all times when the Senate is in session (or is meeting in Committee of the Whole), except for any time when a meeting with closed doors is ordered.

(b)(1) As soon as practicable after the necessary equipment has been installed, there shall begin a test period during which tests of radio and television coverage of Senate

proceedings shall be conducted by the staffs of the Committee on Rules and Administration and of the Office of the Sergeant at Arms and Doorkeeper of the Senate.

(2) During such test period—

(A) final procedures for camera direction control shall be established;

(B) television coverage of Senate proceedings shall not be transmitted to any outside source; and

(C) video and audio recordings of Senate proceedings shall be made and retained by the Sergeant at Arms and Doorkeeper of the Senate.

(3) During the test period provided in paragraphs (1) and (2), the Committee on Rules and Administration shall report a Senate resolution to the Senate specifying the times when radio and television broadcast shall be provided. Coverage of Senate proceedings shall begin upon the agreement of the Senate to the resolution reported pursuant to the preceding sentence. The test period shall end on the date prescribed by such resolution.

SEC. 6. The use of tape duplications of broadcast coverage of the proceedings of the Senate for political or commercial purposes is strictly prohibited; and any such tape duplication furnished to any person shall be made on the condition that it not be used for political or commercial purposes.

SEC. 7. Any changes in the regulations made by this resolution shall be made only by Senate resolution. However, the Committee on Rules and Administration may adopt such procedures and such regulations, which may not change or contravene any Senate rule and, which do not contravene the regulations made by this resolution, as it deems necessary to assure the proper implementation of the purposes of this resolution.

SEC. 8. Such funds as may be necessary (but not in excess of $3,500,000) to carry out this resolution shall be expended from the contingent fund of the Senate.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Committee on Governmental Affairs will hold a hearing on the President's Management Legislative Initiatives and related legislation. The hearing is scheduled for February 26, 1986, beginning at 10 a.m., in room 342, Dirksen Senate Office Building. Testimony will be received on the following bills:

S.J. Res. 190, to establish greater productivity in Federal Government operations as a national goal of the United States.

S. 1206, to require the Director of the Office of Management and Budget to prepare and transmit to the Congress a comprehensive report and plan on the reorganization, restructuring, consolidation, or realignment of Federal field offices, and for other purposes.

S. 1657, to extend and revise the authority of the President under chapter 9 of title 5, United States Code, to transmit to the Congress plans for the reorganization of the agencies of the executive branch of the Government.

S. 2004, to require the President to submit to Congress an annual report on the management of the executive branch of the Government.

S. 2005, to amend the Inspector General Act of 1978.

S. 2006, to amend the Contract Disputes Act of 1978 to facilitate the collection of claims against Federal Government contractors.

S. 2007, to amend the Office of Federal Procurement Policy Act to provide authority to test innovative procurement methods and procedures.

S. 2008, to improve the Federal procurement system by providing an alternative simplified procurement method for competitively negotiating procurements less than $5 million.

S. 2009, to authorize the Secretary of Treasury to issue regulations to require that wages be paid by electronic funds transfer or any other method determined by the Secretary to be in the interest of economy and effectiveness, with sufficient safeguards over the control of, and accounting for, public funds.

S. 2010, to eliminate or change the statutory requirements preventing the reduction of paperwork burdens and regulatory simplification.

H.R. 2401, to amend title 5, United States Code, to establish certain reporting requirements applicable in the case of any agency proposing to carry out removals, reductions in grade or pay, or other adverse personnel actions incident to closing, or changing the functions of, any of its field offices.

In addition, the Director of the Office of Management and Budget, has been invited to provide the committee with his perspectives on Government management and his plans for the coming months to improve our management systems and organization. The Comptroller General of the United States has also been invited to present his perspectives on the present state of our Government management systems and organization, and what additional actions, if any, are indicated to bring about needed improvements.

For further information, please contact Roger Sperry at the committee office (202) 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 19, 1986, in order to receive testimony on the following nominations.

U.S. CIRCUIT JUDGE

Frank J. Magill, of North Dakota, to be U.S. circuit judge for the eighth circuit.

U.S. DISTRICT JUDGE

Robert J. Bryan, of Washington, to be U.S. district judge for the western district of Washington.

Miriam G. Cedarbaum, of New York, to be U.S. district judge for the southern district of New York.

David R. Hansen, of Iowa, to be U.S. district judge for the northern district of Iowa.

Ronald R. Lagueux, of Rhode Island, to be U.S. district judge for the district of Rhode Island.

Lawrence P. Zatkoff, of Michigan, to be U.S. district judge for the eastern district of Michigan.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate on Wednesday, February 19, to conduct a meeting on the availability and cost of liability insurance.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on Wednesday, February 19, 1986, in order to conduct a hearing on proposed legislation authorizing funds for export administration, and export promotion activities of the Department of Commerce, and the first annual report on foreign policy controls of the Department of Commerce.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, February 19, to hold an oversight hearing to consider the President's proposed budget for the Federal Energy Regulatory Commission for fiscal year 1987.

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

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, February 19, to hold an oversight hearing to consider the President's proposed budget for the Department of Agriculture (Forest Service) for fiscal year 1987.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, February 19, to hold a hearing on reauthorization of the Commodity Future Trading Commission.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 19, in

closed executive session, in order to conduct a hearing on intelligence matters.

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

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, February 19, 1986, in closed executive session, in order to mark up the DOD authorization for fiscal year 1987.

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

ADDITIONAL STATEMENTS

FCC DECIDES FOR DISH ANTENNAS

● Mr. GOLDWATER. Mr. President, I am pleased to report that the Federal Communications Commission has adopted a strong rule preempting local ordinances which discriminate against home dish antennas. On January 14, the Commission ordered that local governments cannot impose unreasonable limitations or excessive costs on home satellite dish antennas which are not imposed on other types of antennas. The onus of proving that a discriminatory ordinance is valid is put on the local community. The text of the order and the Commission's accompanying statement were released on February 5.

Mr. President, the FCC order is a clear victory for the home Earth station consumer and industry. It will nip in the bud the disturbing trend of some communities to attempt to ban satellite dish antennas for a variety of reasons, ranging from a lack of technical knowledge about the new technology of home Earth stations to flagrant anticompetitive purposes.

The proposed rule makes it clear that the Commission will not operate as a national zoning board, but that local administrative and judicial procedures and remedies will generally be used in impelementing the FCC rule. This will place administration of the rule in the hands of local people familiar with the peculiar circumstances in each locality where they can reasonably adapt the Commission's general rule to fit local interests. Thus, the proposed rule allows flexibility for local governments, but at the same time, it protects consumers from discriminatory and unreasonable local restrictions which would effectively prevent the installation of dishes capable of adequate reception in each particular locality.

The Commission's order is firmly based on the Viewing Rights Act of 1984, section 705 of Public Law 98-549, which confers a specific statutory right upon customers to buy and dealers to sell dish antennas for private home viewing of satellite programming. The FCC action is also supported by the decision of the U.S. district court of Kansas which ruled that home Earth stations could be bought and sold both under section 705 of the Communications Act and the old section 605 which it replaced.

Mr. President, I am particularly pleased to note that the Commission announced that it stands ready to entertain requests for further action if it appears that local authorities generally are avoiding the standards of the new order. Thus, the Commission has openly invited review by it of any bad-faith efforts of localities to manufacture loopholes in the order.

Moreover, the Commission has warned communities that any restrictive ordinance enacted primarily for the purpose of giving economic protection to another communications medium, such as a cable system, might be invalid under State law for violating the principle that "zoning ordinances must be equal in operation and effect." It is clear that any such anticompetitive burden on interstate satellite reception service would also be in conflict with the Commission's announced objective of ensuring that home satellite antennas "are not treated less favorably than other antenna devices" under its earlier orders preempting certain State regulation of amateur radio facilities and SMATV operations.

Mr. President, the Commission's order is in direct response to a petition filed by the Consumer & Trade Association, known as Space and is responsive to Senate Resolution 35, which I introduced, and to the request which nine of my colleagues joined me in filing with the Commission. I wish to recognize the assistance that Senator GORE of Tennessee, Senators HELMS and EAST of North Carolina, Senator KASSEBAUM of Kansas, Senator LAXALT of Nevada, Senator BOSCHWITZ of Minnesota, Senator PRESSLER of South Dakota, Senator KASTEN of Wisconsin, and Senator STEVENS of Alaska gave by joining with me in asking the Commission to make a favorable ruling on behalf of home Earth stations.

Mr. President, in the interests of sharing this news with my colleagues and with the wide audience who reads the RECORD, I ask that the complete text of the Commission's satellite antenna order and statement be printed in the RECORD.

The material follows:

Before the Federal Communications Commission, Washington, DC

(CC Docket No. 85-87)

IN THE MATTER OF

PREEMPTION OF LOCAL ZONING OR OTHER REGULATION OF RECEIVE-ONLY SATELLITE EARTH STATIONS

REPORT AND ORDER

Adopted: January 14, 1986.

Released: February 5, 1986.

By the Commission: Commissioner Dawson dissenting and issuing a statement.

I. INTRODUCTION

1. On March 28, 1985 the Commission issued a *Notice of Proposed Rulemaking* (*Notice*) [1] stating its initial determination to adopt a rule preempting certain state and local zoning or other regulations of satellite receive-only antennas.[2] We have received extensive comments on a wide variety of issues raised in connection with this proceeding and are now in a position to adopt a final rule. The rule we are adopting is:

State and local zoning or other regulations that differentiate between satellite receive-only antennas and other types of antenna facilities are preempted unless such regulations

(a) have a reasonable and clearly defined health, safety or aesthetic objective; and

(b) do not operate to impose unreasonable limitations on, or prevent, reception of satellite delivered signals by receive-only antennas or to impose costs on the users of such antennas that are excessive in light of the purchase and installation cost of the equipment.

Regulation of satellite transmitting antennas is preempted in the same manner except that state and local health and safety regulation is not preempted.

2. This rule differs from that originally proposed [3] reflecting modifications made in response to the comments submitted.[4] Due to the large number of documents filed in this matter,[5] we will not discuss each individually. However, all parties' suggestions have been fully considered.

3. In making our initial proposal, we determined that we had the legal authority to preempt [6] and that a limited preemption of state and local zoning regulation was warranted.[7] The objective of the *Notice* was to solicit comments on the implementation of such a preemption, recognizing our obligation to ensure that federal communications policies are not frustrated while also acknowledging the strong, non-federal interest in land use regulations.[8]

II. COMMENTS

A. Authority to preempt

4. Commenters in agreement with our decision to preempt analyzed precedent supporting such Commission action.[9] Preemption, according to proponents, is fully consistent with Commission policy, has been sustained in court challenges,[10] and is not limited to cases in which discrimination is found.[11]

5. Parties opposing preemption [12] argued that the federal interest in the availability of satellite-delivered services is insufficient to rebut the presumption of validity which attaches to local regulation of traditionally local matters.[13] The League stated that municipal regulation does not directly affect the availability of Commission licensed satellites. Where alternative methods to receive video entertainment programming exist, (i.e., cable television, direct broadcast satellites, multipoint distribution systems), a federal preemption allowing the unregulated proliferation of satellite antennas where no fee is paid for programming will hurt these other services by depriving them of revenue which will in turn hurt the satellite industry by affecting its financial base.[14] The League argues that by eliminating local regulation the Commission may harm rather than advance its federal objective.

6. Section 705 of the Communications Act, 47 U.S.C. 705, according to the League, creates only a limited "sanction" of reception of satellite delivered programming. Brooks Satellite, Inc. (Brooks), in contrast, calls Section 705 rights "unequivocal" and "fundamental."[15] The League would limit the application of a case relied upon for preemption authority[16] on the basis of the "unique characteristics of MDS" where entry regulation was preempted because a reduction of reception points in one state placed a burden on interstate commerce.[17]

7. The McLean Citizens Association (McLean Citizens) stated that the cases relied on as precedent for Commission preemption were inapplicable because they involved state regulation of entry by new communications services. Comments filed by United States Satellite Broadcasting Co., Inc. (USSB), although favoring preemption, cautioned that the Commission must take care to respect the "legitimate land use concerns of state and local governments." USSB agreed with McLean Citizens that there is a distinction between federal preemption authority exercised under the Interstate Commerce Clause when the regulations are economic as opposed to based on state police powers. It stated that the Commission should try to harmonize its rule with legitimate zoning enactments.[18]

8. The League also asserted that the record before the Commission does not establish the existence of a problem and that therefore Commission action is unjustified.[19] Other parties disagreed, offering examples of ordinances which would violate the proposed preemption rule, detailing individual problems with restrictive zoning, and citing cases in which a denial of an application to install an antenna was sustained by court action, thus preventing the reception of programming.[20]

9. A final objection by the League is that the Commission's preemption will result in a significant amount of litigation and necessitate review by either the Commission or the courts. Because the proposed rule's standards are vague, judicial review would result in inconsistencies and agency review would impose extraordinary burdens on the Commission and on local authorities. Space replied that the adoption of a national standard would reduce litigation and encourage accommodation of disputes between antenna users and communities.[21]

B. Implementation of rule

10. Most parties, whether in favor of, or opposed to, preemption, offered suggestions with respect to the scope of the specific rule to be adopted. Many believed the requirements of the rule were vague and unclear and stated that it did not offer sufficient guidance to local communities[22] or would not be susceptible to application in specific cases.[23]

11. Some commenters suggested that the "discrimination" requirement be stricter and invalidate any regulation that discriminates in effect as well as on its face.[24] Others asserted that the phrase "in favor of other communication facilities" be deleted because this created a harder burden for those challenging local action.[25] Several parties suggested deleting the entire discrimination requirement, stating that the proper focus of preemption should be on the effect of the local regulation on federal objectives and not on differences in treatment.[26]

12. It was also urged by opponents that we delete the "least restrictive means" test. They claimed that requiring the least restrictive alternative would prevent zoning for legitimate objectives such as historical preservation.[27] Space argued that the least restrictive means test was consistent with first amendment requirements where local regulations were restricting constitutionally protected communications.[28]

13. Several cities and representative groups stated that the proposed rule's general exception for ordinances enacted pursuant to police power objectives was duplicative as general zoning law requires that regulations be based on legitimate health, safety or, in some cases, aesthetic objectives.[29] They asserted that such a rule was thus unnecessary. Some preemption advocates also objected to this criterion because it would allow circumvention of the discrimination requirement by creating multiple loopholes.[30] SPACE asked that any aesthetic zoning power be limited to "bona fide historic districts" that also restrict other "accourtrements of modern living."[31] American Satellite suggested that any health hazard relied upon by local authorities be required to be documented.[32]

14. Some commenters suggested preemption guidelines based on size and land use characteristics of the proposed antenna site. For example, the International Association of Satellite Users and Suppliers (IASUS) proposed an absolute preemption for construction in industrial, commercial and high density areas as well as for antennas of less than 3.5 meters with a limited preemption allowing non-aesthetically based regulation of antennas over 3.5 meters in low density single family zones.[33]

C. Alternative approaches

15. The APA asserts that the Commission should avoid the vagueness of the proposed rule by exercising preemption on a case-by-case basis and only in those instances where one communications technology is favored over another. Although acknowledging that the Commission's administrative burden might be increased under this approach, the APA maintained that there would only be a few cases of egregious discrimination necessitating review.[34]

16. Many parties supporting preemption action urged that any final rules be extended to transmitting as well as receiving antennas despite our tentative decision to limit consideration to the latter.[35] The rationale offered for this suggestion is that many smaller transmitting antennas are not visually or otherwise different from receive-only facilities and thus should not be subject to discriminatory local regulation.[36] These commenters argue that the record established in this proceeding is sufficient to justify Commission action with respect to transmitting antennas.[37] It was suggested that the Commission, by establishing the ANSI standards for regulation of radiation levels of transmitting equipment, has already preempted local control for health objectives.[38]

17. Other parties asserted that because we had stated a tentative conclusion to limit the rule under consideration to receive-only antennas, a new rulemaking might have to be established to consider preemption of local regulation of transmit antennas.[39]

18. Parties on both sides of the issues requested that in addition to, or instead of, a general rule, we should give examples of those ordinances or regulations that would be acceptable under our preemption standards.[40] Space, however, cautioned that such an approach was inadvisable because in limiting our rule with such examples, a wide variety of "local abuses" would not be properly addressed.[41]

D. Other issues

19. The League suggested that our preemption action would violate both the National Environmental Policy Act (NEPA) and the Regulatory Flexibility Act.[42] With respect to the former, it stated that under NEPA standards, the Commission is obligated to consider the authorization of an antenna over 30 feet in diameter or those to be built in an historic or scenic area a major action requiring an environmental impact statement.[43] The League contended that a similar approach is required in adopting a final preemption rule. Space, however, states that because the Commission is not authorizing any construction here and because the receive-only antennas under consideration are not required to be licensed, there is no inconsistency with NEPA. In addition, receive-only antennas usually do not approach thirty feet in height or diameter and therefore even if this rulemaking were an NEPA defined "action," no environmental policies have been implicated.[44]

20. The League also asserts that the *Notice* did not comply with the Regulatory Flexibility Act.[45] According to the League, we did not consider alternative approaches such as exempting small cities from preemption or allowing any compliance with our rules to be voluntary. Space disagreed, asserting that any exemption for small jurisdictions would circumvent Commission objectives in proposing a uniform regulatory policy. In addition, the rule would not impose any new record keeping or other additional administrative filing requirements on small cities, a determination which was made in our Initial Regulatory Flexibility Statement.

21. The National Trust for Historic Preservation (Trust) stated that the Commission illegally ignored the provisions of the National Historic Preservation Act by failing to consult with the Trust prior to enacting any rule. In addition, the Trust asserted that because historic preservation is also a federal objective, preemption is not authorized.

22. Both the District of Columbia and the National Capital Planning Association asserted that because zoning regulation in the District is promulgated under federal auspices, the Commission cannot preempt these regulations.

III. DISCUSSION

A. Preemption

23. In our *Notice* we concluded that we had the authority to preempt non-federal regulations which stood as obstacles to the accomplishment of federal objectives. We determined that the broad mandate of Section 1 of the Communications Act, 47 U.S.C. §151, to make communications services available to all people of the United States and the numerous powers granted by Title III of the Act with respect to the establishment of a unified communications system[46] establish the existence of a congressional objective in this area. More specifically, the recent amendment to the Communications Act, 47 U.S.C. §705, creates certain rights to receive unscrambled and unmarketed satellite signals.[47] These statutory provisions establish a federal interest in assuring that the right to construct and use antennas to receive satellite delivered signals is not unreasonably restricted by local regulation.

24. As stated in our *Notice*,[48] when "state regulation stands as an obtacle to the ac-

complishment of a congressional purpose," such regulation is subject to preemption.[49] Our conclusion was that the record showed local and state regulatory interference with established federal objectives and thus some type of preemption was warranted.

25. The comments submitted in this proceeding do not support a contrary conclusion and thus our final rule will implement a limited preemption. The arguments offered by commenters opposed to preemption state that a federal objective has not been established because other means of obtaining video programming are available and that a preemption in this proceeding would harm other services.[50] This position ignores the clear statement in our *Notice* that we will not permit a state to arbitrarily favor one particular communications service over another and that local ordinances which engage in arbitrary discrimination will be preempted. The existence of alternative communications media is not a sufficient justification for discriminatory local regulations. In many cases, satellites deliver a wider range of programming than that available over other media such as cable television systems or MDS. Thus, local regulation may deprive local residents of access to the broader range of choices available to antenna users in other parts of the country. In addition, this Commission repeatedly has emphasized its policies to maximize consumer choices by developing a competitive marketplace for the provision of telecommunications goods and services.[51]

26. If individuals cannot use antennas to receive satellite delivered signals because of discrimination or excessive state and local regulation, their right of access as established by Section 705 to interestate communications delivered by satellite will be useless.[52] Whether the use of satellite antennas will cause economic harm to other communications industries is not a proper basis for local regulations that effectively deny citizens direct access to satellites. Such regulations would frustrate our competitive regulatory policies which have been promulgated to provide for a variety of services by consumers. It would be contrary to those policies to permit discriminatory local regulation which reduces the range of choice.

27. The League and most commenting cities[53] have emphasized the traditionally local nature of zoning regulations. We recognized this concern in our *Notice*[54] and it was this factor which resulted in our original conclusion to propose a limited preemption. Despite this recognition, it must be emphasized that the relative importance to states or local jurisdictions of their own laws is not the proper focus in a decision to preempt.[55] The Supreme Court has recently held that a local transit authority was required to comply with the federal minimum wage and overtime requirements. The transit authority claimed it was immune from federal regulation when operating in areas of traditional local government functions. The court held that "a rule of state immunity from federal regulation that turns on a judicial appraisal of whether a particular governmental function is 'integral' or 'traditional'" is unworkable.[56] The same principle applies in this case in that it cannot be argued that preemption is automatically precluded merely because zoning has been called a traditionally local matter.

28. Other parties have questioned our reliance on prior Commission actions that have preempted state regulation of MDS and SMATV systems[57] pointing out that these cases involved non-federal economic regulations and not those promulgated under states' police powers such as zoning.[58] An analysis of cases cited which address this issue, however, demonstrates that the question of preemption authorized under the Interstate Commerce Clause is not dependent on whether the regulation at issue is economic but on whether its effect on interstate commerce is more than "incidental."[59] In this proceeding, the communications delivered by satellite are unquestionably interstate in nature and, as we found in the *Notice*, denial of reasonable access to antenna facilities significantly, not incidentally, interferes with individual rights to receive such communications.

29. An additional contention raised by commenters opposed to preemption is that the existence of a problem has not been sufficiently established to warrant action. However, the volume of comments submitted which detail significant problems with local zoning encountered by antenna users leads to a contrary conclusion.[60] In addition, the existence of cases in which an antenna user was able to obtain a favorable court result is insufficient evidence upon which to base a conclusion that a rule is unnecessary, especially when other cases to the contrary exist.[61] Whether a judicial remedy might be available in some cases and to those who can afford litigation is not determinative of our ability or of the necessity to preempt state regulations when they are obstructing federal objectives.

B. Final rule

30. Most commenters urged that we make adjustments to our final rule that would clarify its requirements and offer more effective guidance to local communities.[62] In formulating the rule adopted here, we have taken into consideration the criticism of our original proposal and to the extent possible in a general policy statement, have made our standard clearer and easier to apply to specific situations.

31. We have retained the criterion that a preemptible regulation must differentiate but have modified the rule to apply only to antenna facilities. This change is based on our conclusion that to require comparable treatment for antennas and cable systems would be unworkable in light of their distinct technologies.[63] This action is not a retreat from our condemnation of ordinances such as that of Chicago which prompted the petition initiating this rulemaking.[64] The Chicago ordinance imposed its stringent procedural requirements only on applications for satellite antennas and thus would differentiate in the treatment of other antenna facilities. This ordinance would be subject to preemption under our final rule because it would not comply with subparts (a) and (b).

32. Non-federal regulations may impose, under our adopted rule, reasonable requirements on all antennas as long as these local standards are uniformly applied and do not single out satellite receive-only facilities for different treatment.[65] An ordinance attempting to regulate all antennas by enacting restrictions on those of a certain shape, for example a ban on all spherical antennas, would differentiate between satellite antennas and other types of facilities and therefore would be preempted under our rule. Communities wishing to preserve their historic character may limit the construction of "modern accoutrements" provided that such limitations affect all fixed external antennas in the same manner.[66] In adopting this rule we intend that it be a valid accommodation of local interests as well as of two federal interests, namely promoting interstate communications and historic preservation.[67] Communities which are truly concerned with preserving their unique historic character may do so if they do not discriminate against satellite receive-only antennas.

33. If a community chooses to enact an ordinance which differentiates in its treatment of different types of antennas, it must bear a high burden. Our objective is to ensure that satellite receiving antennas are not treated less favorably than other antenna devices such as Amateur Radio antennas and Satellite Master Antenna Systems (SMATVs).[68] A community must demonstrate that its regulation meets both parts (a) and (b) of our rule. With respect to part (a), we agree with the commenters who said that our original proposal should be recast to reduce undefined and vague terms.[69] The rule has been revised in an effort to respond to that criticism, but any general policy formulation will have aspects subject to varying interpretations.

34. We have retained the use of health, safety and aesthetic objectives[70] but have merely required these to be "reasonable" and "clearly defined." These terms are readily susceptible to application by local authorities and give some flexibility in the application of local regulations to individual locations.[71] To be more specific in a general national policy statement would be inadvisable.[72] In addition, requiring local authorities to justify a differentiation in treatment will help ensure that local zoning power is not used to restrict unreasonably the installation of satellite receive-only antennas.

35. Although many commenters have argued that all aesthetic regulation should be preempted,[73] or severely restricted,[74] under prevailing law, aesthetics are permissible regulatory objectives. The preservation of such community values has been sustained even in light of first amendment challenges. Thus, any preemption which failed to recognize this strong local interest would not be sound.[75]

36. In addition to defining the reasonable objective of an ordinance which differentiates in its treatment of antennas, a community is limited in the types of restrictions it can apply. It cannot unreasonably limit or prevent reception by requiring, for example, that a receive-only antenna be screened so that line of sight[76] is obscured. Moreover, an ordinance which discriminates cannot impose size restrictions only on receive-only antennas which would effectively preclude reception.[77]

37. As a further standard we are requiring that any local restriction which fails to meet our discrimination test must not impose costs which are excessive in light of the costs of the equipment. Again, in a general policy statement, it is inadvisable to specify what "excessive" would mean in a particular situation but we are confident that local authorities who are familiar with local situations will be capable of making accurate distinctions.[78] If antenna users are not satisfied with the results of local determinations, it would be within the ability of a court to make legal determinations of reasonableness or excessiveness.

38. The requirements of part (b) are more specific and more easily applied than our original "least restrictive means" test. We agree with some commenters that the proposed requirement would be difficult to apply and might lead to unintended results.[79]

C. Alternatives

39. It has been suggested that instead of adopting a general policy statement, we should review specific zoning cases to determine if preemption is warranted in individual situations.[80] We rejected this approach in our *Notice* and disagree with the APA and others that the administrative burden created by case-by-case review will be minimal. Initially, as we stated in the *Notice*, we do not intend to operate as a national zoning board. Those cities commenting have consistently indicated their opposition to Commission involvement in local disputes and such individual review will increase rather than decrease a national presence. By issuing a rule, we expect that local authorities will conform their regulations to our standards and that they will make determinations which are in the best interests of their communities that reflect federal policy. Commission intervention in individual cases as a general policy will not further this objective.

40. We also disagree with the suggestion that if we impose a stringent threshold discrimination test, we need not adopt a general rule and could minimize the extent of Commission involvement in a policy which would instead require case-by-case review.[81] There has been increased interest and publicity surrounding this issue and we conclude that the large number of cases which might be presented for individual review would place a severe burden on our administrative process. Satellite antenna users who are dissatisfied with the results of any local zoning decision can use the standards adopted here in pursuing any legal remedies they might have.[82] In addition, we would entertain requests for further action if it appears that local authorities are generally failing to abide by our standards.[83] Any party requesting Commission review of a controversy will be expected to show that other remedies have been exhausted.

41. Many of the comments submitted urge us to include transmitting antennas in our preemption. Transmitting equipment, while visually similar to receive-only earth stations, does raise regulatory issues with respect to health and safety because of the emission of radio frequency radiation (RF radiation). This Commission has declined to preempt state or local RF radiation standards but has reserved this issue if it is brought to our attention that such standards are "adversely affecting a licensee's ability to engage in Commission authorized activities." [84] On the record before us, it would be premature to preempt health or safety standards, especially where our *Notice* indicated that issues with respect to transmitting equipment would be excluded.[85]

42. However, we see no similar impediment to the preemption of discriminatory, non-justified aesthetic regulation of transmitting antennas. There are no significant differences in the visual appearance of transmit and receive-only facilities and the same federal interest exists with respect to local restriction of access to satellite services. Thus, if a state or local regulation based on aesthetics differentiates between satellite transmitting antennas and other types of antennas, it is preempted as described in the rule adopted herein unless it has a reasonable aesthetic purpose and does not operate to unreasonably restrict or prevent transmisison. At this time, we are reserving the issue of preemption based on the health and safety aspect of RF radiation for consideration in a separate proceeding.[86] In taking this action, however, we are not preempting non-federal authority distinctions based on land use criteria such as those designating certain areas for residential, commercial or other uses.

43. We decline to attach a list of acceptable sample zoning ordinances. As has been repeatedly stated here, our preemption is intended to afford local communities some flexibility. Sample laws would curtail this flexibility. Moreover, a list of specific rules would be incomplete and could lead to circumvention of our objectives.[87]

D. Other issues

44. We agree with Space that our rulemaking does not violate either the National Environmental Policy Act or the Regulatory Flexibility Act. We are not authorizing the construction of any antenna facilities in this proceeding but merely are stating guidelines for local authorities. Thus, the NEPA regulations with respect to "major actions" do not apply. Because we are adopting a policy which will ultimately be reflected in individual local regulations including those based on aesthetics, we are taking no action in this proceeding which significantly affects the "quality of the human environment."[88]

45. In our *Notice*, pursuant to Section 603 of the Regulatory Flexibility Act, we stated that our rule would have a beneficial effect on local governments by affording guidance as to acceptable limits of governmental action. We adhere to this conclusion in adopting a final rule. Our objective in this proceeding is to avoid inconsistent local regulations which unreasonably restrict interstate communications. Any exemptions for small communities such as suggested by the League would certainly frustrate this objective. Our policies must be applied by all local jurisdictions and the commenters have not demonstrated why smaller communities should not be subject to our rule.

46. It has been argued by the District of Columbia and by the National Capital Planning Association that zoning ordinances in the District of Columbia cannot be preempted because they are promulgated under federal authority. However, it has been held that this factor is not of decisional significance in a federal preemption action.[89] With respect to federally controlled locations, it is presumed that federal authorities will follow the policy adopted here.

IV. CONCLUSION

47. Accordingly, pursuant to Sections 151, 303, 403 and 705 of the Communications Act, it is *ordered* that Part 25 of Chapter I of Title 47 of the Code of Federal Regulations is amended as set forth in Appendix B, effective March 14, 1986.

48. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 604, we make the following determination. The policy adopted herein is intended to preempt local regulations which are interfering with the federal objective of promoting interstate satellite delivered communications. Local governments of all sizes would be affected by our rule. In addition, small businesses selling receive-only antennas would possibly be benefited by an enhanced competitive market. The National League of Cities has objected stating that we have not considered as an alternative the exemption of small governments from the rule's operation. We conclude that any such exemption would result in undesirable inconsistencies which might impede the distribution of interstate communications. There are no effective alternatives.

49. It is *further ordered* that the Secretary shall cause this Report and Order to be published in the Federal Register.

50. It is *further ordered* that the Petition for Declaratory Ruling filed by United Satellite Communications, Inc. is granted in part and denied in part as set forth above.

51. It is *further ordered* that the proceedings in CC Docket No. 85-87 are terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

FOOTNOTES

[1] Preemption of Local Zoning Regulations of Receive-Only Satellite Earth Stations, 50 Fed. Reg. 13986 (April 9, 1985).

[2] This action was taken in response to a Petition for Declaratory Ruling filed by United Satellite Communications, Inc. Because of the significant local interest in the issues involved and due to the limited record compiled, especially with respect to the views of local governments, we issued a Notice of Proposed Rulemaking soliciting further comments.

[3] The proposed rule read as follows: State and local zoning or other regulations that discriminate against satellite receive-only antennas in favor of other communications facilities are preempted unless they have a direct and tangible relationship to reasonable, valid, demonstrable and clearly articulated health, safety or aesthetic objectives and constitute the least restrictive method available to accomplish such objectives.

[4] Several parties have made specific alternative rule proposals. Although none of these suggestions has been adopted in full, aspects of these proposals have been incorporated in our final action. *See, e.g.*, Comments of RCA Communications, Inc. (RCA), Hughes Communications, Inc. (Hughes), and Satellite Television Industry Association, Inc. (Space).

[5] Approximately 170 comments were filed in this proceeding in addition to many informal letters indicating interest and over 2000 postcards supporting preemption. A list of the commenters is attached as Appendix A.

[6] *Notice* at paras. 9-21.

[7] *Id.* at para. 30.

[8] *Id.* at para. 17.

[9] *See e.g.*, Comments of Hughes, Space, Cable Com. Corp.

[10] Comments of SPACE, Curtis Mathes Corp./Southern Satellite Systems, Inc./Spectrodyne, Inc. (Curtis Mathes), RCA.

[11] Comments of Brooks Satellite, Inc. at 4.

[12] At the suggestion of the National League of Cities (League), many cities stated objections to our proposed preemption. These were (1) the action is an improper federal interference in traditionally local matters; (2) the Commission does not have authority to preempt under the Communications Act; (3) local law provides adequate remedies; (4) preemption would impose unreasonable administrative burdens on states and localities. *See, e.g.*, Comments of Manhattan Beach, Ca.

[13] Space contends that this assertion is incorrect because the lawfulness of preemption action depends upon the impact local regulation has on federal objectives and not on the degree of local interest. Space comments at 6.

[14] League Comments at 5.

[15] Comments of Brooks at 11.

[16] In the Matter of Orth-O-Vision, Inc., 69 FCC 2d 657 (1978), *aff'd sub nom.* New York State Commission on Cable Television v. FCC, 669 F.2d 58 (2d Cir. 1982) (Orth-O-Vision). The League does not comment on our order in Earth Satellite Communications, Inc., 95 FCC 2d 1223 (1983), *aff'd sub nom.* New York State Commission on Cable Television v. FCC, 749 F.2d 804 (D.C. Cir. 1984) (Earth Satellite) which preempted state regulation of SMATV systems where signals were delivered by satellite.

[17] League comments at para. 4.

[18] USSB cited Hybud Equipment Corp. v. Akron, 654 F.2d 1187, 1194 (6th Cir. 1981) in support of this proposition. The constitutional basis of the Communications Act is the Interstate Commerce Clause.

[19] League Comments at 11 quoting Home Box Office, Inc. v. FCC, 567 F.2d 9, 36 (D.C. Cir. 1977).

[20] Space Comments at 5-8; USSB Comments at 1-3. Other parties' comments described particular difficulties that individual companies have encountered. *See, e.g.*, Comments of Atlantic Satellite, Spectradyne, American Satellite, Direct Broadcast Satellite Association, Curtis Mathes.

[21] Reply Comments of Space at 8-9.
[22] Comments of American Planning Association (APA), Mutual Broadcasting System, Inc.
[23] Comments of National Satellite Cable Association and Hughes.
[24] Comments of USSB at 3.
[25] Comments of Equatorial Communication Services (Equatorial) and Associated Press.
[26] Comments of Curtis Mathes, Cablecom and Hughes. *Contra*, Comments of M/A Com and Equatorial urging that a clear stand be taken against discrimination.
[27] Comments of National Trust for Historic Preservation. *See also* Comments of National Capital Planning Association.
[28] Comments of Space at 12-15.
[29] *See* Comments of APA. *See also* Reply Comments of Space at 13. Comments of the National Capital Planning Commission at 7 requested the inclusion of "security" as a criteria but did not elaborate.
[30] Comments of International Association of Satellite Users and Suppliers at 6.
[31] Comments of Space at 17. Cable Com. Corp. at 7 suggested eliminating aesthetics as an acceptable local objective.
[32] Comments of American Satellite at 1.
[33] *See also* Comments of M/A Com, Brooks, USSB, Sat Time Inc., Direct Broadcast Satellite Association (DBSA) and National Association of Broadcasters (NAB) with respect to suggested size criteria. *Cf*, Comments of Contemporary Communications Corp. which cautioned against emphasis on size or physical characteristics of antennas.
[34] Comments of APA at 9. Many cities agreed with APA's recommended approach. *See, e.g.* Cincinnati, Ohio; Tuscaloosa, Ala.; Warwick, R.I. *See also* Comments of David Preece.
[35] *See, e.g.*, Comments of Equatorial; Hughes; IASUS; RCA; Public Broadcasting Service (PBS); Satellite Business Systems (SBS); M/A Com; Atlantic Satellite; Sat Time, Inc. *See also* Comments of Contemporary Communications Corp. which urged extension to all telecommunications antennas.
[36] Comments of PBS. *See also* Comments of RCA which suggests a presumption against local regulation of antennas under 2 meters in order to encourage construction of small antenna business networks to operate in the 12/14 GHz frequency bands.
[37] *See* Reply Comments of PBS.
[38] *See* Comments of Atlantic Satellite citing LIMA Partners vs. Northvale, Docket No. L-17049-84 P.W. (Superior Court of New Jersey, Law Division, Bergen County, May 10, 1985) where a state court reached this conclusion.
[39] *See* Comments of NAB. Atlantic Satellite has filed a petition requesting the establishment of a separate rulemaking to consider preemption of local regulation of satellite transmitting antennas. RM-5021.
[40] *See* Comments of National Capital Planning Association at 8; Curtis Mathes at 5.
[41] Comments of Space at 13.
[42] 42 U.S.C. § 4321 *et seq.*; 5 U.S.C. § 601 *et seq.*
[43] Comments of League at 17.
[44] Reply Comments of Space.
[45] Comments of League at 18. We are considering this issue raised by the League's comments despite the fact that it failed to submit separate comments directed to our initial Regulatory Flexibility Analysis as required by paragraph 34 of our *Notice*.
[46] Earth Satellite Communications, Inc., note 16, *supra, citing* General Telephone Co. of California v. FCC, 413 F.2d 390, 398, 401 (D.C. Cir. 1969).
[47] The state court cases cited by the League at pp. 9-10 of its comments for the proposition that the Communications Act does not authorize preemption of zoning involve questions with respect to height limitations on amateur radio facilities. In this proceeding, we are not preempting reasonable, non-discriminatory local restrictions. In addition, these cases do not involve Section 705 rights.
[48] *Notice* at para. 9.
[49] Capital Cities Cable, Inc. v. Crisp, 104 S. Ct. 2694 (1984). *See also* Michigan Canners and Freezers Association, Inc. v. Agricultural Marketing and Bargaining Board, 104 S. Ct. 2518 (1984); Florida Avocado Growers v. Paul, 373 U.S. 132 (1963); Hines v. Davidowitz, 312 U.S. 52 (1941).
[50] The League claims that cable television systems are the primary method of delivering video programming and that existence of a dual federal-local regulatory scheme for that service precludes preemption action with respect to satellite antennas.
[51] *See e.g.*, Policy and Rules Concerning Rates for Competitive Common Carrier Service and Facilities Authorizations Therefore, 95 FCC 2d 554 (1983).
[52] *See Notice* at para. 10.
[53] *See, e.g.*, Comments of Mankato, Minn.; Aurora, Colo.; Delaware County Planning Dept.
[54] *Notice* at para. 15. *See also* Columbia Plaza Ltd. Partnership v. Cowles, 403 F. Supp. 1337 (D. D.C. 1975).
[55] Free v. Bland, 369 U.S. 663, 666 (1962). *See also* Fidelity Federal Savings and Loan Assoc. v. De La Cuesta, 458 U.S. 141, 153 (1982).
[56] Garcia v. San Antonio Metropolitan Transit Authority, 105 S. Ct. 1005, 1016 (1985).
[57] Orth-O-Vision, *supra* note 16; Earth Satellite, *supra* note 16. *See* Canton Township v. Brenner, No. 85 CT3551 (35th Dist. Ct. Plymouth, Michigan September 26, 1985) at 10 where the Court stated that the Commission in its Earth Satellite order has already preempted local zoning regulation "to a significant extent."
[58] Comments of McLean Citizens.
[59] Hybud Equipment Corp. v. Akron, 654 F.2d 1187, 1194 (6th Cir. 1981) *citing* Hughes v. Oklahoma, 441 U.S. 322 (1979).
[60] *See, e.g.*, Comments of Space discussing ordinances of Baltimore, Md. and Gaithersburg, Md. *See also* note 20, *supra*.
[61] For a favorable result, *see* Morgan v. Coral Gables, #83-42793 C.S. 22 (Cir. Ct. Fla. June 18, 1984); Canton v. Brenner, No. 85 CT 3551. For a contrary result, *see* Minars v. Rose, #13686/84, (Special Term, Nassau Co., NY, March 25, 1985); Gouge v. Snellville, 287 S.E.2d 539 (Sup. Ct. Ga. 1982). *See also* Reply Comments of Space at 7-8.
[62] We adopt USSB's suggestion that our preemption apply to all non-federal action including ordinances, statutes and regulations. In addition, we have received comments filed by Max Dean Parsons which urge extension of preemption to private restrictions such as those found in deed covenants. This issue was not raised in our *Notice* and raises some issues not presented in a consideration of local governmental action. We decline to rule on it in this proceeding and deny the request.
[63] *See* Comments of Hughes which indicate that construction approval requirements may differ for small satellite antennas and inner-city cable construction.
[64] *See Notice* at paras. 17-21. Any ordinance enacted solely for the purpose of giving economic protection to a cable system might be invalid under state law. *See* Comments of League at 12 which cites 8 McQuillin, The Law of Municipal Corporation, Sec. 25.61 at 161 (3d. ed. 1971) for the proposition that zoning ordinances must be equal in operation and effect.
[65] Some Commenters claim that the impact of interstate commerce and not discriminatory treatment is the proper focus of a preemption action. *See, e.g.*, Comments of Curtis Mathes and Hughes. It is precisely our concern that states are impermissibly burdening interstate satellite service that leads us to issue this preemption.
[66] *See* Comments of National Trust, National Capital Planning Association, Space.
[67] The National Trust states that Sections 106 & 110 of the National Historic Preservation Act, 16 U.S.C. § 470 *et seq.*, requires us to consult with them prior to rulemaking. Even if this assertion is correct, the National Trust had full opportunity to comment and its comments have been considered in formulating the final rule.
[68] *See, e.g.*, Federal Preemption of State and Local Regulations Pertaining to Amateur Radio Facilities, 50 Fed. Reg. 38813 (September 25, 1985) where we stated: "State and local regulations that operate to preclude amateur communications in their communities are in direct conflict with federal objectives and must be preempted." *See also* Earth Satellite Communications, Inc., *supra* note 16, where we stated: "we do not wish to preclude a state or locality from exercising jurisdiction over certain elements of an SMATV operation that properly may fall within its authority, such as zoning or public safety and health, provided the regulation in question is not undertaken as a pretext for the actual purpose of frustrating achievement of the preeminent federal objective and so long as the nonfederal regulation is applied in a non-discriminatory manner. Local authority over such concerns must be exercised so that a local jurisdiction in fact does not inhibit or interfere with the delivery of interstate signals through the exercise of its authority."
[69] Such terms as "valid", "clearly demonstrable" and "direct and tangible relationship" were in this category. *See* comments of National Satellite Cable Association.
[70] We find that the National Capital Planning Association's suggestion to include "security" as a criteria has no relevance to the issues raised here as national security issues relating to communications are subject to federal, not state, jurisdiction.
[71] It was such flexibility that many cities insisted was necessary if they were to exercise legitimate zoning powers. *See* Comments of David J. Preese; League at 7.
[72] For example, we cannot say that the requirements of 10 as opposed to 5 bushes of a certain kind or size for screening of satellite antennas is unreasonable without becoming involved as a national zoning arbitrator, a result we sought to avoid in our *Notice*.
[73] *See* Comments of Curtis Mathes.
[74] *See* Comments of Space.
[75] *See Notice* at n. 21 and cases cited there where we noted the Supreme Court's requirements of careful scrutiny of local aesthetic regulations which involve first amendment considerations. Metromedia, Inc. v. City of San Diego 453 U.S. 490 (1981). *See also* Canton V. Brenner, No. 85 CT 3551. L.I.M.A. Partners v. Borough of Northvale, Doc. No. 17049-84(PW) (May 10, 1985). Because we are relying on our statutory authority under the Communications Act as a basis for preemption, we are not reaching first amendment issue raised in connection with this proceeding.
[76] A receive-only antenna must have an unobstructed line of sight to a satellite in order to receive signals. It has been asserted by SPACE that cities, in enacting zoning ordinances, were somtimes unaware of the technical requirements for reception. Reply Comments at 4.
[77] Under current technology, an antenna must be at least 8 to 12 feet in diameter to adequately receive video signals transmitted by satellite. Space Reply Comments at 15 n. 7. Antenna size for Direct Broadcasting Service reception can be much smaller but that service has not as yet been instituted.
[78] This is the type of flexibility that cities have said they need to effectively enforce their zoning power. *See* Comments of Midland, Mich.; Pinellas Park, Fla.; Carmel by the Sea, Ca.; Connecticut Siting Council. Examples of excessive costs might be high filing fees or unreasonable hearing requirements.
[79] *See e.g.*, Comments of Trust at 2.
[80] *See* para. 14 *supra*.
[81] Our preemption is broader than that suggested by APA by requiring that discriminatory ordinances be justified.
[82] As Hughes observes "the preemption standard is intended to be operational, and enforceable by private parties, without further involvement of the agency." Comments at 8.
[83] *See* Comments of USSB.
[84] Responsibility of the Federal Communications Commission to Consider Biological Effects of Radio Frequency Radiation when Authorizing the Use of Radio-Frequency Devices, FCC 85-90 (released March 14, 1985) at para. 43.
[85] *Notice* at para. 27.
[86] The rulemaking requested in RM-5021 specifically addresses this issue. *See* note 39, *supra*.
[87] Comments of SPACE at 14.
[88] *See* 47 C.F.R. § 1.1301.
[89] Columbia Plaza Limited Partnership v. Cowles, 403 F. Supp. 1337, 1341 n.11 (Dist. Ct. D.C. 1975). In this case, the court found that the fact that the District of Columbia's rent control program was established pursuant to a federal enabling statute did not by itself indicate a congressional intent that the area of regulation should not be preempted.●

CONGRESSIONAL CALL TO CONSCIENCE

● Mr. HATFIELD. Mr. President, Mark Terlitsky, a Soviet Jew, graduated from the Moscow Institute of Architecture, and was formerly employed by a respected Moscow design firm. His talent and interest in historic preservation led him to work on special projects such as the restoration of ancient buildings in the Kremlin. In 1974, Mark sacrificed his career with

the Government design firm, transferring jobs to work on small residential and commercial projects. This change took place as Mark and his wife, Svetlana Kredova-Terlitskaya prepared to apply for permission to emigrate to Israel. Now, a decade later, Mark and Svetlana are still in Moscow, their exit visas repeatedly refused, and their jobs lost.

The Congressional Call to Conscience has highlighted the plight of dozens of Soviet Jews. The Senate has been informed of countless cases of beatings, family deunification and harassment inflicted upon the Jewish population living in the Soviet Union. Because these "refuseniks" desire to practice their faith and possibly to emigrate to Israel, they suffer greatly.

Unlike Mark and Svetlana, some Soviet Jews are allowed to leave. In fact, Mark's brother and Svetlana's sister were given exit visas. But the 1976 exit visa request filed by Mark on behalf of himself, Svetlana and their daughter, Olga, has again been refused. After the first application, Mark first was demoted to a draftsman, and then lost his job altogether. Svetlana, who was an economics analyst, was also fired. For 10 years they have been without employment. Harassment has become part of the Terlitsky's lives, and they have been detained and beaten on several occasions. But such abuse does not diminish their commitment to preserving their religious culture. Svetlana participated in the Womens Group of Moscow, organizing classes and summer camps for Jewish children until the group was banned by the authorities.

Despite constant fear, both Mark and Svetlana are active in the Jewish refusenik community. Their dream of emigrating to Israel seems illusory, but the hope and fortitude they exhibit are inspirational to other refuseniks and to those of us who are free to openly worship our faith. Mark Terlitsky, Svetlana Kredova-Terlitskaya and all Soviet Jews are not forgotten, and we offer our encouragement and help, in hopes that they will soon be granted freedom.●

SECOND CONFERENCE ON ORAL REHYDRATION THERAPY [ICORT II]

● Mr. KASTEN. Mr. President, in December 1985 the Second International Conference on Oral Rehydration Therapy [ICORT II] convened in Washington, DC, under the sponsorship of the U.S. Agency for International Development and the cooperation of UNICEF, World Health Organization, U.N. Development Program, and the World Bank. The conference brought together 1,200 participants from 100 countries to share their knowledge in promoting the use of ORT. ORT is a simple, low-cost solution of sugar, salt, and water, used in treating diarrhea, a major killer of infants and children in developing countries. In closing remarks at the conference, AID Administrator M. Peter McPherson challenged participants to make universal accessibility to ORT for children overseas a reality by 1990. I am pleased to provide the complete text of the Administrator's remarks.

The text follows:

REMARKS OF PETER MCPHERSON, ADMINISTRATOR, AGENCY FOR INTERNATIONAL DEVELOPMENT

We have come to the end of an extraordinarily successful meeting. 1200 participants from some 100 countries have shared their knowledge and experiences. And yet, you—the public health leaders assembled here—are only a fraction of the literally millions of health workers, volunteers and parents who carry the ORT banner.

At ICORT I, I think it is fair to say that we reached scientific consensus about ORT. At ICORT II from all I've seen and heard we have taken a leap forward and achieved a consensus for action.

Dr. Merson has summarized the key points of the meeting and Mr. Grant has raised some important points. I'd like to highlight just a few.

1. You have said here that ORT has changed the face of health care delivery. You have applied your best creative energies and developed innovative solutions to some incredibly difficult problems.

2. You have said that ORT has led health care out of the clinics and into communities and homes. We know now that new communications and marketing techniques can revolutionize the delivery of health services. We now see the importance of political and community mobilization.

3. You have shown how the private sector can play a pivotal role.

For example, private voluntary organizations have mobilized their volunteers to educate and train health care workers and parents.

Private business is playing a big role, producing and distributing oral rehydration salts. Developing countries now lead the world in ORT production, in part due to these private sector efforts.

Private practitioners and pharmacists have endorsed ORT in country after country and have shown how critical their involvement is.

4. You have proven that dramatic results can be achieved.

When the key elements are in place and,

When governments are committed to success.

5. We have also learned that ORT by itself is not enough.

We have two principal thrusts for our child survival activities: ORT and immunization. These are the engines that can drive primary health care to the far reaches of every country. They are the foundation on which a sustainable health system can be built to deliver other critical interventions such as birth spacing and nutrition.

To quote Dr. Mahler, "ORT and immunization go hand in hand, complementing one another—one curative, one preventive; one immediately life-saving—one potentially life-saving."

Now it is time to look to the future.

Many of you in this room are returning to your countries where mortality rates are painfully high, where malnutrition is ever present, where epidemics of cholera persist, poverty abounds and resources are scarce. You came to this conference because you know about ORT and wanted to know more. You came because ORT offered you an opportunity to improve the health of your people.

Your efforts and your enthusiasm give hope that the global objectives set for ORT by the World Health Assembly can be achieved. The objectives set a few years ago for 1989 were: 50% access to ORT; 35% use of ORT in children below age five; and a 25% reduction in deaths associated with diarrhea. When these targets were set, few thought they could be achieved. Even now it will not be easy.

But this conference has convinced me that we can do it and do even more.

I propose that we translate these targets and stretch them and stretch ourselves.

We should strive to make ORT accessible to virtually every child who needs it by 1990.

We should seek 45 percent use of ORT by 1990, and

Finally, we should achieve a common goal of preventing two million deaths from diarrheal dehydration in 1990. Or, in laymen's terms, two million lives saved from death due to diarrhea.

Now, in order to achieve these targets, knowledge of the correct use of ORT is essential.

The World Health community has set ambitious targets to achieve universal immunization by 1990. Along with that effort, it makes sense to reach these same parents and children with the message of ORT. We need to instill in them this knowledge, so that they know how to use ORT, and use it effectively.

If we are to achieve the goal we have set forth, it is reasonable to expect that we must instill knowledge of the correct use of ORT in 80 percent of the parents of children at risk. This 80 percent target will be a helpful tool in tracking progress for some programs. However knowledge is not the goal itself. Our primary goal is reduction of deaths.

Again, our primary goal is to reduce death due to diarrheal dehydration by two million in the year 1990.

To achieve this goal, each of us must give our very best effort. Further, each country must make its contribution in keeping with its resources and its own goals.

Some countries, such as Egypt, have achieved outstanding results as we have heard these past three days. We know that dramatic results are possible. Countries which have achieved those high levels, however, must set a goal to sustain these results—and even improve upon them.

The challenge for countries just beginning, or who haven't achieved such results with their program, is to set their own targets and apply their resources to achieving them.

Each donor must do its share and so must the private sector. ORT is low cost relative to the number of lives which can be saved. Private channels for distribution can further reduce the cost of programs. AID, for its part, intends to continue very substantial funding for ORT. In 1985 we provided $35 million for ORT, up from $15 million only three years before. We will continue our record of maximum contribution.

There are other vital steps to achieve the goals I have discussed here today:

We will need to close the gap between access and effective use of ORT. We need to teach, to train and to promote so that those who have access, use ORT, and use it correctly.

We'll need to improve donor coordination, especially on the country level. In this way donor efforts can reinforce one another and contribute to real progress toward country targets.

A key to better donor coordination lies in the developing countries themselves. Each of them must take the lead in pulling donors together behind their country's plans. Plans with clear goals and divisions of responsibility are critical to mobilize resources and to efficient implementation.

The World Bank, UNDP, UNICEF, WHO and other donors who provide major health assistance in a particular country have an important responsibility to ensure donor coordination.

Finally, we will need to continue our close communication on technical issues. We urge you to organize country and regional meetings to forge plans and share experiences and are prepared to help as appropriate. To that end, if it is desired and warranted, AID would be happy to host an ICORT III. We would, of course, want to consult with our cosponsors, bilateral donors and developing countries. At this time, the situation is not clear, but we stand ready as needed.

We have ambitious goals and global vision. ORT can lead the overall development of health care. It shows that worldwide coverage of essential health services is in fact possible. And—by reaching into every home and community—ORT can catalyze the very process of development.

We have a goal. I believe we know what is needed to achieve it. Each death we prevent will help us reach our global target. Each health worker, each program manager and every country has a crucial role to play.

If we accomplish this, together we can write one of the great chapters of human history.●

REMARKS OF THOMAS R. HERWITZ, FCC LEGAL ASSISTANT, ON BROADCAST DEREGULATION

● Mr. GOLDWATER. Mr. President, recently I read remarks by Thomas R. Herwitz, legal assistant to the chairman of the Federal Communications Commission, Mark Fowler.

His remarks were given at Boston University on November 1, 1985, and he entitled his talk, "The Fear of the Federal Soda-Tasting Commission and Other Parables on Broadcast Deregulation." I consider this an excellent commentary on one of the great failures of government and that is that it too often forgets to ask the fundamental questions about the propriety and value of its own regulation.

Mr. Herwitz points out how media regulators traditionally have been guilty of this and he offers candid examples to back up his assertions.

Mr. President, I ask that this speech be entered into the CONGRESSIONAL RECORD for the benefit of my colleagues, and I strongly urge them to read it.

The speech follows:

FEAR OF THE FEDERAL SODA TASTING COMMISSION, AND OTHER PARABLES ON BROADCAST DEREGULATION

I'm delighted to be here to speak to students, faculty and guests at Boston University. As you know, the last decade has seen a change in the direction of communications policy in the United States. What was once an activist Commission in favor of regulation, switched course. Over the last four years we've seen activism to undo regulation of electronic press.

When Mark Fowler took office as Chairman of the FCC in 1981, he described this new trajectory as "unregulation." It's the process of removing from the electronic media restriction which have accumulated at the agency over the years. We've been Spring Cleaning since Fowler came on board.

To begin exploring these developments, let me give you an example from the sports world. Let's say the Basketball Commissioner made Larry Bird play with one hand tied behind his back. Sure, Bird would be hurt—as would the Celtics—because he couldn't play his best ball. But the greatest injustice is that the fans would be harmed; they'd be deprived of seeing basketball played at its very best. That's not fair, and it certainly isn't justified. Over the last few years, more people have begun to realize this applies to broadcasting, too, and have become more appreciative of Chairman Fowler's pro-competition, marketplace, and libertarian philosophy.

I call this speech "Fear of the Federal Soda Tasting Commission, and Other Parables on Broadcast Deregulation," because I've found that by cloaking many of the actions the FCC has taken during its first fifty years in the "Emperor's New Clothes," they can be seen for what they are: ludicrous, unnecessary, and stifling of free speech.

Having spent the last 2½ years looking at Commission rules and regulations—which in most cases ranged from silly at best to harmful at worst—it's clear to me that the present FCC is on the right track. By outlining for you my path to that belief, I hope I'll convince you, too.

You can learn a lot by just looking at events here in Boston. In the 1960's, this city suffered the ill effects of Washington communications imperialism. The FCC effectively forced the demise of a prominent Boston newspaper by splitting the necessary umbilical cord between the paper and the co-owned broadcast station. As I'll discuss again later, who really is served when that type of regulation—even if well-intended—engenders the exact opposite result? Living in Washington, which saw the slow demise of its second newspaper, the Washington Star, after it was split from a TV station, I'm angry about government stepping in and shaking up newspapers that way. I'm even more upset that it stepped in bollixed up the information marketplace.

Your city also has some fine examples of how the FCC's marketplace approach to broadcast regulation works. If I recall, during the last mayoral election, the affiliate carrying the World Series preempted the game on the evening of the Boston primary. The station may have done so because the revenues from election coverage would be higher than from the World Series. It may have done so because the goodwill gained was more valuable than that evening's ratings. It may have done so out of a public spirit and a dedication to the people of Boston. For whatever reasons, the station did it. And it did, not because some government agency told them to, but because in its business judgment it was the right thing to do. All this in the midst of FCC deregulation under which the self-proclaimed media watchdogs, bemoaning the loss of any federal regulation, predicted reckless abandon by broadcasters.

As I suggested earlier, the present FCC's approach to mass media best can be capsulized by three main objectives. First, to create to the maximum extent possible an unregulated, competitive marketplace environment for the development of telecommunications. Second, to eliminate unnecessary regulations and policies. Third, to eliminate government action that infringes the freedom of speech and the press.

In effect, it means going to the "print model" for broadcast regulation. In other words, the litmus test is whether a rule or policy would or could be imposed on newspapers, books, and magazines. If not, it must be eliminated. It's the "Emperor's New Clothes."

Now, there always will be rules which remain and apply to broadcasting. Interference rules, and other technical rules, which are required to ensure that broadcasters can be heard, may not run afoul of the First Amendment, just as other reasonable time, place, and manner restrictions constitutionally can limit any speech. But we don't need an FCC to enforce such rules. We'll have a Federal Communications Administration, like the FAA, with a single administrator—probably an engineer—overseeing the purely technical communications rules which remain.

And, of course, there is some speech which is constitutionally unprotected: fighting words, obscenity, speech which will have the direct effect of inciting others to violence. Just as a newspaper can be prohibited from disseminating such speech, so too may the electronic press.

But would we require a newspaper to devote 10% of its pages to "quality" children's stories, a regulation that some in Congress would impose on broadcast stations in the form of an obligation to air an hour of "quality" children's programming each afternoon? Would we tell a newspaper that it had to cover contrasting points of view on controversial issues of public importance? Would we tell Sports Illustrated magazine that it had to devote a certain percentage of its pages to non-sports news even though its sister magazine, Time, is devoted to general news?

Would we tell a newspaper that it can't editorialize in behalf of a particular candidate? Would a newspaper have to provide equal amounts of space to all opposing candidates if it offers one candidate space; and would it have to offer all candidates space at its lowest advertising rate even if that's a volume discount rate? Would we tell The Washington Post Company that its newspaper, like its TV stations, could be challenged every five years by anybody else who wanted to run a prominent Washington newspaper—even if the Post had done nothing wrong?

Of course not! All of these clearly would flunk a constitutionality test; some, like the political equal space rule, already have. Then why do we tolerate doing all these things to broadcasters?

Some think the answer is easy. They say that broadcasters are public trustees using a scarce resource for personal profit. As a consequence, the government should levy a quid pro quo in the form of government-im-

posed regulations to assure broadcasters operate in a manner consistent with the government's version of what's good for the public.

Fifty years ago, this may have seemed proper. Today it's nothing more than archaic. This quid pro quo is stiflingly bad policy. It inhibits innovation, technological development, and true competition. More important, it is based on a false public interest conceived and constructed on the unfounded and wavering proclamations of unelected bureaucrats. It's somebody in Washington telling a broadcaster what his viewers want to watch.

Think about the different rationales which have been put forth for the differing treatment of the print press and the electronic press. Take scarcity. Are we today supposed to believe that broadcast stations are scarce and newspapers aren't? Look at this market. There are triple the number of television broadcast stations, and many times the number of radio stations, than there are newspapers. More to the point, did the framers of the Constitution do a scarcity analysis of newspapers before they provided them First Amendment protection? I don't think so. But had they, they surely would have found a scarcity under the standards set for the electronic press today.

Others suggest that it is the greater impact of the electronic press vis-a-vis newspapers that makes such regulations constitutional. But did the framers of the First Amendment really intend that the government could regulate a medium just because it's more pervasive? If so, government could constrict the very expression which most needs protection. That's turning the First Amendment on its head. And who could suggest that newspapers and leaflets did not have a tremendous impact as the predominant media when the Bill of Rights was signed?

Indeed, courts recognize the problems of applying differing treatment to these different media. In one recent case, which threw out the "must carry" rules (which required cable systems to carry all local broadcast stations), the court clearly viewed cable as an electronic publisher not unlike a newspaper. I'm certain it will not be long before the courts recognize this for broadcasting as well. The Supreme Court last year, in analyzing certain FCC political broadcasting rules, suggested that it was interested in a re-evaluation of this scarcity rationale, and a re-examination of the chilling effect of the Commission's rules on broadcasters' speech.

This past summer, the Commission squarely confronted the Supreme Court's questions. Reexamining the fairness doctrine, we found that the rule did chill speech. Surveying the media landscape, we found that the scarcity rationale—if ever appropriate—certainly no longer is.

We were told of journalists who, before airing a story, felt obliged to consider how the FCC would react. They felt they had to consider the costs of defending an FCC case against the violation of this rule. In some cases, as a result, the programs didn't air. And who benefitted? As long as people are being deprived of information by rules like the fairness doctrine—out of fear of the federal regulatory process, or for whatever other reason—the public is very much disserved.

I honestly believe these kinds of rules constrain broadcasting from functioning as a true electronic press. I hope the day comes soon when it's able to do so. Can you imagine having a newspaper in town unable or unwilling to have an editorial page and an editorial position? Why is it any better when the electronic press is kept out? There are enough broadcasters out there with enough different points of view that we'd be served better by more vibrant, vigorous broadcasting than is possible under the present content regulations.

Remember the constitutional conception of a marketplace of ideas that has strongly butting views. The American people listen to this robust debate and pick out the views they believe are right. But the federal regulations we now impose on the electronic press interfere with that marketplace of ideas and impede that robust debate. We trust our jury system to a marketplace of ideas. Why can't we trust our broadcasting system? When we stray from that constitutional scheme embodying this basic precept of our democratic society, we fundamentally damage the foundation of civil liberty upon which all others are based.

It's with this basic skepticism in mind that we began to examine all those regulations in the small print of the FCC codes and in the minds of those who sought to regulate broadcasting. It was easy to pluck those fruits of regulation which were rotting on the vine and draining the electronic press of its very strength.

Let me group these rules into four loose categories. First, there are those rules which don't accomplish what they're intended to accomplish. In fact, in some cases they do just the opposite. The fairness doctrine's a good example: rather than achieving its goal of promoting discussion, in many cases it ends up squelching it.

Or, take the regional concentration rule. At one point, the Commission outlawed any broadcaster having three stations in any given 100-mile area, to assure no one had too great of an influence on the region. But we found that rather than bringing diversity to a region, in fact it diminished the available information. Broadcasters who wished to set up regional program services or share information (and costs) among coowned stations effectively were precluded by the rule. Regional news coverage suffered. Regional sports coverage suffered.

The same thing was true of the seven station rule which prohibited any broadcaster from owning more than seven TV, seven FM, and seven AM stations. The theory was that diversity of ownership spawned diversity of programming. But a look two years ago at the predominant programming distribution sources revealed quite plainly that the national networks delivered the bulk of all television programming. Only by allowing other broadcasters to grow larger—anathema to past Commissioners—could there be hope of new competition with the networks and more diversity of programming. What the Commissioners of the past promoted was a more diverse group of owners; what they got was less diverse programming for the American people.

Now, there are new sources of information and entertainment better able to compete. Group owners get together to produce new programming of their own. Local stations open Washington bureaus to provide their own coverage of national news. We begin to see, as a regular occurrence, local news teams at national events—following their own people and the impact on their local issues, viewing the event from their own local perspective. That's diversity. That's more service and more choice.

The FCC's early regulation of cable provides another good example of federal wrong-headedness which resulted in two decades of delay in cable's ability to serve the needs of its subscribers. Under the guise of protecting cable customers and television viewers, the Commission stifled innovation by cable operators, severely limited the variety of programming cable could offer, and filled up cable's channels with duplicated signals and other benchwarmers. These regulations kept off cable some of television's true programming innovations—24-hour news, all-sports, C-SPAN, children's programming networks, and MTV. Cable subscribers wanted these services. But the government told them they had to watch something else.

In the second category of regulations for review are rules which are unnecessary because market forces provide the result at which federal regulation is aimed. It's not just superfluous; it's government bureaucrats insulating businessmen from their customers. It's Washington taking away from viewers the right to affect the services they receive.

How would we feel if a group of politically appointed Federal Soda Tasting Commissioners decided that it was better for the public to drink New Coke rather than Classic Coke? New Coke, after all, is new, improved, and "better tasting." If there was such a Commission regulating soda the way the FCC has regulated broadcasting, the recent groundswell of popular support for Classic Coke would have fallen on corporate ears deafened by the roar of federal regulation. The American people do not need that kind of protection from themselves.

But, believe it or not, the FCC was dragged into court when we said we shouldn't second guess a radio station's decision to better serve its listeners with a different programming format. People out there really think the FCC should decide if WBCN plays album rock or contemporary hit radio. They think Commissioners, living hundreds of miles outside the market, who may prefer Joe Jackson to Michael Jackson or Van Halen to Van Cliburn, should pick records, while listeners turn their radio dials hoping the government named the right tune.

The same wrong judgment applies to regulations that imposed commercial time limitations on TV and radio stations. A broadcaster knows darn well he can't clutter his programming without losing his audience. Likewise, what's the purpose of telling a station it must have a quality broadcast signal when the signal is its bread and butter? If viewers can't see the picture well enough to tell if they're watching the Golden Girls or The A-Team, they'll quick-draw the remote control.

What's the point of telling a broadcaster he needs to put on the six o'clock news when that's his greatest profit center? Or when his competitors all have news and he thinks there's an audience for Taxi reruns. Did the federal government need to tell CBS to put 60 Minutes, or ABC to put Nightline, on the air? In the days when we tried to force-feed viewers news and public affairs and no one watched, who was served?

Sure, the FCC could tell broadcasters to ascertain and serve the needs of their viewers. but we realize these are things broadcasters are going to have to do, or they're going to want to do, to operate their businesses successfully: find out what their viewers want, serve their community, not put on too many commercials, keep up the signal quality.

The fact is, the broadcasting marketplace works. It allows for broadcasting in which the public is truly interested, rather than according to a "public interest" manufactured by paternalistic bureaucratics. Broadcasters, like other businessmen, simply are unable to go off on a lark, providing whatever they want without regard to their audience. They're subject to marketplace mechanisms which force them to respond to the needs and desires of their listeners and viewers.

The third category of outmoded rules are those which are unnecessary because other laws provide adequate relief. Why do we need special rules to restrict antitrust actions by broadcasters when the Justice Department and the FTC enforce antitrust laws for every industry? We don't. That's why we don't need a Federal Grocery Store Commission, promulgating special rules for groceries, even though general business laws are applicable to grocery stores as well. The left hand of government shouldn't interfere when the right hand does a better job of enforcing or adjudicating certain laws.

We used to have specific rules prohibiting broadcasters from providing advertisers with misleading signal coverage maps; we're looking at our rules prohibiting fraudulent billing of ad time by broadcasters. Now, I'm not saying these practices aren't wrong; they're probably illegal under state and federal anti-competition laws. But what is the FCC doing spending precious tax dollars enforcing a private cause of action between buyers and sellers of air time? Can't, and shouldn't, the advertiser take care of his own business himself? Because a broadcast business is involved, should the FCC also regulate to ensure a broadcaster's not overcharged when buying a new station, program package, mini-cam, or photocopy machine?

This duplication is more than benign waste. The fact that there is a special commission with special rules for broadcasters helps perpetuate the view that broadcasting is somehow different from other businesses and, importantly, different from newspapers.

Finally, there are rules that are just silly, paternalistic, or based on a view that the American people are childlike—as are broadcasters—and need to be instructed from Washington on high. These include rules like the one we recently discovered, and eliminated, which made it illegal for an announcer to say "the amoeba are coming" in excited tones. No need for the "Emperor's New Clothes" there! We found another one prohibiting dj's from repeatedly playing the same record. Another nixed the use of sirens in commercials. One more said broadcasters couldn't have contests which resulted in scrap metal being piled on peoples' front lawns.

Now the FCC doesn't want scrap metal dumped in peoples' yards, but why does there have to be a rule saying that? Haven't we got along just fine without a rule saying newspapers can't print that amoeba are invading the town, newspapers can't reprint the front page on pages one through four, and newspapers can't have contests resulting in scrap metal being piled up on Main Street.

Should the Commission really be granting one applicant a license over another because he proposes more parking spaces or bathrooms at the studio? We've done it. Think about what that says to the American people.

My point is this. Each time the government steps in, it's hard to stop, its hard to pull out. The temptation is too great; sometimes the pressure is too great. In the past, Commissioners took office at the FCC committed to righting wrongs; often all they ended up writing was more, and sillier, and more harmful rules. That's why Mark Fowler knew he had to make a clean break from the past.

For almost fifty years the FCC tried to regulate broadcasters in this mode. It was time for the FCC to say: well, the old way just didn't work, let's try a new way. That new way looks to competiton in the marketplace and full First Amendment freedom as the sustenance of broadcasting.

When the people get to choose—and broadcasters and cable operators get to respond—we see the flourishing of programming unable to develop or survive in the desert created by regulatory intervention. It develops because programmers and broadcasters must continually innovate to beat their competition, to attract and keep viewers. They've got to be free to do that: unimpeded by federal regulations, unrestricted by federal raised eyebrows or wagging fingers, unafraid that some programming misstep will result in the loss of their license.

Deregulation of broadcasting is a good thing because providers are free to offer and consumers are free to choose. It's a good thing because it encourages competition which results in more choices and better services. It's especially important in this industry where the product is entertainment and information, clearly protected in any other form.

I think the framers of the Constitution intended that all the press be free. And I'm confident that one day the courts and Congress will think so, too. They'll ensure that broacasters receive the same First Amendment protections as do the rest of the press. How better to keep the electronic press from being trammelled by the government than by giving back to the American people the right to decide for themselves what's in their public interest, convenience and necessity?●

INDICTMENT OF YASSER ARAFAT

● Mr. LAUTENBERG, I would like to address a matter that goes back 13 years, but is still very much alive today. It appears that the Justice Department has new information concerning Yasser Arafat's involvement in the brutal slayings of two United States diplomats in Khartoum in 1973.

On March 2, 1973, eight terrorists who identified themselves as members of the PLO's Black September, seized the Saudi Arabian Embassy in Khartoum, Sudan. They held its occupants hostage while demanding the release of Robert Kennedy's murderer, Sirhan Sirhan, Fatah leader Abu Daoud, Baader-Meinhof killers being held in Germany, and other leading terrorists.

When their demands were not met, they selected three Westerners from the hostages, and murdered them in cold blood. They were U.S. Ambassador to the Sudan, Cleo Noel, Jr., Charge D'Affaires Curtis Moore, and Belgian diplomat Guy Eid. Throughout the daylong drama, the terrorists treated Noel courteously until they received a phone call with the code words Nahar El Bard, Arabic for Cold River. Cold River was the name of a Lebanese refugee camp that Israeli commandos had raided a few weeks before. Shortly after the call, the terrorists brutally machinegunned the diplomats after allowing them to write farewell notes to their families, and beating them.

A day later, the terrorists surrendered to Sudanese authorities after a lengthy round of transoceanic communications involving, among others, Arafat and the Vice President of Sudan. During their trial in Khartoum, the terrorists admitted Cold River was the prearranged signal to commence the murders.

A month after the murders, the Washington Post reported that according to Western intelligence sources, Arafat was in the Black September radio command center in Beirut when the message to execute the three diplomats was sent out, but it was unclear if he or his deputy, Abu Iyad, gave the order to carry out the executions. The Post reported that, according to its sources, Arafat was present in the operations center when the message was sent, and that he personally congratulated the guerrillas after the execution.

Mr. President, these terrorists were convicted of murder, and sentenced to life imprisonment, but they were released from Sudanese prison several weeks later into the custody of Egypt. The Sudanese Government reportedly released the terrorists because they feared repercussions from holding the terrorists, and thought that Egypt, a larger, stronger country, could hold them with less risk. However, it is believed that the Egyptians quietly, and without fanfare, let them go. This conclusion is supported by a Reuters press report of November 24, 1985, stating that a Palestinian convicted of assassinating U.S. Ambassador Cleo Noel in Khartoum in 1973 visited Khartoum earlier that month, adding to U.S. concern for the safety of American citizens in Khartoum.

Mr. President, recent press reports indicate that the Justice Department now possesses information linking PLO leader Yasser Arafat to the brutal slayings just described. The reports indicate that the evidence is under review, but that no decisions have been made on a course of action. I have also received confirmation from the Justice Department itself that it is currently reviewing this matter.

If these accounts are accurate, and these allegations can be substantiated, the Justice Department should lose no time in seeking a criminal indictment against Yasser Arafat.

Why indict a man for a 13-year-old crime? Because it's never too late to catch a murderer. There is no statute of limitations for that crime. And such

an action tells the world that the United States does not take the murder of its diplomats and citizens lightly. The indictiment of Yasser Arafat would reaffirm our Nation's belief in the rule of law. It would send a clear signal to the world of our unfaltering commitment to see justice done, and terrorists punished. If the evidence is there, indicting Arafat would be a recognition that law must prevail over violence in the modern world.

As a practical matter, an outstanding arrest warrant could make it very difficult for Arafat to travel in Western Europe or other allied countries without some risk of being arrested and extradited. It would thus deny him some measure of mobility and access to international support. And it would put an end to the notion that Arafat can play a genuine role in advancing the peace process in the Middle East.

Some may question the wisdom or utility of indicting Arafat. But no one who murders U.S. citizens and diplomats should be above the law. No terrorist should escape prosecution because of his "political connections."

Moreover, this course of action is consistent with our Nation's policy on terrorism, as stated by President Reagan. In a July 1985 speech to the American Bar Association, the President said that we must "act against the criminal menace of terrorism with the full weight of the law, both domestic and international, to indict, apprehend, and prosecute those who commit the kind of atrocities the world has witnessed in recent weeks." The issuance of an arrest warrant for Abul Abbas was another indication that the legal approach to terror was ready and waiting to be used.

The move to indict Arafat represents a legal approach to terrorism which I support because it is practical. Military action can be used only in limited circumstances and is fraught with danger. Economic action must be taken in concert with others to be most effective, and often fails because of this requirement. Legal measures can be taken by the United States unilaterally, and lack the pitfalls of military and economic action.

Mr. President, the decision to seek an indictment of Yasser Arafat should be made on purely legal grounds. Diplomatic considerations should not be allowed to influence the decision of whether or not to prosecute for murder. If we are going to have a serious policy against terrorism, we cannot exempt the main characters. We cannot say we are fighting against terror and only go after the small fry. We must follow the President's stated policy of indicting, apprehending, and prosecuting terrorists, and let the chips fall where they may.

I am not the judge of whether enough evidence exists to prosecute Arafat. That is the Justice Department's job. But I, along with 43 of my colleagues in the Senate, have written to Attorney General Meese to say that if the evidence does exist, we should act on it. To allow other factors to enter into this decision is to make a mockery of our laws and our stated commitment to eradicate terrorism.

Mr. President, I ask that a copy of my letter to Secretary Meese be printed in the RECORD for the information of my colleagues.

The letter follows:

U.S. SENATE,
Washington, DC, February 12, 1986.

Hon. EDWIN MEESE III,
Department of Justice,
Washington, DC.

DEAR MR. ATTORNEY GENERAL: We understand that the Department of Justice has received information linking PLO leader Yasser Arafat to the brutal 1973 slaying of Ambassador Cleo Noel and Charge d'Affaires G. Curtis Moore in Khartoum, Sudan.

The material is reported to include various State Department cables that may confirm Arafat's role in the murders. It is also reported to include an assertion that the U.S. government has a tape recording of an intercepted message in which Arafat allegedly ordered the assassination of Ambassador Noel and Charge d'Affaires Moore, who were taken hostage when Palestinian terrorists seized the Saudi Arabian Embassy in Khartoum in March 2, 1973.

As you know, press reports indicate that the eight terrorists involved in the incident identified themselves as members of Black September. They demanded the release from prison of Sirhan Sirhan, the Baader-Meinhof gang, and a group of Fatah members being held in Jordan.

Press reports indicate that when their demands were not met, the terrorists selected the three Westerners among the hostages—U.S. Ambassador Cleo Noel, Charge d'Affaires G. Curtis Moore, and Belgian diplomat Guy Eid, and machine-gunned them after first allowing them to write farewell notes to their families and then beating them. A day later, the terrorists surrendered to Sudanese authorities after a lengthy round of transoceanic communications involving, among others, Arafat and the Vice President of Sudan.

Press reports indicate that Sudanese President Gaafar Mohammed Nimeiri went public at once with evidence showing that the operation had been run out of the Khartoum office of Fatah. One month after the slayings, the Washington Post reported that according to Western intelligence sources, Arafat was in the Black September radio command center in Beirut when the message to execute three Western diplomats was sent out. The Post also reported that Arafat's voice was monitored and recorded. Although according to the Post's sources, it was unclear if Arafat himself or his deputy gave the order to carry out the executions, Arafat reportedly was present in the operations center when the message was sent and personally congratulated the guerillas after the execution.

These allegations, if substantiated, leave little doubt that a warrant for Arafat's arrest should be issued, and a criminal indictment filed against him. To allow other factors to enter into this decision is to make a mockery of our laws and our stated commitment to eradicate terrorism. As President Reagan told an American Bar Association convention this July, "we will seek to indict, apprehend, and prosecute" terrorists.

We understand that this matter is presently under review at the Justice Department. We urge the Justice Department to assign the highest priority to completing this review, and to issue an indictment of Yasser Arafat if the evidence so warrants. We would also ask that you keep us advised of the progress of your investigation.

Sincerely,

FRANK R. LAUTENBERG,
(with 43 Senators cosponsoring).●

MAC MATHIAS ON ABRAHAM LINCOLN

● Mr. STAFFORD. Mr. President, the annual celebration of Lincoln's birthday is an important occasion for all Americans. But it has a particular significance for Members of what we still refer to as the party of Lincoln. Many of us believe that the Republican Party best serves the American people when it holds fast to the legacy of our greatest President. No Senator better demonstrates the vitality of that legacy than our colleague MAC MATHIAS.

Senator MATHIAS has often spoken about the significance of Abraham Lincoln to our party and our Nation. This theme has recurred throughout his distinguished career of more than three decades of public service. So I was not surprised to learn that when MAC MATHIAS took his seat as a member of the Maryland House of Delegates in 1959, he gave one of his maiden speeches to that legislature on the occasion of Lincoln's birthday. Recently I read that speech, and I was struck by how eloquently it still speaks to us today. MAC MATHIAS, who had just been elected to public office for the first time, called upon his coleagues in Maryland's Legislature to make the sesquicentennial of Lincoln's birthday "a day of dedication to the kind of life Lincoln lived—a life guided by principle and personal conviction." If the party of Lincoln can rededicate itself to that goal today, then the American people, who have reposed their trust in us, will not be disapointed.

Mr. President, MAC MATHIAS' speech to the Maryland House of Delegates on Lincoln's Birthday, 1959, provides one more illustration of why his wise counsel will be missed when he leaves the Senate at the end of this 99th Congress. I ask that the speech be printed in the RECORD at the conclusion of my remarks. I know I speak for all my colleagues in wishing Senator MATHIAS great success in all his future endeavors, and in expressing my expectation that he will continue, by word and deed, to exemplify the life of principled and conscientious public

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service that is part of the vital legacy of Abraham Lincoln.

The speech follows:

LINCOLN'S BIRTHDAY ADDRESS BY CHAS. M. MATHIAS, JR.

Mr. Speaker, Members of the House, Ladies and Gentlemen, if the distinguished gentleman from Wicomico will withhold his customary motion—I shall read from the Journal of the House of Delegates.

On June 20, 1861, this House was sitting in Special Session in Frederick. Governor Hickes had convened the General Assembly to consider the problems that confronted Maryland as the result of the Secession of the Southern States. He deemed it unsafe to meet in Annapolis because of the presence of troops here, so he had directed the Senate and House to gather in Frederick.

In this atmosphere of crisis, the House of Delegates, by a vote of thirty-nine (39) to eight (8), adopted the following resolution:

"Resolved by the General Assembly of Maryland, That recognizing our relations to the Federal Government, we feel that whilst we cannot do more, we can do no less, than enter this, our solemn protest, against the said acts of the President of the United States, and declare the same to be gross usurpation, unjust, oppressive, tyrannical and in utter violation of common right and of the plain provisions of the Constitution."

This, then, was the considered opinion of our predecessors of the early days of the administration of Abraham Lincoln, whose memory we now pause to revere. The dissenting opinion of the eight (8) members who voted in the negative has been so completely ratified and confirmed by time that one is almost moved to speculate whether even a minority of seven (7) might not be right on occasion.

But among Lincoln's contemporaries there was always a diversity of opinion concerning him. The proponents of the Resolution undoubtedly represented the view of many Americans; yet Lincoln was "the grandest figure on the crowded canvas of the drama of the nineteenth century" to Walt Whitman and to countless others of his countrymen.

The observance today of the 150th Anniversary of the birth of Lincoln attests to the fact that the world has come very largely to agree with Whitman.

If history is to be more than the pastime of Antiquarians and Scholars, it must transmit to posterity, the men and women of successive generations—even to politicians—the benefits of human experience.

We have set aside these few minutes to summon up the shade of Lincoln. In that mystic presence we can well consider the factors that transformed Lincoln from one of the most controversial figures in American political history into one of the enduring symbols and talismans of democracy.

The dominant traits characteristic of Lincoln are, perhaps, revealed in his experience with adversity. Throughout his life, in his personal relationships, in his professional career, and in his political aspirations, he was defeated and frustrated in every possible way. But, he refused to stay licked. In the end, his close political friend, Governor John A. Andrews, was able to say in an official eulogy before the Massachusetts Legislature that:

"Abraham Lincoln had been spared and sustained through all these weary months and years, to witness the majestic triumphs, the conquering marches of our resistless armies, to hear the last wail of disloyal discontent in the loyal States, to receive the united congratulations of the acclaiming millions of his countrymen, to reap a sweeter and richer reward of deliverance by any ruler of the sons of men."

How did this apotheosis come about?

Was it because Lincoln was a unique man of genius? I hope not, because his example would then be limited to those few born under the same auspicious star.

I prefer to think that it was not his genius, but his principles that raised Lincoln so far above his own day and generation. And this may be the lesson of Lincoln—that each of us must live by and for our principles—however they may be shaped by our individual philosophies.

Not every one of us can be born a prodigy, but every man and woman in this Chamber can live a life true to his or her convictions. And this fact, not the transitory presence of a genius among us, is the moral ingredient of society. Without it, all the might, majesty, dominion and power on this earth will not make a man, or a people, great.

Consider Lincoln's steadfast adherence to the basic concept of justice, to the necessity for integrity, to the virtue of charity, and to the idea of liberty. Those principles did not prevent him from growing with the broadening of his experience or from changing and maturing his viewpoint on many public questions. They were not inhibitions, but pivots upon which he turned the fateful decisions that shaped not only his life, but our own.

No genius, no education, no training—could have prepared any man to direct the climactic course of events that marked Lincoln's presidency. Only by a strict reliance on unchanging principles did he daily cope with ever changing problems. Thus he was able to successfully conclude a civil war that he neither proposed nor anticipated. Thus he brought liberty to three million Americans when his only declared purpose had been to check the spread of slavery.

And so I propose, Mr. Speaker, that we make this Sesquicentennial Anniversary of the birth of Abraham Lincoln a day of dedication to the kind of life Lincoln lived—a life guided by principle and personal conviction.

If we do, and if our fellow Americans throughout the Union join with us in carrying that dedication beyond this hour and this day, there may indeed be a new birth of freedom. And then we may make it possible for our successors in this House to look back to our own generation, and to say of us on future anniversaries of this day:

In that time, the American dream was realized and American greatness was achieved by men of principle—men in the mold of Lincoln!

Which was read and ordered journalized.

SENATE CONCURRENT RESOLUTION 106, RESCISSION OF JUVENILE JUSTICE FUNDS

● Mr. CHAFEE. Mr. President, before the Senate recessed on February 7, I joined in as a cosponsor of this concurrent resolution disapproving the administration's request for rescission of fiscal year 1986 funds appropriated for the Office of Juvenile Justice and Delinquency Prevention [OJJDP]. This rescission is just as objectionable as the freeze of fiscal year 1986 funds which has been in effect for 2 months now, causing undue hardship on existing and proposed juvenile justice programs nationwide. Each year since 1983, the administration has requested zero funding for OJJDP, and each year Congress has provided funding of $70 million.

As part of its fiscal year 1987 budget proposal the administration now requests a rescission which would eliminate all funding for this office and its programs. Shelters for runaways, drug-abuse centers, delinquency prevention efforts and research are among programs that would lose federal funding if this office is eliminated.

In my own State of Rhode Island some several worthwhile programs are in jeopardy. Even the 45-day wait for Congress to act on the rescission request itself would do grave harm to some of these programs. For example the Sympatico Youth Advocacy Program provides vocational services and educational counseling to low-income and minority students in South Kingstown High School. The Sophia Little Independent Living Program provides support to older adolescent women and new teenage mothers who do not have a stable family environment in which to live.

Other Rhode Island programs such as Warwick Channel One Delinquency Prevention and the Stopover Shelters of Newport County focus on the restoration of family stability and the promotion of positive role models and noncriminal behavior. In all there are 10 very worthwhile programs in my State which give young people alternatives to crime, drug abuse, and hopelessness; programs which are threatened by this freeze and proposed rescission.

The Office of Juvenile Justice provides the national leadership, the incentives, and the seed money that is absolutely necessary for States to accomplish the goals of the Juvenile Justice and Delinquency Act. To halt these programs in my State when they are showing such positive results would be a total contradiction of the national resolve that juvenile justice and delinquency prevention is a Federal priority.

I support all efforts to stop the freeze and I oppose the rescission of fiscal year 1986 funds. We must allow the OJJDP to continue its important contribution to our Nation. Further, we must not disappoint the adolescents of Rhode Island and many other States who need these programs to help them toward more responsible citizenship and useful lives in our society.●

TAXING EMPLOYER-PROVIDED BENEFITS

● Mr. D'AMATO. Mr. President, I rise today to reiterate my support for Fed-

eral tax reform. I believe it is absolutely necessary that we pursue the administration's goal of a tax system that is both fair and simple. The proposed policies with respect to the taxation of employee fringe benefits, however, seem to fall far short of this goal.

For this reason, Mr. President, I am pleased to be added as a cosponsor of Senate Resolution 303, a resolution expressing the sense of the Senate with respect to proposals before the Congress to tax certain employer-provided fringe benefits, championed by my distinguished colleague from Pennsylvania.

Although the House of Representatives chose not to tax employee fringe benefits, the Senate Finance Committee must still face the task of forming a complete tax-reform package. Since this version of tax reform has yet to be revealed, the possibility remains that the Finance Committee will include some sort of tax on employer-provided benefits.

Any tax on employee benefits would discriminate against and penalize Americans with large families, the working aged, and the handicapped and chronically ill whose health insurance premiums are more costly than those for younger, single, and healthier workers. Any plan to tax employee benefits is antifamily and antiworker.

Today, more than 140 million Americans are covered by employee health plans, and millions more benefit from programs such as employer-provided or subsidized life insurance, unemployment and workmen's compensation. Americans rely on these benefits for their everyday needs; any attempt to tax these benefits as income would be wrong.

Mr. President, I urge the Senate to adopt this resolution.●

ANATOLY B. SHCHARANSKY RELEASED FROM SOVIET GULAG

● Mr. MOYNIHAN. Mr. President, last Tuesday, February 11, was a historic day for all who cherish human freedom. On that day Anatoly B. Shcharansky was finally freed from the Soviet Gulag, reunited with his beloved Avital and welcomed in triumph to the land for which he had sacrificed so much.

During the 9 years since his arrest on the false charge of spying for the United States, Anatoly Shcharansky became the very symbol of embattled Soviet Jewry. His tenacious devotion to his people and faith was a source of inspiration to all Americans. I am accordingly pleased to inform the Senate that Anatoly and Avital Shcharansky will be the guests of honor at this year's Solidarity Sunday for Soviet Jewry in New York City.

Solidarity Sunday is sponsored annually by the Coalition to Free Soviet Jews. It is the largest annual human rights rally held anywhere in the world. Solidarity Sunday has, in the 15 years since its inception, become something of a tradition. One regrets that this has been necessary, but one is at the same time heartened by the continued willingness of Americans to undertake this effort.

The Senate has annually passed a resolution expressing our support for Solidarity Sunday for Soviet Jewry. My office is currently preparing this year's resolution which will be circulated in the near future.

I am certain that this entire distinguished body joins me in welcoming Anatoly Shcharansky's release and in congratulating those who played a role in helping to secure his freedom. I ask to print in the RECORD Anatoly Shcharansky's remarks upon his arrival in Israel as well as his closing statement at his infamous 1978 trial.

The remarks follow:

SHCHARANSKY'S STATEMENT ON ARRIVAL AT AIRPORT IN ISRAEL

JERUSALEM, Feb. 11.—Following are excerpts from Anatoly B. Shcharansky's remarks in English on arrival in Israel today at Ben-Gurion International Airport:

I am very glad to have an opportunity to speak to an audience in which my criminal contacts are represented so widely. At the same time I feel it is very difficult for me to speak now. There are such moments in our life which are simply impossible to describe them, and feelings which are simply impossible to express them in any language. But I will say just that, frankly speaking, that storm of compliments which were poured on Avital's and my heads now do not make our position easier, do not make the task to speak easier.

But what makes it really easier is understanding the fact that all these compliments we must share between all the people of Israel, between many people all over the world, among Jews in the Soviet Union who continue the struggle for their rights. And the congratulations which we hear now concern not only the two of us, but also all of those people, Jews and non-Jews, people from the high political and grassroots level whose struggle made this day possible.

It happens so that 12 years ago I said to Avital, See you very soon in Jerusalem.

But the way to Israel continued to be very hard and very long. I know too little about what has happened in the world during these years, but I know very well how dangerous were the initial plans of K.G.B. after my arrest. And I know very well how strong was their hatred. And I know very well how firm was their determination never to let this day come.

And I felt it practically all those years, and from the very fact they had to retreat and that nevertheless this day came shows me how strong was this struggle. And I think there is no need to repeat my gratitude to all these people who took part in this struggle.

Of course, there is absolutely no plot among Jewish activists against the system of the Soviet Union, but we do have very strong spiritual contacts, connections with this land, and no persecutions can break this connection.

On this happiest day of our lives, I am not going to forget those who I left in the camps, in the prisons, who are still in exile or who still continue their struggle for their right to emigrate, for their human rights. And I hope that that enthusiasm, that energy, that joy which fills our hearts today, Avital's and mine, will help us to continue the struggle for the freedom and the rights of our brothers in Russia.

CLOSING WORDS AT 1978 TRIAL

On July 14, 1978, Anatoly B. Shcharansky was sentenced by a Moscow court to 13 years in prison and labor camp for treason, espionage and anti-Soviet agitation. Here are his closing words to the court before sentencing, as drawn from notes taken by his brother, Leonid.

In March and April, during interrogation, the chief investigators warned me that in the position I have taken during investigation, and held to here in court, I would be threatened with execution by a firing squad, or at least with 15 years. If I agreed to cooperate with the investigation for the purpose of destroying the Jewish emigration movement, they promised me freedom and a quick reunion with my wife.

Five years ago, I submitted my application for exit to Israel. Now I am further than ever from my dream. It would seem to be cause for regret. But it is absolutely the other way around. I am happy. I am happy that I lived honorably, at peace with my conscience. I never compromised my soul, even under the threat of death.

I am happy that I helped people. I am proud that I knew and worked with such honorable, brave and courageous people as Sakharov, Orlov, Ginzburg, who are carrying on the traditions of the Russian intelligentsia. I am fortunate to have been witness to the process of the liberation of Jews of the U.S.S.R.

I hope that the absurd accusation against me and the entire Jewish emigration movement will not hinder the liberation of my people. My near ones and friends know how I wanted to exchange activity in the emigration movement for a life with my wife, Avital, in Israel.

For more than 2,000 years the Jewish people, my people, have been dispersed. But wherever they are, wherever Jews are found, every year they have repeated, "Next year in Jerusalem." Now, when I am further than ever from my people, from Avital, facing many arduous years of imprisonment, I say, turning to my people, my Avital: "Next year in Jerusalem."

Now I turn to you, the court, who were required to confirm a predetermined sentence: To you I have nothing to say.●

FEDERAL TAX DELINQUENCY AMNESTY ACT OF 1985

● Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate bill 203, the Federal Tax Delinquency Amnesty Act of 1985, championed by my distinguished colleague from Illinois. The latest estimates by the Office of Management and Budget put the fiscal year 1986 budget deficit at $202.8 billion. Even with the Gramm/Rudman automatic spending cuts to be put in place on March 1, the deficit will still be an appalling $171.9 billion.

Under the President's fiscal year 1987 budget proposal, the deficit is projected to be $143.6 billion. The President's proposal contains no tax

increases. I agree with this principal. However, I believe that there is a need to increase revenues. There are too many valuable programs that would have to be cut or eliminated if no new revenue is acquired.

S. 203 provides the means for obtaining some of this needed revenue, not through the imposition of new taxes, but through improved tax collections. The Internal Revenue Service estimates that 19 percent of U.S. taxpayers cheat on their Federal income tax. Some surveys put the figure closer to 25 percent. The latest available figures indicate that the "tax gap," that is, the difference between the amount of tax owed to the Federal Government and the actual amount collected, was between $89 and $92 billion in 1985 alone. The IRS believes this gap could rise to $400 billion by the turn of the century.

I do not believe this bill will be able to collect all, or even most, of the unpaid taxes, but it will collect enough to save many worthwhile programs, while still allowing the President and the Congress to meet the deficit targets set out by Gramm/Rudman.

S. 203 will do this through a one-time-only tax amnesty. During this period, taxpayers who previously have underreported income, underpaid taxes, and/or failed to file tax returns at all will have the opportunity to step forward and pay the taxes they owe, along with 50 percent of the accrued interest, and avoid all criminal and civil tax penalties. The large number of people who will step forward and pay what they owe will more than compensate for the loss of these penalties and the remaining 50 percent of the accrued interest.

Without an amnesty, most of these people would never step forward voluntarily and most would never be caught by the IRS. The few that were caught would be reached only as a result of lengthy and expensive audit procedures. Put very simply, without an amnesty, very little—if any—of this additional tax revenue would be received.

It is important to point out, however, that this amnesty is not soft on criminals. The amnesty established under S. 203 will not be available to those individuals involved in drug trafficking, prostitution, or gambling. In fact, the bill goes one step further to uncover and prosecute tax cheats who do not come forward by providing 3,000 new tax agents and by increasing tax penalties after the amnesty period is over by 50 percent. Every new agent reaps 10 times his or her salary in additional tax collections. These provisions create an amnesty which is tough on crime.

The intent of this bill is to bring forward those individuals who have never filed and who fear prosecution for their delinquency, those individuals who previously have failed to report certain income, and certain businessmen who are operating illegally, but wish to "clean their slate" and begin operating in a legal manner. After these people have first come forward during this amnesty period, they are much more likely to "go legit" and continue to meet their tax obligations in the future.

Thus, this amnesty will reap far more than the $12 to $15 billion estimated by OMB. By increasing taxpayer compliance, it will have long-range effects that will assist in reducing the Federal deficit. The total increase in revenue as a result of the one-time amnesty, the increased penalties, the new tax agents, and increased taxpayer compliance in the future will go a long way toward meeting our Gramm/Rudman deficit reduction targets without imposing new taxes and without crippling needed Federal spending programs.

An amnesty such as the one proposed in S. 203 is not an untried idea. Amnesty has gained great support on the State level. In fact, 13 States already have enacted amnesty programs. Others are planned or proposed.

I know in my own State, the amnesty program was the most successful ever. Yesterday, our State commissioner on taxation and finance, Roderick G.W. Chu, announced that New York State's 90-day tax amnesty that ended on January 31 brought in at least $334 million from nearly 45,000 individuals and corporations. This is more than 60 percent higher than the original $200 million estimate and is more than double the previous record of $152.4 million raised by the State of Illinois during its 1984 tax amnesty. If these two States alone can raise a half billion dollars from State tax amnesties, the sky is the limit under a Federal tax amnesty.

Forty-two percent of New York's take came from personal income taxes, 40 percent from sales and use taxes, and 18 percent from corporate taxes. Payments are reported to have ranged from a low of 1 penny to a high of $12.5 million.

Success like this must not be ignored. It is time to repeat the process at the Federal level.

In order to reduce the deficit, there will be a need to increase revenue. I believe a one-time tax amnesty such as proposed in S. 203 will bring in a significant amount of revenue, as well as bring a large number of nonfilers onto the tax rolls for future tax collection. There are tens of billions of dollars just waiting for us. Let's bring it in now. Let us pass S. 203.●

TRIBUTE TO ARKANSAS STATE SENATOR JOHN BEARDEN

● Mr. PRYOR. Mr. President, it was my pleasure to serve my native State of Arkansas as Governor before being elected to the U.S. Senate. One of the greatest pleasures as the chief executive is working with the legislative branches; it can also be a great curse. But you remember the best of these times, not the worst of times. One of the truly great pleasures for me in serving Arkansas as Governor was working with a great State senator from Arkansas named John Bearden. He was a great politician; a man with an amazing sense of humor; well read, highly educated. A great Democrat who loved politics as much as any person in this room. My friend—Arkansas' friend—John Bearden, the president pro tem of the Arkansas Senate, died last Friday at Little Rock. Our country, my State, will miss him.

Mr. President, I submit for the RECORD a news release relating to John F. Bearden, Jr.:

STATE SENATOR JOHN F. BEARDEN, JR.

LITTLE ROCK, ARK.—State Senator John F. Bearden, Jr., 58, of Blytheville, Arkansas, president pro tem of the Arkansas Senate, died Friday, February 14, 1986, at a Little Rock hospital. Mr. Bearden, the sixth-ranking member of the 35-member Arkansas senate, had been ill for several years, but overcame great odds and remained strong enough to serve his legislative district and become the president of the Arkansas senate and the third person in line to the governor of his state.

As senate president pro tem, Senator Bearden, a Democrat, had a chance to serve briefly as governor of Arkansas when the chief executive left the state for business. In fact, Mr. Bearden's last service as governor was December 6, 1985, the day he underwent surgery in another attempt to prolong life.

John Bearden was known for his quick wit, fierce loyalty to the Arkansas Democratic Party, and a love for life that spanned 17 years in the Senate. He was a coach, principal, school board member and worked as a water resources specialist for the Lower Mississippi Valley Flood Control Association.

During his 17 years in the Arkansas Senate, Mr. Bearden sponsored more than a hundred bills, including major tax legislation, bills to improve educational standards and bills to improve life for the handicapped and mentally retarded.

John Bearden had a reputation among friends as a man of deep sensitivity, even with legislative staff members. It was not unusual for a fellow Senator or legislative aide to open the morning mail to find a hand-written note from Mr. Bearden who had written to thank them personally for their help or just to say he had been thinking of them and appreciated their friendship and loyalty.

Arkansas State Senator Max Howell, who entered the Arkansas legislature in 1946 and the man who has served longer in continuous service than any state legislator in the country, remembered John Bearden this way: "Senators the caliber of John Bearden rarely come along. It may sound a little corny, but John Bearden loved his state and his country as much as anyone can. He was a brilliant, funny, dedicated American who gave life all he had to give and this is a better country because he came our way and spent 58 years with us all."

Senator John Bearden of Arkansas was buried at his hometown of Leachville, Arkansas, Sunday, February 16th, 1986. He is survived by his wife, Junell, and six children.●

HOW ABOUT A DEPARTMENT OF ECONOMIC DEFENSE?

● Mr. HELMS. Mr. President, my friend, Eugene M. Kennedy, recently retired as president of Whitin Roberts Co., a textile machinery manufacturing company based in Charlotte, NC. The company was established in 1831 under the name of Whitin Machine Works.

A few weeks back, Mr. President, Gene Kennedy wrote a piece for the Charlotte Observer in which he discussed the enormous trade deficit that has transformed the United States into a debtor nation. Pondering all of the aspects of the situation, Gene Kennedy came up with a proposal that the United States establish a Department of Economic Defense.

Whether or not they agree with Gene's conclusions, I believe Senators will want to read Gene Kennedy's analysis. I found it of much interest, and I am confident others will, also.

For that reason, Mr. President, I ask that Mr. Kennedy's article be printed in the RECORD.

The article follows:

U.S. NEEDS A DEPARTMENT OF ECONOMIC DEFENSE

(By Eugene M. Kennedy)

Today the United States faces a threat equivalent to any hostile military action by an enemy, but of more lasting consequence. This crisis has not been caused by the Soviet Union or any other nation perceived by the Soviet Union or any other nation perceived to be our antagonist. It is a result of our own unwillingness to face reality.

This crisis is the deterioration of our manufacturing base. The facts are plain and alarming: Our vast industrial and economic wealth, which had its beginning in World War II and the immediate postwar era, has been dissipated. We are now a debtor nation.

The evidence is difficult to ignore. In 1984, the United States had a $130 billion trade deficit; the projected deficit for 1985 is $150 billion. Fifteen of the 20 basic industries of the United States (metals, minerals, chemicals etc.) were in payment imbalance for 1984. This compares to 10 in 1970, nine in 1975 and eight in 1980.

Allowing this payment imbalance to continue is similar to writing checks for money that we don't have in the bank. It catches up. And the prognosis is dire.

THE SERVICE JOB FALLACY

Additional evidence of the crisis is this nation's decline in created wealth. Of our 1984 GNP of $3.6 trillion, only 26.9% was classed as created wealth—that is, manufactured goods, mining, agriculture and fishing. All other sources account for 73.1%. Our economy would benefit enormously if we could get created wealth up to 30% or 32% of GNP.

"Not to worry," we are told. "We are now in a global economy. Regardless of where items are manufactured, the United States will prosper by providing the high technology services." There are people who really believe this. They must be made to understand how wrong they are.

Look at the unemployment statistics. The U.S. Department of Labor reports that 5.1 million people lost their jobs from January 1979 to January 1984. Two million of these are still unemployed or have left the labor force: 1.5 million have found jobs with less pay; the other 1.5 million say they are better off. In general, manufacturing jobs pay 30% to 50% more than service jobs; so each time a manufacturing job is lost, even if the person finds a service job, his purchasing power is likely to be seriously reduced.

That's not all. As manufacturing decreases, so will the market for services. It's easy to see where that leads.

So what do we do? We need a second Defense Department. The existing one deters and defends against military aggression. The new one must defend our economic way of life.

If we founded that new department—call it a Department of Economic Defense—what would it do? Here are eight steps it should push for immediately:

1. Adopt a quid pro quo trade policy: Whatever conditions a country imposes on us, give it back the same set of circumstances.

2. Establish a permanent tax incentive for exports in order to help us earn our own currency.

3. Create a permanent tax incentive for research and development.

4. Create a permanent tax incentive for investment in domestically produced capital equipment. Skeptical attention should be paid to assertions that some equipment is not available in the United States.

5. Establish a system of import licenses for transactions that exceed a certain dollar value.

6. Provide government financial assistance for the development of new technology that enhances productivity.

7. Streamline export financing, to make it more competitive with the rest of the world.

8. Allow faster and permanent depreciation for capital equipment.

This program of vigorous economic defense is urgently needed, but it alone will not solve our economic problems. It must be accompanied by an equally vigorous attack on our federal deficit. Special interests must give way to the national interest. Voluntary sacrifices must be made. To do nothing will only bring on involuntary sacrifices that will be drastic—and permanent.

Reduction of the budget deficit will result in lower interest rates, which will encourage capital formation for investment in private enterprise instead of government securities. Successful private enterprise creates payrolls instead of welfare rolls.

The creation of a Department of Economic Defense could cost money, but it would be the best investment we could make. The payoff will be a sounder industrial economic base, which will produce jobs and create wealth. If we do this, we can greatly reduce the demeaning spectacle of an otherwise willing worker standing in line for unemployment compensation or, eventually, public welfare.

WHAT YOU CAN DO

Once Americans become aware of the necessity of defending our industrial base, they will respond with understanding and patriotism. But how do we start? Many of us have told our senators, congressmen and trade associations what our feelings are. I wonder what would happen if 100 of our largest cities formed local committees to gather the best thinking on the need for and function of a Department of Economic Defense? If you want to help form such a committee here, write to Economic Defense, The Charlotte Observer, P.O. Box 32188, Charlotte 28232. Let's see if we can get something started.●

THE 118TH ANNIVERSARY OF THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS

● Mr. HEINZ. Mr. President, on February 16, 1986, the Benevolent and Protective Order of Elks celebrated its 118th anniversary. The Elks are an exceptionally proud and patriotic group. They became the first fraternal organization, in 1907, to mandate the observance of Flag Day. Their pride in our heritage has never wanted. On behalf of the 1.6 million Elks across the Nation and the 90,000 Elks in Pennsylvania, I ask that the background of the Elks be placed in the RECORD at this time.

BACKGROUNDER—THE ELKS

The Benevolent and Protective Order of Elks is one of the oldest and largest fraternal organizations in the United States.

The first formal meeting was held on February 16, 1868, in New York City. Fifteen persons turned out, most of them young, undiscovered but budding artists who had gathered for companionship and to help their order out-of-work peers.

The idea caught on and spread to other groups and other cities. As it grew, the new organization broadened its membership base to include businessmen, professionals, farmers and representatives from other occupations.

Today there are more than 1.6 million members of the Elks in 2,280 local "Lodges" found throughout all fifty states and the District of Columbia. Over the years, these Lodges have evolved into the primary building blocks of the highly decentralized Elks organization. They provide recreational facilities for the entire family, but the Lodges are also the focal point for the many community service and charitable programs that have become an Elk tradition.

Early in its history, the Elks supported groups such as the Salvation Army and the Red Cross. In 1871, they staged a benefit for the victims of the great Chicago fire. Money was raised for victims of the Seattle fire and the Johnstown flood in 1889. And the Elks were the first on the scene to supply money and rescue assistance during the San Francisco earthquake of 1906. Today, disaster relief continues to play an important part in Elk activities.

Patriotism has also been a hallmark of the Elks. In 1907, the Elks became the first fraternal organization in the nation to mandate observance of June 14 as Flag Day. More than 40 years later, fellow Elk, President Harry S. Truman signed into order a declaration naming Flag Day as an official national holiday.

The Elks National Foundation, the philanthropic arm of the organization, was created in July, 1928, as an income-producing fund to help support national Elk projects and to supplement programs at the state and local Lodge levels. Each year, scholar-

ships are awarded to 500 outstanding high school students across the nation. Emergency educational grants are also provided to children of members who have died or been disabled.

Foundation support of state association projects is based on a "revenue sharing" concept. Funds are provided to each state in proportion to the level of contributions made by individuals in the state. The Elks contributed $26 million in 1983 to support cerebral palsy research, veteran's hospitals, retarded child care and to provide wheelchairs, recreational facilities and other aids to the handicapped.

The Elks devote a great deal of attention to youth programs. Lodges and individual members today sponsor more than 1,000 Boy Scout troops and 3,000 Little League teams, as well as Boy's Clubs and Camp Fire Girls Clubs.

But one of the most important youth programs in recent years has been the annual "Elks' Hoop Shoot," a national free-throw shooting contest, for boys and girls from ages 8 to 13. Over three million youngsters from all fifty states participate yearly in the "Hoop Shoot," from local contests to the national finals where six champions were named.

The program, begun in 1972 on a national basis, provides spirited competition and the chance for youngsters to develop new friendships. Winners and their families also travel to state, regional and national competition, courtesy of the Elks.●

RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. ANDREWS. Mr. President, in accordance with the requirement of Senate rule XXVI to publish the rules of each Senate Committee in the CONGRESSIONAL RECORD, I hereby submit the rules of the Select Committee on Indian Affairs for the RECORD:

RULES OF THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS FOR THE 99TH CONGRESS

COMMITTEE RULES

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, to the extent that the provision of such are applicable to the Select Committee on Indian Affairs and as supplemented by these rules, are adopted as the rules of the Committee.

MEETINGS OF THE COMMITTEE

Rule 2. The Committee shall meet on the first Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

OPEN HEARINGS AND MEETINGS

Rule 3. Hearings and business meetings of the Committee shall be open to the public except when the Committee by majority vote orders a closed hearing or meeting.

HEARING PROCEDURE

Rule 4(a). Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee at least one week in advance of such hearing unless the Chairman of the Committee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee concurs. In no case shall a hearing be conducted with less than 24 hours notice.

(b) Each witness who is to appear before the Committee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee prescribes.

(c) Each Member shall be limited to 5 minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question the witness unless the Committee shall decide otherwise.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5(a). A legislative measure or subject shall be included in the agenda of the next following business meeting of the Committee if a written request for such inclusion has been filed with the Chairman of the Committee at least one (1) week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee to include legislative measures or subjects on the Committee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee shall be provided to each Member and made available to the public at least three (3) days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee. The Clerk shall promptly notify absent Members of any action taken by the Committee on matters not included in the published agenda.

CONDUCT OF BUSINESS

Rule 6(a). Except as provided in subsecs. (b) and (c), five Members shall constitute a quorum for the conduct of business of the Committee.

(b) A measure may be ordered reported from the Committee by a motion made in proper order by a Member followed by the polling of the Members in the absence of a quorum at a regular or special meeting.

(c) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure before the Committee.

VOTING

Rule 7(a). A rollcall of the Members shall be taken upon the request of any Member.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8. Witnesses in Committee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any Member, any other witness shall be taken under oath. Every nominee shall submit a financial statement on forms to be perfected by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the Committee unless the Committee on executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a complete disclosure of their financial interests on forms to be perfected by the Committee in the manner required in the case of Presidential nominees.

CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by or confidential material presented to the Committee or any report of the proceedings of a closed Committee hearing or business meeting shall be made public in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned, or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the Committee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording filming, or broadcasting devises shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 12. These rules may be amended only by a vote of a majority of all Members of the Committee in a business meeting of the Committee:

Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three (3) days in advance of such meeting. Such proposal amendments shall be mailed to each Member of the Committee at least seven (7) calendars in advance of the meeting.●

THE 68TH ANNIVERSARY OF LITHUANIAN INDEPENDENCE

● Mr. WEICKER. Mr. President, for Lithuanians around the world, February 16 marks the 68th anniversary of their nation's independence. Although the country has been a component republic of the Soviet Union since June 1940, Lithuanians commemorate the establishment of the modern republic of Lithuania on this date every year.

The American people share a deep commitment to the ideals of freedom and equality. Because of this heritage, basic U.S. foreign policy consider-

ations have always been built upon a strong commitment to the rights and self-determination of all nations around the globe. We remain committed to the basic values of human life and continue to support and defend these ideals around the world. Our efforts in this area must continue unabated.

By occupying Lithuania, the Soviet Union has denied the sovereignty of the nation and has attempted to destroy their identity and their dignity.

We in Congress must renew our efforts to promote and encourage respect for human rights and fundamental freedoms. As the leader of the free world, it is our responsibility to stand with the people of Lithuania in their desire for the restoration of Lithuanian independence.

On this very special and important occasion, I salute the courage and determination of Lithuanians—a people who remain unyielding in their quest for self-determination, committed to political, cultural and religious freedom in their homeland, and whose remarkable resolve stands as an example for the rest of the world.●

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to title 22 U.S.C. 276d-276g, as amended, appoints the Senator from Alaska [Mr. MURKOWSKI] as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the second session of the 99th Congress, to be held in Tucson, AZ, on February 27-March 3, 1986.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Thursday, February 20, 1986.

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

ORDERS FOR THURSDAY

RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that following the recognition of the two leaders tomorrow under the standing order, there be a special order in favor of the following Senators for not to exceed 15 minutes each: Senator WILSON, Senator PROXMIRE, and Senator MOYNIHAN.

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

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that on tomorrow, following the special orders, there be a period for the transaction of routine morning business, not to extend beyond 12 noon, with Senators permitted to speak therein for not more than 5 minutes each.

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

THE DEATH OF THE HONORABLE JAMES O. EASTLAND, OF MISSISSIPPI

Mr. DOLE. Mr. President, I send to the desk for myself and the distinguished Senators from Mississippi [Mr. COCHRAN and Mr. STENNIS] and the distinguished minority leader [Mr. BYRD], a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution? Without objection, it is so ordered.

The clerk will state the resolution.

The legislative clerk read as follows:

S. RES. 348

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable James O. Eastland, late a Senator from the State of Mississippi, a former President of the Senate pro tempore, and a former Chairman of the Senate Committee on the Judiciary.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

The Senate resolution (S. Res. 348) was considered and agreed to.

RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, I now move that the Senate stand in recess, in accordance with the provisions of Senate Resolution 348, until 11 a.m. on tomorrow, Thursday, February 20, 1986.

The motion was agreed to; and at 7:07 p.m., the Senate recessed until Thursday, February 20, 1986, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 19, 1986:

THE JUDICIARY

Stephen F. Williams, of Colorado, to be U.S. circuit judge for the District of Columbia circuit vice Malcolm R. Wilkey, retired.

DEPARTMENT OF JUSTICE

Thomas E. Dittmeier, of Missouri, to be U.S. attorney for the eastern district of Missouri for the term of 4 years, reappointment.

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

David B. Gray, of Maryland, to be Director of the National Institute of Handicapped Research, vice Douglas A. Fenderson, resigned.

DEPARTMENT OF COMMERCE

Alfred C. Sikes, of Missouri, to be Assistant Secretary of Commerce for Communications and Information, vice David John Markey, resigned.

EXPORT-IMPORT BANK OF THE UNITED STATES

John A. Bohn, Jr., of Virginia, to be President of the Export-Import Bank of the United States for a term of 4 years, vice William H. Draper III, resigned.