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PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

SENATE—Thursday, October 9, 1986

(Legislative day of Monday, October 6, 1986)

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

PRAYER

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

Let us pray.
Father in heaven, what is said and done in this place affects numberless peoples. Millions view the actions which take place in this Chamber and the destiny of those millions rides on decisions made here. Make Your presence felt during these extra duty days. Infuse hearts with Your wisdom. Your patience, Your peace, Your love. Inspire great thoughts, sound debate, and relevant decisions. Save from trivia—from inconsequential hours—from waste of energy, time, and effort. Let these hours be filled with meaning and significance.

Grant, dear God, that everything about these final days of the 99th Congress will be to the glory of God, the satisfaction of people, and worthy of the most powerful deliberative body in the world. In the name of Him Who's the way, the truth, and the life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, of Kansas, is now recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Under the standing order, the leaders will have 10 minutes each, followed by a period until 10 a.m., for Senators to make statements concerning our retiring colleagues.

At 10 a.m., the Senate will resume the impeachment proceedings. Under a previous unanimous-consent agreement, the time between 10 a.m. and 3 p.m. will be equally divided.

No earlier than 2 o'clock and no later than 3 o'clock the Senate will proceed to vote on each of the following questions and I understand they may not be altered. Senators need not vote on each article but we do have the question to each article: "How vote you, Senator, guilty or not guilty," on articles 1, 2, 3, and 4.

Following the impeachment proceedings, the Senate will turn hopefully to the drug bill or reconciliation. I assume we will be in rather late this evening and I had hoped we might not have a session tomorrow, but I am ad-

vised that it may be necessary because there are a number of Senators who wish to be heard on the drug bill, particularly one provision in the drug bill, which could necessitate filing cloture today and a few other things that can extend the session even longer than we had thought.

SENATOR PAUL LAXALT OF NEVADA

Mr. DOLE. Mr. President, being labeled the "President's best friend" is pretty heady praise. But the man who wears that label—PAUL LAXALT—does so with modesty and an appreciation of just how important it is.

Since he arrived in the Senate in 1974, PAUL LAXALT has played a very

NOTICE

Another issue of the Congressional Record for the Ninety-ninth Congress, second session, will be printed 2 weeks after the last adjournment before the November elections. Members may submit manuscript for printing to the Official Reporters of Debate no later than 14 days after adjournment.

None of the material printed in the Congressional Record after adjournment may contain subject matter, or relate to any event, which occurred after the date Congress officially adjourned.

No provision herein shall be construed to supersede the two-page limitation rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debate, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m.

Members of Congress desiring to purchase reprints of material submitted for Record printing during the adjournment may do so through the Congressional Printing Management Division located at the Government Printing Office. That office may be reached by telephoning 275-2226 between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

CHARLES McC. MATHIAS, JR., *Chairman.*

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

special and important role. It is a role that will be hard to fill when he retires in January.

Not only has Senator LAXALT been a conscientious representative for the people of Nevada, but he has successfully acted as a mediator within the Republican ranks, across the aisle, and between Capitol Hill and the White House.

Whether the subject was water user fees or the MX missile, anticrime legislation, or regulatory reform, Senator LAXALT has been a reasoned and effective voice. He has that special ability to be an ardent party loyalist without being stridently partisan.

Senator LAXALT credits his father's fierce independence as the wellspring of his own open nature. If it is the "winds of the Nevada mountains" that carry this air of candor and accessibility, I wish they would blow toward Washington. We could use a lot more of that kind of sensibility—Senator LAXALT's kind.

AMERICAN CAPTURED IN NICARAGUA

Mr. DOLE. Mr. President, the President leaves in just a few moments for Iceland.

On Saturday, the President of the United States, and the leader of the Soviet Union, are going to sit down together in Reykjavik, Iceland, for discussions we all hope will bring us progress on arms control, human rights and regional conflicts—issues absolutely fundamental to American interests, and to the hopes of the world for peace and security.

But if you watched last evening's and the morning news broadcasts, you might have come away with the impression that the "most earth-shaking thing going on" in the world was happening down in Managua, where an American civilian has been taken captive by the Sandinistas after his plane, allegedly carrying arms and supplies to the Contras, crashed inside Nicaragua.

If you stick to the facts, it is not much of a story. We have known for a long time that some private Americans were actively helping the Contras. They have made no secret of it; the news media reported it, again and again. Now one of these "soldiers of fortune," apparently, has been captured; three others have died, two of them Americans. All of that is tragic—but in any case, the facts just do not—or should not anyway—add up to banner headlines or lead stories.

And so this one American, being paraded from "pillar to post" by some Sandinista goons just so the press can get a good camera angle, becomes the symbol of all kinds of imagined evil: "Administration lies and disinformation; shattered credibility; a secret war in Nicaragua"—those are the charges

floating around. That is the kind of silliness that passes for hot news around this town these days.

There is important news in Nicaragua which ought to be covered, and in headlines and lead stories on the nightly news. The Marxists in Nicaragua are shutting down the free press, exiling Catholic bishops, and driving their own people into the hills, while Daniel Ortega makes his periodic visits to New York, dragging his dotting media entourage around to cocktail parties, and appointments with his eye doctor.

These, and events like the upcoming Reykjavik meetings, are the real news. And it is time they got the attention they deserve.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, if I have any remaining time, I will yield it to the distinguished Senator from Colorado, who I understand needs about 20 minutes, and I reserve the minority leader's time.

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

The Senator from Colorado.

Mr. HART. Mr. President, I thank the majority leader.

□ 0910

THE PROMISE OF THE SENATE

Mr. HART. Mr. President, 12 years ago, this Senator was moved to seek public office by several ideals. A sense of obligation and responsibility to contribute to the public life of his Nation. A desire to help restore integrity to public service. A belief that we must think anew and act anew in the face of an overwhelming array of new challenges as the century closes. And, not least, a powerful need to contribute to the containment of the nuclear demon stalking the planet.

In large part, that impulse to public service has been satisfied. And this Senator hopes he will be judged well on that most demanding scale of integrity and stewardship of the public trust, as well as in his effort to redefine the goals and methods of a society in vast transition.

On the eve of departure from this Chamber hallowed by generations of patriots, I cannot help but feel the presence of the heroes and giants of my time: Mansfield, Hart of Michigan, Javits and Case, Muskie, Church, Ribicoff, and Mathias, Symington, Humphrey, and others—equally larger than life. Each human, and therefore imperfect. But each possessing a gravity, a size, a larger dimension—the touch of legend.

What made them different? What made them achieve a stature that eludes most of us? Many traits. But one common quality. A sense of the

larger picture. A broader, more encompassing view. A backdrop of history, and a stage upon which the future is played out. Above partisanship and ideology, an instinct for the national interest—and a view of America in the community of nations.

They all were deeply committed to nuclear arms control. And I suspect, if all could be summoned back for a great debate, most—if not all—would list this central issue, this supreme challenge, as the great unfinished business of our time.

For, there is about this issue a moral imperative. There is also a time imperative.

In the 12 years I have served in the U.S. Senate, the arms race has accelerated according to its own inexorable calculus. The Soviet Union has added almost 5,000 warheads, by building large land-based missiles and adding multiple warheads to them—pursuing a technology we invented and a formula we protected.

Both sides have perfected the science of cruise missiles and we have led the deployment of them.

Sea-based nuclear missiles have become larger and their warheads more powerful and more accurate.

What are usually called improvements in technology have produced more destructive and more accurate warheads, with increasingly sophisticated delivery systems more difficult to count and to verify.

And while the nuclear giants contest, a new set of nuclear gladiators has materialized on the horizon. Israel is thought to possess as many as 20 nuclear weapons. India has detonated a nuclear device and is believed to have manufactured nuclear weapons. A decade ago South Africa began accumulating materials for at least 15 nuclear devices. It is believed Pakistan has succeeded in developing nuclear explosives in this decade. And during that same period Argentina, Brazil, Iraq, and Libya have taken steps to acquire a nuclear weapons capability.

And now we propose to let yet another—perhaps most ominous—genie out of its bottle. The President urges us to produce and deploy nuclear-powered space weapons, including those capable of neutralizing the capacity of other nations to deter aggression. And, simultaneously, we and the Soviets rush forward to perfect the ability to blind the satellite eyes necessary to verify compliance with arms control agreements.

There is today no comprehensive ban on nuclear weapons tests. And no serious effort is underway to negotiate one. We have repeatedly refused to join the Soviet Union in a moratorium pending an agreement to ban nuclear testing. The past six Presidents, among them, negotiated some 20 arms control agreements—11 by the last 2

Republican Presidents. In 6 years, the current President has not come close to completing negotiations on even a minor agreement.

Thus, on the eve of his departure, this Senator's frustration, and deep concern.

I came here to help make the future safer for my children and future generations. I fought hard for the SALT II Treaty, which this President fought against. That treaty was rejected by some as "not real arms reductions." But those same critics resisted restrictions on our own nuclear modernization programs—as if the Soviets would unilaterally stop their buildup with no concessions from us.

Some hope for salvation through technology—magic space shields. Some say "build more weapons" until we wear the Soviets out. Some say unilateral disarmament. Some say "give up. There is no solution." Too many people just don't want to be bothered.

Well, we cannot give up. And we cannot accept ignorance and avoidance as an answer. There are solutions. Some steps we can take by ourselves and others must be taken in agreement with other nations. We must limit and reduce the numbers of weapons while we eliminate the possibility of their use.

In his concluding remarks to the Senate, the Senator from Colorado would like to propose a comprehensive arms control program for the future. It is aimed not only at reducing the numbers of missiles and bombs, or at treaties designed to establish better relations. It is directed toward the prevention of any use of nuclear weapons.

We must clearly understand the urgency of the challenge before us. There are almost no limits on the arms race between the superpowers, and nearly every arms control treaty in existence is threatened by new weapons deployments.

Weapons are about to be deployed that could confound forever our ability to put in place practical, verifiable limits.

More than 15,000 nuclear warheads are poised on more than 3,000 long-range missiles—with minutes for flight and moments for decision.

First-strike missiles could soon leave the fate of humanity to bloodless computers or desperate leaders trying in seconds to undo the errors of decades.

And additional nations—perhaps even international outlaws or terrorists—may soon possess the ultimate weapon or the ultimate terrorist threat.

Three revolutions—now underway—are radically altering the nuclear environment we face, and it is imperative that we understand them:

The first revolution is in weapons technology and its ability to outstrip the diplomatic, political, and even

technical barriers we erect to control nuclear weapons.

This revolution is producing highly accurate, multiwarhead missiles. Soon both nations might be tempted to strike first in some future desperate crisis, to use their missiles before they lose their missiles.

The revolution in technology is producing thousands of long-range cruise missiles that could be virtually impossible to count with present means. Numerical reductions of nuclear weapons may then be a thing of the past.

The technology revolution is producing a potentially new arms race in space with antisatellite weapons and star wars defenses. A new arms race—far more complex than the one we see today—will be in defensive weapons and in offensive weapons to conquer these defenses.

As we see this revolution unfolding, we cannot help but think of the words of Gen. Omar Bradley, who commanded America's ground forces at the D-day landing in Normandy. Almost 30 years ago, he issued this warning:

... We have defiled our intellect by the creation of such scientific instruments of destruction that we are now in desperate danger of destroying ourselves. . . . Missiles will bring anti-missiles; and anti-missiles will bring anti-anti-missiles. But inevitably this whole electronic house of cards will reach a point where it can be constructed no higher . . . when that time comes; there will be little we can do other than to settle down uneasily; smother our fears; and attempt to live in a thickening shadow of death.

The day that General Bradley spoke of is nearly upon us. Yet we have only begun to consider its threat.

There is a second revolution in the nuclear environment—the increasing likelihood that nuclear weapons actually will be used.

Nuclear warfighting capabilities—such as highly accurate ballistic missiles, cruise missiles, and the so-called neutron bomb—could tempt leaders in a crisis to use these weapons, on the impossible theory that the accuracy of these weapons limits their destructiveness to military targets.

Other technologies are blurring the distinction between nuclear war and conventional war—thus increasing the possibility that local battles could erupt to full-scale nuclear war. One example is found at sea where many warships carry nuclear and conventional weapons. Once a nuclear torpedo is used to kill an enemy submarine, there is every temptation to use a nuclear-armed cruise missile to sink an enemy flotilla. And this done, where can one draw the line of nuclear restraint?

Space defenses—such as lasers and particle beams—will put a heavy premium on striking quickly and an equally heavy burden on the other side to knock the defenses out of the sky first. Their presence will not provide the shield some would dream of,

instead, they will create a new arena for nuclear war and new ways for such a war to start.

Antisatellite weapons will put at risk early warning, observation, and communications satellites vital to the nuclear deterrent of both the United States and the Soviet Union. These satellites are vital to treaty verification and nuclear stability. Few developments would be worse than the sudden failure or destruction of a vital satellite in time of crisis.

□ 0920

Finally, there is a third revolution. This revolution is the spread of nuclear weapons capability to more nations and perhaps to terrorist groups as well.

No longer are there two or three nations that possess the power of ultimate destruction. Now there are at least six. In a decade, there could be 10 or 20 or more. Consider how much more difficult it will be to prevent nuclear war when nuclear survival is not merely a matter of deterrence, command and control, and restraint in a crisis among a few nations, but must be found among 20 or 30.

And what of terrorist groups now active in many nations? For these groups, the building blocks to achieving nuclear status are not armies of scientists working on expensive, hard-to-assemble, complex technologies. They are a few individuals building a crude nuclear device with basic physics and a small amount of plutonium.

Today's nuclear power and research reactors have produced over 140 tons of plutonium worldwide—enough to make more than 20,000 bombs the size of the one that destroyed Nagasaki in 1945. So far, most of that plutonium is locked in spent nuclear reactor fuel. But the technology to unlock it exists, and several nations, including Libya, have been trying to obtain it.

Yet the nuclear powers persist in the naive belief that they can promote the spread of nuclear materials around the globe and not one day see the Fifth Horseman of nuclear terrorism ride down upon some American or European city. And the superpowers persist in the arrogant belief that they can increase their own nuclear forces far beyond any rational level and still expect other nations to forgo these weapons themselves.

We behave as if nuclear weapons are the measure by which sovereignty and respect are judged—this on a planet where finite resources must provide for an ever-expanding population, where once-distant enemies are today's neighbors, where the weapons one nation has today will be the weapons others have tomorrow.

These three revolutions in the nuclear environment compound the difficulties we face already. But we must see

them as a challenge to our determination and our will to leave a world safer for our children and our children's children.

Regrettably, there is no magic formula to end the arms race and prevent the use of nuclear weapons. But there are dramatic steps to take, steps toward peace and security, steps to prevent the use of nuclear weapons.

And these are steps which should be taken now—without delay. They strengthen the security of all sides even as difficult negotiations proceed.

First, to stop the nuclear arms race, both superpowers and other nuclear powers, should establish negotiations to achieve a comprehensive nuclear test ban, a ban on all tests for all time. It is of utmost urgency that these negotiations be included in the agenda for the next summit.

The United States should take the lead and initiate mutual moratoria on the deployment of nuclear armed, sea-launched cruise missiles, and on the testing of nuclear weapons explosives. If these initiatives are to succeed, the Soviet Union must quickly respond with the equivalent restraint. The United States is strong enough to take the first step, but it is also realistic enough to continue only if the Soviet Union responds to our lead.

These moratoria would give great impetus to United States-Soviet talks and improve chances for early progress. Relations between our countries are such that decisive action is necessary. It is time to create an atmosphere of confidence and hope.

And it is time to find out who is serious—and who is not serious—about stopping the arms race.

The second reason for these moratoria is to stop the arms race from continually running ahead of our efforts to negotiate an end to it. In 1972, the United States and the Soviet Union failed to limit multiple warhead missiles—and while we both talked on, warheads grew by the thousands. We have also talked for years about limiting cruise missiles, and now they are appearing in the thousands. If we continue with business as usual, there will be other new weapons to multiply by the thousands and outrun our ability to limit them.

To break this pattern, we need a new instrument in the hands of the negotiators—and that instrument is time.

Moratoria can work. They have before. In 1963, President Kennedy declared a moratorium on the testing of nuclear weapons in the atmosphere. The Soviet Union followed his lead—and a cycle of crisis and confrontation was broken. Within months, our two nations had signed the Limited Nuclear Test Ban Treaty.

But all these measures would merely give us room to breathe, and prevent new weapons from overrunning all our

work to lessen the risk of war. There is much, much more to do.

Second, both the United States and U.S.S.R. should undertake nuclear arms reductions which aim to cut the superpowers nuclear arsenals by 50 percent or more. As a step toward this goal, we should seek an interim reduction of 20 to 25 percent—and there is every indication that our two nations can achieve such reductions. The United States and the Soviet Union should consider this a major goal of negotiations.

The principal substance of this goal must be to reduce and eventually eliminate highly accurate multiwarhead land-based missiles. Replacing them with fewer, single-warhead missiles would greatly reduce the danger of a nuclear first strike. And it would reestablish a survivable and therefore more stable nuclear deterrent including missile-carrying submarines—which is likely to provoke attack.

Third, is improved verification. Talks with the Soviet Union should strengthen verification measures in our arms control agreements—to include provision for onsite inspection where necessary.

Apart from the talks we can also, on our own, continually strengthen and improve our own national verification capabilities—the satellites and other systems with which we monitor the Soviet Union. These systems are essential to a stable nuclear world; they make arms control possible; and they can prevent nuclear war.

Fourth, we should undertake a series of measures designed to reduce the risk of nuclear war through accident or miscalculation.

This is not an abstract risk.

In 1980, Senator GOLDWATER and the Senator from Colorado conducted an investigation of the U.S. strategic warning system. We discovered during an 18-month period that this warning system registered 161 false alarms. One of these false alarms lasted 6 minutes, or half the time it would take a Soviet submarine-launched ballistic missile to reach its target in the United States. There is every reason to believe that the Soviets have equal or greater problems with their strategic warning system.

The United States and the Soviet Union should establish one or more joint crisis control centers in which senior civilian and military personnel from both countries could monitor nuclear weapons activities. For example, multiple Soviet missile launches have caused us concern when detected by our warning systems. And the Soviets have been concerned in the past about our strategic bomber operations. These centers could lay the groundwork for future restraints on strategic operations and testing to increase stability. They could prove essential should mistake or miscalculation lead

to confrontation. And they could make the difference between war and peace should some local crisis, third-party nuclear threat, or nuclear terrorism threaten to drag us each—however unwilling—toward a wider war.

In addition to these control centers, United States and Soviet military representatives should meet regularly to improve understanding and reduce suspicion.

The United States and the Soviet Union have begun in Stockholm to establish codes of conduct and confidence-building measures in their relations. But such a code should be expanded to account for incidents in space, and might, for example, state in advance appropriate responses if there were accidental interference with each other's satellites. Now is the time to address these future problems, not later when they are upon us in a crisis.

Each nation, on its own, should substantially improve command and control of its nuclear force—to avoid nuclear accidents and to ensure a credible deterrent. And both nations together could work together on cooperative early warning measures, such as tamper-proof launch detectors in each nation's missile fields.

Our two nations should agree to a mutual pullback of nuclear weapons that are close to the East-West border in Europe. Today, nuclear weapons are located so that even a small advance by either side might push us both to the nuclear decision that nobody wants. Similarly, our nations, in concert if possible, should design weapons and forces that clearly separate, as much as we can, nuclear from nonnuclear capabilities.

Fifth, preventing the use of nuclear weapons also requires that the United States and the nations of NATO modernize and reform their conventional defense forces, so that nuclear weapons are the last line of defense, not our only means of response. One of the most likely paths to nuclear conflict would be nuclear escalation resulting from failure of the conventional deterrent.

But we could achieve every objective outlined here, and still the business of preventing nuclear war would be unfinished. For we would still face an additional grave danger—the spread of nuclear weapons, the horizontal nuclear arms race.

Sixth, we must persuade additional countries to sign the Nuclear Nonproliferation Treaty, through which more than 110 nations have already fore-sworn nuclear weapons. We must strengthen international nuclear safeguards and their enforcement against the clandestine diversion of nuclear materials for weapons purposes. We must—with other nuclear powers—set an example by restraining our own nuclear forces. And most of all, we must

be willing to stop the international trade in dangerous nuclear materials and technology—particularly those associated with plutonium.

This will require an international plutonium freeze. Such a freeze would halt the production of separated plutonium—the nuclear material that can most easily be made into nuclear explosives. It would prevent the export of technologies to produce plutonium. And it would reject the commercial use of separated plutonium as a nuclear power reactor fuel.

Such an agreement would be verified by inspections by the International Atomic Energy Agency, the agency responsible for administering the safeguards applied to civilian nuclear activities around the world.

This freeze would not restrain the legitimate use of nuclear power for energy purposes. But it would restrain plutonium, which there is no economic justification for using in the world's nuclear power reactors. World uranium reserves greatly exceed demand and will last well into the next century.

This plutonium freeze is vital. If separated plutonium becomes an accepted fuel for nuclear power reactors, we will soon see tons of this dangerous material moving each year in international commerce. And with each transaction, the risk of diversion or threat for weapons building will grow. Indeed, we will have begun to traffic in global annihilation. And that must stop.

Seventh, the final step in preventing nuclear war is, quite simply, greater cooperation.

This must begin with improved relations between the United States and the Soviet Union—not because we like each other's system of government, but because we must live together or we will perish together.

We should initiate immediately discussions between the two sides on economic and political issues which can proceed on a regular basis. We can cooperate to address many of the world's problems and to develop much of the world's potential. Preventing the spread of nuclear weapons is one example. Peaceful exploration of space is another. A joint United States-Soviet commitment to end world hunger—in this century—would be yet another.

The developed nations can work together to address the world's unmet human needs—its needs for good, its needs for health, its needs for justice, its need for hope. Left unattended, these unmet human needs are, as well, the seeds of conflict.

Today, the world spends hundreds of billions of dollars on weapons of war, while millions starve each year.

Tomorrow, it may spend hundreds of billions of dollars more for weapons in space, turning frontier into fortress, hope into fear.

Both are perversions of the human spirit. Both will leave humanity not safer or happier, but forever—in the words of President Eisenhower—"hanging on a cross of iron."

We share a vision and a hope that one day we can lift the nuclear shadow that hovers as a constant presence every day of our lives.

There is no magic technological solution. The solution is truly in ourselves.

We know what needs to be done. The real challenge is to our will.

Perhaps the giants of the Senate—recent and past—have an answer here for us. Not only that controlling the nuclear demon is paramount. But that, properly focused and renewed, the Senate itself can shape and strengthen our national will.

Perhaps the nuclear arms issue is the means by which the Senate can recapture its greatness. And perhaps a great Senate offers hope for peace and security for ourselves and all mankind.

The challenge before those whose honor it will be to serve in the greatest parliamentary body in history is to reduce ambition, partisanship, and ideology, and to raise up the national interest. And there is no greater national interest than the survival of our society and mankind.

Let a history yet to be written show that Senators rose above immediate political concerns—above themselves—to debate, and in the process educated the American people concerning, the mounting need for genuine arms reduction and ways to achieve it.

I sincerely believe the nuclear arms issue offers a challenge to our ingenuity, our imagination, indeed our patriotism. But it also offers a way in which the Senate can achieve its true purpose—can become what it has been during its most courageous hours, the forum which shapes our national purpose and direction.

If the Senate of tomorrow reaches that true destiny, future generations will say, with this departing Senator, God bless America, and God bless the U.S. Senate.

□ 0920

Mr. PROXMIRE. Mr. President, first I congratulate my good friend from Colorado, Senator GARY HART, for a superb speech and a very, very relevant and vital speech. There is no more important issue that confronts this country than the nuclear threat, and Senator HART has spoken out with characteristic eloquence and brilliance on this subject.

He has been a marvelous Senator. We are going to miss him very much. I am sure if anyone has a good shot at higher office, the distinguished Senator from Colorado certainly has, and he would make an outstanding President of the United States.

Mr. President, I am delighted that the Senator from Colorado has spoken

at some length on this issue. I am going to speak very briefly on it.

TIME FOR CONGRESS TO SPEAK OUT ON ARMS CONTROL

Mr. PROXMIRE. Mr. President, the House and Senate conferees on the military authorization bill are now engaged in critical negotiations on the role of the Congress in arms control. This conference goes right to the heart of our No. 1 challenge.

Can there be any more important issue than the survival of this great country we love as the free society it is? Of course, not. Does a nuclear war threaten that survival? It does, indeed. Most of us have seen films of the destruction of Hiroshima and Nagasaki by relatively small, weak primitive atomic bombs. That was more than 40 years ago.

In the ensuing 40 years, both the Soviet Union and the United States have advanced the nuclear technology enormously. Both have perfected, deployed, and produced the hydrogen bomb. The hydrogen bomb dwarfs the atomic bomb in power and devastation. Both superpowers have developed intercontinental ballistic missiles that can carry their nuclear warheads thousands of miles from the heart of the Soviet Union or the United States to anywhere on Earth including, of course, to any city in the adversary superpower country. Both have perfected multi-independently targeted re-entry vehicles [MIRVS] that can carry 10 or more warheads each. What does that mean? That means a single Soviet missile can strike 10 or more major, widely separated American cities, with an explosion that can leave each of the 10 metropolitan areas a dead, incinerated hulk. That is one missile. Both superpowers have perfected delivery systems from invisible submarines, swift high-flying bombers, and fast moving land-based mobile vehicles that are difficult or impossible to track. Both superpowers have deployed 10,000 strategic—that is intercontinental nuclear warheads throughout the world, ready to strike at the push of a button in Moscow or Washington. Next year, next month, tomorrow, or any time in the next hour the button could go down and with it the civilized world.

This is the first 40 years. The worst is yet to come, unless we stop this mad technological arms race by agreeing to a mutual system of verification of compliance with a ban on all nuclear weapons testing that exceeds a single kiloton.

Over the hill a few decades is an even worse nightmare: The antimatter bomb. This would step up the devastating nuclear potential a hundred-fold. But it is worse. It would make explosives so powerful, so small, and so

cheap that a single terrorist could carry concealed on his person enough explosive power to totally demolish New York City or Washington or any other city on Earth.

Mr. President, all of this constitutes a great temptation for this technology-rich country. We have consistently "won" every arms race with the Soviet Union. Which country had the first atomic bomb? We did. Of course, a few years later the Russians had theirs. Who had the first hydrogen bomb? We did. A little later the Soviets had their own. Who had the first multi-independently targeted missile [the MIRV]? Once again—the United States. A few years later the Soviets had their own.

Mr. President, this same alternation of United States breakthrough and Soviet response has followed for warhead-carrying cruise missiles, fast-moving submarines loaded with nuclear warheads, bombers carrying every variety of nuclear weapon, and rapidly moving land-based mobile missiles.

We pioneer the breakthrough. A few years later the same devastating weapon and delivery system turns up in the Soviet Union. We win, that is, come in first consistently with one nuclear weapon after another. But who wins the arms race? No one.

Both nations have heavily burdened their economies. Both nations have pulled their scientists away from technologies that would enhance and prolong healthy human life. Both nations are losers. And both nations are increasingly more threatened.

And now we have the supreme diversion. For \$1 trillion or more, this Nation is on its way to building a strategic missile defense or star wars system to stop incoming missiles. As the New York Times' Phil Boffey recently reported, even the administration's own SDI leadership now recognizes that SDI cannot work as the President has told the country it will work. The SDI directors know this system cannot protect our cities. There is an outside chance that SDI might help protect stationary missile sites. But, since three-quarters of U.S. missiles are deployed in submarines that move swiftly and invisibly underwater and bombers that cruise at the speed of sound through the vast envelope of the Earth, this mission of protecting stationary land-based missile sites makes SDI a trillion-dollar fiasco. But it is much worse. Star wars or SDI virtually guarantees a feverish offensive, defensive nuclear arms race. What will be the Soviet response to this antiballistic missile system? That is easy. They will build, develop, and deploy offensive missiles that will penetrate, overwhelm, spoof, confuse, and underfly whatever star wars system we deploy, and they will achieve this for about one-tenth the cost of our star wars deployment.

Mr. President, what this country needs is not an intensified arms race that no one can win and that impoverishes our Nation. What we need is a series of arms control agreements that will slow and stop this race to nuclear disaster. This is not a matter of trust. It is a matter of both sides recognizing where their interests lie. And where is that? It is in mutual, verifiable, constantly, and carefully monitored agreements to stop nuclear testing and to limit nuclear weapons on both sides to the most stable and least vulnerable deployment. This kind of arms control can enable us to take advantage of the principle of mutual deterrence that has kept the peace for the 40 years of the nuclear weapon age.

□ 0930

THE MYTH OF THE DAY: MEDICARE BENEFICIARIES HAVE ACCESS TO NURSING HOME CARE

Mr. PROXMIRE. Mr. President, the myth of the day is that Medicare beneficiaries have access to nursing home benefits when they need them.

While the elderly are guaranteed up to 100 days of skilled nursing home care by the Medicare Program, the simple, tragic fact is that for many elderly, these benefits are simply unavailable.

One of the major goals of the Medicare Program has been to improve the access of the elderly to health care services. In a number of areas, this has been a spectacular success but in the area of skilled nursing home care the goal of access has only been achieved in a few States.

FEW NURSING HOMES PARTICIPATE IN MEDICARE

The reason is all too simple. Few nursing homes in this country participate in the Medicare Program and that has undercut the value of the nursing home benefit to millions of our Nation's elderly.

Consider these facts. A whopping 66 percent of Medicare patient days in nursing homes across this country took place in only 10 States, according to a report released by the Department of Health and Human Services last year.

The remaining 40 States, the District of Columbia and Puerto Rico accounted for a mere 34 percent of the Medicare patient days in nursing homes.

Mr. President, that distribution of nursing home patient days would not be surprising nor disturbing if those 10 States accounted for 66 percent of our Nation's elderly. But neither demographics nor patterns of illness account for this high utilization of nursing homes by the elderly in these 10 States.

And what about the remaining 40 States? The Health Department report found 17 States with fewer than 20 nursing homes accepting Medicare patients. Five of those States had fewer than five nursing homes accepting Medicare patients.

Mr. President, how valuable is a benefit if it cannot be exercised? It is clear that the nursing home benefit is fast becoming a myth for many of the elderly in those States with few participating nursing home. And it could not occur at a worse time.

CONTINUITY OF CARE ISSUES ARE MORE CRUCIAL SINCE DRG'S

While this problem has existed for a number of years, the adoption of the DRG system has exacerbated it.

The incentives of the DRG system for prompt discharge have increased the need for both home health and skilled nursing facility care. And it has brought into bold reality the fact that this Medicare benefit is becoming all too mythical for our elderly just when they need it the most.

The lesson in all of this is clear. Unless we find ways to increase nursing home participation in the Medicare program, such as reducing the cost report paperwork burden, the nursing home benefit will become a myth for even more of our Nation's elderly.

H.R. 3614, A BILL TO RESTRICT THE USE OF FEDERAL VEHICLES

Mr. PROXMIRE. Mr. President, I am delighted to join as a cosponsor of the pending substitute to H.R. 3614, legislation to restrict the use of federally owned or leased vehicles from home-to-work transportation.

The substitute we are offering today has been the result of long and hard bargaining on both sides of the aisle and by Members of both Houses.

Even with this substitute, this bill is far from perfect. But on balance, this bill goes a long way toward clarifying a law which has been cavalierly ignored by Federal bureaucrats for far too long.

A BRIEF HISTORY

Mr. President, legislation has been on the books since 1946 prohibiting the use of federally owned or leased vehicles for home-to-work transportation of Federal employees.

While this legislation has often been referred to as "the limo law," its coverage is far broader than a mere prohibition on the use of expensive limousine-type automobiles. It even goes beyond cases in which a Federal driver or chauffeur is employed. This law flatly prohibits the use of any federally owned vehicle or leased vehicle for home-to-work transportation, even where the employee drives himself or herself.

The only exceptions to that law are spelled out in the existing statute, recently recodified in section 1344 of title 31 of the United States Code.

While the law has always been quite clear to Chairman BROOKS of the House Government Operations Committee and myself, apparently there is not a bureaucrat in town who finds the statute clear. They have been particularly adept at finding, or creating, loopholes large enough to accommodate a Federal car.

After all, home-to-work transportation is the ultimate status symbol for a Federal bureaucrat. It sends a clear message to his friends and neighbors that here comes "Mr. Big" or "Ms. Big."

My surveys of all Federal agencies over the last decade have repeatedly found 140 to 200 Federal bureaucrats using this perk, far in excess of the number entitled under Federal law. Just last year a report by the General Accounting Office for Chairman BROOKS of the House Government Operations Committee found similar results.

As a result, it has become clear that the best course of action is to re-write the 1946 statute and specify more clearly the individuals who are entitled to home-to-work transportation. In addition, because of a myriad of General Accounting Office opinions on related issues—some of which are contradictory as GAO's own views have evolved on this issue—this bill also addresses the rare circumstances under which exceptions can be considered.

THE PENDING SUBSTITUTE

Mr. President, Chairman BROOKS is to be congratulated for his committee's tremendous work in restructuring the home-to-work statute. If the negotiations over this substitute are any indication, the task which Chairman BROOKS and his committee faced was clearly formidable.

The pending substitute builds upon the tremendous work of the House Government Operations Committee. It makes a number of important changes in clarifying the applications of this revised statute. In light of the fact that this bill has been held at the desk and, therefore, there will be no committee report, it is crucial that these changes be emphasized now for the purpose of future legislative history.

COVERAGE OF THE JUDICIAL BRANCH AND LEGISLATIVE SUPPORT AGENCIES

The first key change is the substitution of the word "Federal" agency for "Executive" agency and the reference in (f)(2) of the substitute to section 18 of the act of August 2, 1946 (41 U.S.C. 5a).

The choice of terms and reference was done very carefully. After the House completed action on their bill, it was discovered that the choice of the term "Executive" agency in their

bill had the inadvertent effect of exempting the entire judicial branch as well as all of the legislative branch support agencies, such as the General Accounting Office, the Government Printing Office, the Congressional Budget Office, the Congressional Research Service, and so on.

The change we are making in this substitute will restore the existing coverage of the judicial branch and the legislative support agencies. It is crucial that these principles be applied to all three branches of Government.

MONITORING COMPLIANCE

Mr. President, Federal agencies have repeatedly ignored rulings of the Comptroller General regarding the interpretation of the present statute, arguing that they were only bound by the ruling of their own agency's general counsel.

The substitute language we are proposing today vests rulemaking authority for the entire Federal Government in the General Services Administration (GSA) but provides that the GSA Administrator must consult with representatives of all three branches of Government before promulgating regulations: for the executive branch, the Office of Management and Budget; for the legislative branch, the General Accounting Office; and, for the Judiciary, the Director of the Administrative Office of the U.S. Courts.

The significance of this change should not be overlooked:

First, it reaffirms that all three branches of the Federal Government are subject to the restrictions of this title.

Second, it establishes consistency in the application of governmentwide rules on home-to-work transportation. Individual agencies will no longer be in a position to substitute their own judgment on the applicability of the law.

Third, it reflects our clear intent that these regulations will be promulgated through the Federal Register and receive the public scrutiny and comment they require.

APPROPRIATE RECORDKEEPING

The third change draws on the experience of the General Accounting Office. This change will require that every agency maintain logs or other records each time a Federal employee receives home-to-work transportation.

Mr. President, this requirement is essential if the GAO is to effectively monitor compliance with this statute. In their efforts to assess compliance with the existing statute, the GAO was repeatedly stymied by the fact that many agencies simply did not maintain adequate records.

This provision makes their responsibility crystal clear and all agency heads should take notice of it.

PROXIMATE CONCERNS

Mr. President, having discussed the positive aspects of this substitute, I

would be remiss if I did not point out my areas of disagreement.

First, the substitute and the House bill simply permit too many Federal officials to make use of home-to-work transportation. While the bill represents a significant improvement over the current confused state of affairs, we should have pared away even more positions—both in the executive branch and we should have taken action on the legislative branch as well.

For example, we should not be extending this perk to the principal deputy of Cabinet Secretaries.

And I want to put the Senate on notice that I intend to offer legislation next year to reduce both the number of executive and legislative branch officials eligible for home-to-work transportation.

Second, this substitute goes in the wrong direction by adding the position of the Comptroller General or the Postmaster General to the list of exempt officials. This sends the wrong signal at the very time we are paring down the executive branch.

Third, there needs to be more specificity regarding the exemptions contained in section (a)(2)(B) for "intelligence, counterintelligence, criminal law duties, or protective services." These activities are essential and, in certain circumstances, warrant exemption from the restrictions of this title. But by exempting them from the review of the GSA in the rulemaking section of the substitute, we are increasing the potential for abuse. It is crucial that the conference committee will clearly spell out congressional expectations regarding the way in which compliance will be monitored.

CONCLUSION

Mr. President, despite my reservations regarding specific compromises reached in this substitute, I believe that this substitute deserves the Senate's support.

Clearly, this substitute is a compromise proposal. One that I hope we can improve in the future. But this proposal builds upon the best concepts embodied in the House bill and makes substantive progress toward eliminating the abuse that has pervaded home-to-work transportation for far too long.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RETIRING MEMBERS OF THE SENATE

Mr. SIMON. Mr. President, I understand that a number of statements are going to be entered into the RECORD in recognition of those in this body who are departing. I just wanted to put in a couple of sentences about each.

I have not served in this body long, though I have had the chance to know, at least slightly, all of the Members. Let me just go down the list and say what I appreciate about each.

Before I do that, let me add my appreciation—this is a good time to add my appreciation—also for the Senator from Wisconsin, who day after day after day has been plugging away at the things that are really important to this Nation. This body is an infinitely richer body because of BILL PROXMIRE. It is a privilege to serve with him.

Let me talk about the people who are retiring.

RUSSELL LONG. Kind of a walking history book, loaded with common sense. I have seen him on the floor, I have seen him in our Democratic caucuses get up, and sometimes you have to listen closely with that Louisiana twang and it goes a mile a minute, but if you listen closely you get wisdom from him. We have been fortunate, indeed, to have RUSSELL LONG's wisdom as part of this body.

BARRY GOLDWATER. He says what he thinks; sometimes steps on toes.

If I could just relate one small incident. Senator GOLDWATER came to me one day and said, "Do you know where Bowen, Illinois is?" I said, "I thought I knew where every small town in Illinois was, but I don't know where Bowen is."

He said, "My mother was born in Bowen." It is near Macomb, IL, about 539 people.

I got our highway department to make a sign: "Welcome to Bowen, Illinois, home of Josephine Williams, the mother of Senator BARRY GOLDWATER." I presented the sign to the mayor and had my picture taken and handed it to Senator GOLDWATER on the floor. He said, "I've got to go to Bowen."

So about 6 months or so ago we went to Bowen. They had a parade in the town, all five blocks of the town. He spoke in the town's square about what Bowen meant to his mother. About 300 or 400 people gathered there. It was like an old Norman Rockwell cover on the Saturday Evening Post. It was absolutely marvelous.

Then, not too long afterwards, Senator GOLDWATER said to me, after his wife died, "You know, our home in California, we are going to have to close that, and I have all those books there. I think I will send them to the library of Bowen."

I said to him, "I'm not sure they have a library at Bowen." But we

checked and there was a library and he sent his books there.

It is just one of those little things. I am proud to have had that small association with BARRY GOLDWATER and to be with him here in the Senate.

PAUL LAXALT. I think of the Rehnquist hearings where, frankly, we were on a collision course, some of us who wanted documents and some of us who wanted medical records, and PAUL LAXALT, in that quiet, solid way of his, put things together and both sides were pleased with the results.

There has been some criticism of the Rehnquist hearings. I happen to think they were superb hearings, really giving an insight into how our process works and everyone having a chance to get to be able to make a judgment. But one of the reasons they were successful was because of PAUL LAXALT and his ability to get along with everyone.

GARY HART. We just heard GARY HART speak here. He has been a thoughtful, reflective Member of this body. I am sure he is going to be entering the national dialog and, whether he wins or not, will contribute in a continuing way.

Senator "MAC" MATHIAS, CHARLES MATHIAS. Courage. I see the majority leader on the floor. Sometimes he has had more courage than the majority leader wants, from time to time, I am sure, in standing up to his colleagues on that side. But he stands up to everyone.

There is no question that "MAC" MATHIAS has made significant contributions to this Nation and his leaving the Senate is our loss.

And then, finally, one person that I am particularly going to miss, who I have known long before either one of us served in this Congress, and that is TOM EAGLETON from Missouri. TOM EAGLETON has a sense of where this Nation ought to go.

I may misread TOM EAGLETON's leaving the Senate, but I think part of it is his feeling is we are not dreaming any more. We are not putting together dreams about where this Nation ought to go and what we ought to do. I hope I am wrong about that.

But TOM EAGLETON is that thoughtful person who cares, who is concerned about the future. I am sure, as a faculty member at Washington University in St. Louis, he is going to instill in those students that same kind of caring and vision. I hope we continue to hear from TOM EAGLETON here in this body.

I have been fortunate, indeed, to serve with these Members of the Senate. I just want, in a small way, to pay tribute to them. I do not have an eloquent statement to enter in the RECORD, but I think all of us recognize that not only we but the American people have been served well.

Mr. DOLE. Mr. President, I thank my colleague from Illinois. I agree with every statement he made. I know our colleagues will appreciate his eloquence here this morning.

Mr. President, at 10 o'clock we will go into closed session to continue the impeachment proceedings.

THE PRESIDENT DESERVES THE FULL SUPPORT OF CONGRESS

Mr. DOLE. Mr. President, within the hour the President will leave for Iceland. I think it goes without saying that the President deserves the full support of Congress—100 percent support—not some kind of conditioned support that disappears once the meeting in Reykjavik is over.

It is sad to say, but the mischief on arms control concocted on the House side has been a disaster as far as timing is concerned. I think we have to be realistic.

The President is about to engage in the highest stakes poker game any of us can imagine. He will be sitting down across the table from Mr. Gorbachev in the next day. Mr. Gorbachev reads the papers and will have all kinds of information on what is happening in the United States and around the world, and I assume particularly in Congress.

□ 0940

And he will know that there are some, hopefully not a majority, who are trying to put roadblocks in the President's path to peace and progress on arms control.

There are some who never ran for the Presidency, who are insisting on the House side that they, in fact, take the President's place. That they determine arms control, that they determine what we do with unratified SALT agreements, that they determine what we do about ASAT and nuclear testing and chemical weapons.

I do not believe there is any doubt in the mind of anyone in this body that the President is sincere in his efforts to reach a meaningful arms control agreement before his second term expires. I cannot for the life of me understand why some keep going back to an agreement that was never ratified in this body, the SALT II agreement. I would hope that the Democratic leadership in the House would back off, complete action on the continuing resolution, postpone any mischief until the President has had an opportunity to try to deal with it face to face.

There is no doubt about it. There are very strong differences of opinion about how we should proceed to achieve a meaningful and verifiable arms control agreement.

There are some who are seriously concerned, some are Republicans and some are Democrats; some are in the

Congress, some are out of the Congress. But it does seem to me that in the next 48 to 72 hours we ought to let the President be the President. I do not believe that is too much to ask. We can play games. We will be around next year. If there is no agreement—and I do not expect any great agreements on the weekend—but if later there is a real summit in the United States and there is some agreement, I think most of us would believe that it happened because the Congress, the Democrats and Republicans, supported our President.

We are optimistic. We wish the President well as we did in the resolution passed in the Senate last evening, which we did, I might add, with a major effort by the distinguished Senator from Illinois, Senator SIMON.

We believe we are on the right track. We believe that the President will raise issues other than arms control. Arms control should be No. 1, but there are regional differences and there are human rights violations. And they should be brought to Mr. Gorbachev's attention. I believe in all of these things we find ourselves in support of the President.

Finally, Mr. President, let me indicate that I am advised that we may be able to act on the reconciliation ahead of the House. We may be able to do that today. It may not take long. I understand there are three not insignificant, but not major items, that need to be disposed of. There is a meeting right now of the Senate Finance Committee conferees on those three issues: One with reference to AFDC, one with reference to oil spills, and one of them I cannot remember. So they are down to three issues. The papers have been signed by all the conferees except the conferees from Finance and Ways and Means.

I hope we could act on reconciliation following proceedings on impeachment. I also hope we can have some agreement on the drug bill—I know there are some who feel very strongly about the death penalty provision in the drug bill as it comes from the House. We have a bipartisan staff group again looking at the other provisions. They took out some of the provisions in the House bill that we believe ought to be in the drug bill on a bipartisan basis, not Democratic or Republican.

If we could come together on one amendment when we have bipartisan support we could then focus on efforts of those who want to remove the death penalty, those who do not. I hope, somehow, we can get an agreement—if we cannot do anything else we would be forced to file cloture; which we might be permitted to vote on that tomorrow. Perhaps we could wind up our debate and dispose of that fairly early tomorrow. That may not happen. But at least it is a possibility.

Then I would anticipate, there would not be a session on Monday. I hope we would avoid a Saturday session if we can get an agreement to have a cloture vote tomorrow, if that becomes necessary. We would be here on Tuesday, and hopefully complete our work on Wednesday.

Mr. BYRD addressed the Chair.

The PRESIDENT pro tempore. The Democratic leader.

Mr. BYRD. If the distinguished leader would yield. As I have listened to the distinguished majority leader, I believe I hear it being said that there is a possibility that the Senate would go out after today's business, and go over until next Tuesday; also that the reconciliation measure could be called up today in the Senate, and, hopefully, the drug bill would be ready for some action in the Senate, and that inasmuch as the House has not sent over the extension of the debt limit, and the continuing resolution will not be ready—as I understand from what the majority leader is saying—this weekend, the Senate then would go over until Tuesday, Monday being a religious holiday as well as Columbus Day, a national holiday.

I believe I am also hearing the distinguished Senator say that it is possible for the drug bill to cause the Senate to be in tomorrow, and possibly Saturday. If a cloture motion should be offered today and we do not get consent that it be voted on tomorrow, it would then mature on Saturday or if the Senate is not then in, it would mature on next Tuesday.

Am I hearing the majority leader correctly?

Mr. DOLE. That is correct.

I hope we might be able to work out something. I believe most Members would be willing to do that. I know the distinguished Senator from Michigan last evening—I appreciate his candor—indicated not to plan on a quick disposition of the drug bill. I believe there are some on this side who have the same view.

Mr. BYRD. With respect to the extension of the debt limit, why is it that the House does not send that bill over here to let the Senate begin work on it?

Mr. DOLE. I discussed that with the Speaker yesterday. He indicated that they were trying to make a determination whether to strip every amendment that the Senate had in it, I think 23 or 24 amendments on the debt extension, or whether to accept some or whether to go to conference.

I indicated that once it is here, if it is stripped, it is difficult to handle because it is open to amendment. And I assume some Members would have amendments. He also indicated that they were not trying to hold it back. They would be willing to send it whenever we felt we would like to have it.

Once we have disposed of reconciliation and the drug bill, I assume we may as well have the debt ceiling. It may take a day or two.

Mr. BYRD. It is not the majority leader's view, as it is mine, that the extension of the debt limit, if it is sent over again as a clean measure, will very likely run into the Gramm-Rudman amendment again, and that would cause some debate and votes? That being the case, the bill would be open to further amendment, and would be like a lightning rod for further amendments, in which event, therefore, not only would Senators be held here beyond next Wednesday but House Members would be as well?

Mr. DOLE. That is correct. I have not discussed this with any of the principals, either GRAMM, RUDMAN, or HOLLINGS.

□ 0950

I would hope we can have that. It would be one way to resolve the problem of the debt ceiling. We have had that battle in the Senate. We know the House is not going to do anything with it this year. Most of us will be here next year. Perhaps if they were willing to withhold their fire on that, other Members might be willing to withhold their fire on other amendments.

I can foresee having another 15 or 20 amendments added to the debt ceiling if we are going to start down that road. I had not mentioned that to either Senators GRAMM, RUDMAN or HOLLINGS. It may trigger some reaction. I would hope they would at least reflect on that and perhaps decide they can make that battle again next year.

Mr. BYRD. I share the distinguished majority leaders' hope. I have been trying to get in touch with Congressman WRIGHT this morning. I want to do so as soon as possible this morning. I want to discuss the debt limit legislation with him and try to get some feel from him as to when that matter will be resolved in the other body and when we might expect it over here.

I understood, last evening, the distinguished majority leader to mention that the debt ceiling might be sent over here by the House along with the adjournment resolution.

Mr. DOLE. If the minority leader will yield, the speaker, at least, has indicated that they are not purposely holding it. But I do know that the chairman of the Ways and Means Committee, Congressman ROSTENKOWSKI, has been tied up in the Superfund conference. They are still working on reconciliation. There is still a little resolution to be completed on the tax bill. I think it has just been a matter of no time to focus on another conference, in fairness to Members of the House.

Mr. BYRD. Yes. I am sure of that.

One final question, if I may ask the majority leader: How late does he foresee the possibility of rollcall votes today? I think if I were in his place I would throw up my hands and say, "How would I know?"

But he is in a position, however, to know what measures may come before the Senate today, the reconciliation measure being one, and with the Senate disposing of the Articles of Impeachment rather early in the afternoon. Can he give Senators some idea, though it may be rather slim, as it were, can he give us some idea as to what we might expect with regard to rollcalls into this evening?

Mr. DOLE. I would hope there would not be a late evening. It would seem to me that if the impeachment proceedings are completed, say, by 3 o'clock and we are in a position to deal with reconciliation, I would not think that would take over 2 hours, though it has a 10-hour time limit.

Then, by that time, if we could have some bipartisan agreement on the drug bill with maybe one or two exceptions, to narrow the issues to the death penalty and whatever else the staff may recommend to us. Hopefully, we could have some agreement either to have to vote at a certain time or agree that we can vote on cloture tomorrow rather than to stay in until 11 or 12 o'clock. I do not have the desire to stay late and I do not think the distinguished minority leader has either. We both have the same affliction, colds.

Mr. BYRD. The uncertainties being what they are, I think we all have to understand what the distinguished majority leader has said. We hope we will not be in late today but we could very well be. It will all depend upon whether or not we reach some kind of agreement on the drug bill which could, conceivably, keep us over into tomorrow.

Mr. DOLE. And beyond.

I certainly do not believe we should leave here this year without having passed that legislation.

Mr. BYRD. I agree with the distinguished majority leader.

Would the distinguished majority leader bear with me further on one observation: Would it be his feeling that if there is cloture to be voted on the drug bill, that that cloture vote should come Saturday or should await until Tuesday following the Monday recess?

Mr. DOLE. I would rather do it tomorrow, if that could happen. Then we could have that behind us and really be back here next week and be able to see the end of the session. I think if we come back with the drug bill on Tuesday, my experience over the years has been that you generally use up the whole week. I think we have to be very honest. We have Members on each side that want to be re-

lected. I have not seen a single person running who does not want to be re-elected. They want to get out of here. We are getting down to 3 weeks before the election. I think we are both going to have difficulty with our colleagues on our respective sides about next Wednesday if we are here. If they are not gone by then, I may want to leave.

Mr. BYRD. Mr. President, I thank the majority leader. It is a very uncertain time to attempt to see clearly what the clock and calendar are going to do to us at this point. I think I have about exhausted his knowledge on this subject. He has certainly responded as well as he can to my questions.

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

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

TRIBUTE TO SENATOR EAGLETON

Mr. LEVIN. Mr. President, I suspect that TOM EAGLETON, more than most Members, will appreciate the series of tributes which his colleagues will place in the RECORD.

I say that not because he is more of an egomaniac than the rest of us—he is not. He is no shrinking violet, but he is not any worse than the rest of us either.

Nor do I say that because I think he will have nothing to do but spend his days studying the words which were said about him. I suspect that TOM will have better things to do with his time.

No; I make that suggestion because I think that TOM EAGLETON has a better sense of what this place is about than most. He understands the rituals of this body and he has a sense of humor about them.

I have served with him in the Governmental Affairs Committee and I have seen him work. He knows the rules and he knows how to win. He also knows how to count and he knows when he is going to lose. When he can win, he pulls out the stops and he does everything that can be done. When he is going to lose, he does what has to be done—he makes his speeches, he contributes what he can to the legislative history he hopes will minimize our folly—but he does not waste his time; he begins to plan for the next battle and organize the next veto.

And through it all TOM EAGLETON has kept a sense of perspective. He can look at what we do here and know that some of it is useful, some of it crucial and some of it is just absurd. I suspect he may, some day, look at these tributes and put them in the cat-

egory of the absurd. But that will be one of the few times that he will be wrong.

The act of paying tribute to a Senator like TOM EAGLETON allows us to focus on what is the best about this place and think about what a Senator ought to be. A Senator ought to be like TOM EAGLETON.

I am sorry he is leaving. I will miss him. And I will continue to admire him.

TRIBUTE TO SENATOR GOLDWATER

Mr. LEVIN. Mr. President, back in 1979, when I had been in the Senate for just a year, I was faced with the problem of a possible collapse of the Chrysler Corp. I think members can understand what that meant to me: here I was, a new Senator and a major employer in my State was in trouble and looking for help. And even though my senior colleague, Senator RIEGLE, was on the "right" committee and more than able to handle the problem without any help from me, I felt that I had to do something.

And I remember that at one point I wrote a fairly passionate and fairly lengthy "dear colleague" letter explaining why Chrysler ought to be helped. I had 100 of them run out and I signed them all and added little notes to them and mailed them out. Some of my colleagues responded but the response I remember best came from Senator GOLDWATER. "Dear CARL," he wrote, "I think you are all wrong on this issue so I'm not going to give you my vote—but I'm not going to give you any trouble either."

That is BARRY GOLDWATER—honest, direct, no nonsense. Just about the only thing about that note that was not BARRY GOLDWATER was the promise not to give someone any trouble. Because BARRY GOLDWATER has given lots of people—people on the left, people on the right, and people in the middle—plenty of trouble.

He does not do it because he likes to cause problems; he does it because he loves his country and he has very strong ideas about where this Nation ought to go.

Those ideas are rooted in BARRY GOLDWATER's love of America and his commitment to the traditions and values contained in the basic documents which define American democracy.

I have served on the Armed Services Committee under Chairman GOLDWATER for 4 years now. I wish there were more Members like him: He does not legislate by press release and he does not vote by party affiliation. He looks at the issue, he looks at his values—and he looks after the defense of this country.

BARRY GOLDWATER is a hell of a man and he has been a hell of a Senator. I respect him in both capacities. We will lose a great deal when he leaves the Senate—but he will gain a good deal of time to spend with his family. He has earned that. I wish him well. But even more, I wish he keeps giving all of us the kind of trouble we have come to expect—and accept—from him.

TRIBUTE TO SENATOR HART

Mr. LEVIN. Mr. President, in 1972, GARY HART, as campaign manager for George McGovern, led a revolution. Some may look back and declare his insurgency a failure: after all, for many reasons, his candidate was beaten badly in the fall election. But such a judgment ignores the reality of a revolution. Revolutions do not involve a single battle nor are they decided in a short period of time. Instead, they evolve and emerge and modify themselves over time. And in that context, the revolution that GARY HART once led has now triumphed.

The revolution that GARY HART once led helped lead a new generation into the political process. And once they were involved, he led them in another way: he refused to accept the orthodox views of any generation as inflexible dogma. After his election to the U.S. Senate, he helped shape the evolutionary process which allowed the ideology of the 1960's to make peace with the reality of the 1980's.

As a Senator, GARY HART has confounded the conventional wisdom. When he began his service on the Armed Services Committee, few expected him to be more than a critic. But now he is an acknowledged expert on defense strategy and a vital voice in the ongoing effort to renew and revitalize America's strategic doctrine. Like the revolution he led in 1972, this effort has not had immediate success—but it has had success. The military reform caucus, which he helped found, has demonstrated that there are people willing to talk about defense issues without talking about politics. And it has also demonstrated that the people who talk about defense are also willing to talk about alternatives to existing doctrine.

When GARY HART sought the Presidency in 1984, he showed the American people that he could do more than handle an ax; he also demonstrated that he could handle ideas, the press, and the rigors of a nationwide campaign. Those are skills that, I suspect, he will call upon again in the years to come. For while GARY HART will not be in the Senate, he will not be out of the public eye. He will continue to contribute and continue to be a leading light for the generation he introduced to politics as well as lighting sparks in the generation that his once-youthful comrades have produced.

TRIBUTE TO SENATOR LAXALT

Mr. LEVIN. Mr. President, PAUL LAXALT and I have never served together on any committee and do not belong to the same political party. Consequently, our contact with each other has never been sustained and I cannot pretend that I know him well as a person.

But I do know him as a Senator. And I know him well enough as a Senator to admire the skill and dedication and passion he has brought to this body.

In addition to being a Senator, though, PAUL LAXALT has carried an additional obligation over the past 6 years. He has had to carry the mantle of "special friend of the President." In that capacity, he has been asked to carry messages from his colleagues to the White House, as well as from the White House to his colleagues and to foreign leaders.

His "elevation" to the status of "special friend" was an accident of history; it was a result of a relationship begun when both the President and Senator LAXALT were serving as Governors. But what was no accident was the skill with which PAUL LAXALT discharged the role of special friend.

He did not trade on his relationship with the President; he did not seek special advantage or favor. He was more than a special friend; he was a good friend—one who could be trusted to communicate ideas accurately, one who would be willing to accept the trying task of passing on the bad news as well as the good. And he was a friend who understood that his personal relationship could not be allowed to interfere with the professional relationship that the leadership has to have with the President. As a Democrat, I found it interesting—and ultimately educational—to watch Senator LAXALT turn a potentially tense and difficult situation into an easy and clear chain of command. He did not allow anyone to forget that there are lines of authority in the Senate, and even friendship cannot be allowed to alter those lines or cross those boundaries. It was a performance typical of the man—and worthy of the best traditions of the U.S. Senate.

TRIBUTE TO SENATOR LONG

Mr. LEVIN. Mr. President, a few weeks ago, the Senate was in one of those traditional messes that we find ourselves in from time to time. A parliamentary ruling held that Senator HOLLINGS had given two speeches and could not speak again without unanimous consent. The ruling created quite a stir and a good deal of debate. We had worked up the kind of emotion that comes to us easily whenever we think our rights are being threatened. And into this environment came the senior Senator from Louisiana, RUSSELL LONG. And Senator LONG pro-

ceeded to give us as an example of why he is so treasured in the Senate: he gave us a history lesson. He spoke about having seen the same sort of situation—40 years ago. He told us that his father—Senator Huey Long—once had almost run up against the two-speech rule himself. He told us that he had been in the Chamber when that happened. He gave life to a precedent and meaning to a ruling of the Chair.

But Senator LONG has always been more than a man of memories. He is a man who has created history. As member of the Senate Finance Committee, he worked the Tax Code as few before him had. He not only knew the code, he had helped create it. And after he was done, after he had perfected every nuance, every crack and cranny, he then worked just as hard to develop a tax policy which virtually eliminated the shelters and loopholes.

RUSSELL LONG is an amazing man. He is, in many ways, a transitional figure in the history of the U.S. Senate: his service here spans a period of radical change. He came to this body as a "Southern Senator" and he leaves as a national treasure; he came when the Senate might consider 180 bills a year and he leaves when we consider 180 amendments to a single bill; he came when a few Senators controlled the work of the body and he leaves when a few Senators can stop all the work in this body. He has seen all those changes, contributed to some, tried to stop others. He has made a contribution to this body, to the Nation and to the laws which will guide us for generations yet to come.

I fear we will not see his like in the Senate again. But I am encouraged to hope that we will continue to see more than his like—we will continue to see him as an active element in our public life.

TRIBUTE TO SENATOR MATHIAS

Mr. LEVIN. Mr. President, when political people talk about MAC MATHIAS they normally say that he represents something called the "liberal" or "Rockefeller wing" of the Republican party. Now, I am not a Republican so I do not get involved in their classification schemes—we have enough trouble in my party categorizing the liberals and populists and progressive and all the rest—but I know that MAC MATHIAS represents more than a wing of the Republican Party. He represents a grand tradition of decency and compassion and commitment and principle. And that tradition, I hope, transcends any wing and any party.

MAC MATHIAS fights for the rights of the individual and cares about the future of our society. In the process of making those fights, he drew on a tradition of the Senate. In this body, we believe that each Member has certain

rights and, as Senators, we accept a responsibility to protect the rights of our colleagues even when we disagree with the substance of their position. Mac simply applies the principle we accept here to the larger society we seek to both protect and perfect.

That, in itself, would be a sufficient contribution for any Member to make. But I believe that MAC MATHIAS has made another contribution which, while less specific, may be even more important. He represents the sort of Senator which we all, I hope, would like to be: A Member who seeks to achieve his end by reason and persuasion rather than tactics and tricks. I cannot recall a single time when MAC MATHIAS was less than fair to a colleague, less than willing to work together, less than committed to the notion that if we just worked a little harder and a little longer, we could reach an agreement.

Senator MATHIAS is a decent human being and an outstanding Senator. When he leaves us, we will be poorer; I just hope that the time he now has to spend with his family and friends will leave him richer.

RETIREMENT OF SENATOR GARY HART

Mr. THURMOND. Mr. President, I rise today to pay tribute to Senator GARY HART of Colorado, who is retiring at the end of this Congress.

In his 12 years of Senate service, Senator HART and I have often disagreed on matters of national policy. Despite our ideological differences, Senator HART has consistently been a well-prepared and articulate advocate. In the 1984 Democratic Presidential primary campaign, these talents assisted him in winning 27 primaries and caucuses.

Senator HART is an active committee member and serves on the Budget, Environment and Public Works, and Armed Services Committees. In our work on the Armed Services Committee, the differences in our political views are often highlighted. Accordingly, it is particularly gratifying to work closely with Senator HART on the same side of an issue. Recently, our joint support of the Department of Defense Reorganization Act of 1986 provided such an opportunity, and I commend Senator HART for his fine work on this important legislation.

Senator GARY HART is devoted to his principles. While in the Senate, he has energetically sought to implement those principles legislatively. He has earned the respect of his colleagues.

I wish Senator HART, and his lovely wife, Lee, good health and happiness in the future.

RETIREMENT OF SENATOR THOMAS EAGLETON

Mr. THURMOND. Mr. President, I would like to take this opportunity to pay tribute to a retiring colleague who for the past 18 years has been a champion of our poor, elderly, and handicapped citizens as well as a watchdog for Government waste—Missouri Senator THOMAS EAGLETON.

Growing up in south St. Louis, TOM EAGLETON developed an early and intense interest in politics, even attending the 1940 Republican National Convention in support of Wendell Wilkie at the age of 10.

After graduating cum laude from both Amherst College and Harvard Law School and serving a short time in the Navy, TOM returned to his native St. Louis to pursue a career in law and politics. At age 27, he became the youngest man to be elected circuit attorney of the city of St. Louis.

In 1960, he was elected attorney general of the State of Missouri, quickly earning a reputation as an energetic and effective State official. He established the division of consumer protection within the attorney general's office, concentrating his efforts on battling consumer fraud.

Elected Lieutenant Governor in 1964, TOM EAGLETON's work as chairman of the Governor's Commission on Vocational and Technical Education led to the creation of Missouri's network of votech high schools.

He ran a successful campaign for the Senate in 1968, becoming chairman of the District of Columbia Committee and a member of the Committee on Environment and Public Works and the Committee on Labor and Public Welfare.

During his first Senate term, he led the fight for enactment of the Clean Air and Clean Water Acts and authored the Right To Read Program.

Following his reelection in 1974, TOM EAGLETON became chairman of the Subcommittee on Aging, the Appropriations Agriculture Subcommittee, and the Subcommittee on Governmental Efficiency.

Always fighting Government waste, he sponsored a bill creating the Office of the Inspector General in 12 major Federal departments and agencies to serve as internal auditors of fraud and corruption. These inspectors' investigations have led to hundreds of indictments for abuse of tax funds as well as the recovery of hundreds of millions of dollars of lost Federal money.

He is presently the ranking member of the Committee on Governmental Affairs.

TOM EAGLETON has been truly devoted to the citizens of Missouri as witnessed by the many awards they have bestowed upon him including: Missouri Man of the Year; the Harry S. Truman Good Neighbor Award; the Leon Jordan Memorial Award; and the

Midcontinent Farmers Association Distinguished Service Award.

I have always admired TOM's commitment and conviction for those things in which he believes. He is a compassionate and dedicated Senator, and I wish him and his lovely wife, Barbara, our best wishes for a happy and long life back home in their beloved Missouri.

RETIREMENT OF SENATOR RUSSELL LONG

Mr. THURMOND. Mr. President, I would like to take this opportunity to pay tribute to my very good friend, longtime Senate colleague, and next-door neighbor in the Russell Senate Office Building, Senator RUSSELL LONG, who is retiring from office.

On December 1955, I came to the Senate to fill the unexpired term of Senator Charles E. Daniel. Today, there are only two Members still serving in the Senate who were here on the first day that I assumed this office: Senator JOHN STENNIS and Senator RUSSELL LONG.

At the time, Senator LONG was already finishing his second Senate term at the ripe old age of 36, having been elected to fill the unexpired term of the late John P. Overton in 1948 and reelected in 1950.

During the 38 years he has served in the Senate, RUSSELL LONG has earned a reputation for his vast knowledge of our Tax Code, serving as chairman of the Senate Finance Committee from 1966 until 1980.

Assistant majority leader from 1965-68, RUSSELL LONG served as chairman of the Merchant Marine Subcommittee of the Commerce Committee from 1969-76, and took the chairmanship of the Surface Transportation Subcommittee from 1977-80.

Presently, he is ranking minority member of the Finance Committee and Surface Transportation Subcommittee, as well as serving on the Merchant Marine Subcommittee and three Finance subcommittees.

His commonsense approach and wry wit in heated debate have made him popular among his colleagues. A 1982 survey of Members of Congress ranked him as the most influential and most persuasive Democrat in the entire Senate.

RUSSELL LONG's love and loyalty for the State of Louisiana know no bounds. Over the years he has been responsible for numerous work projects for the State, including hurricane protection, flood control, and navigational improvements.

On the national level, he has led the fight for the Child Support Enforcement Program which has saved our Government more than \$5 billion in welfare costs by locating "runaway"

fathers and requiring them to contribute to the support of their children.

A guardian of the disabled and elderly, RUSSELL LONG has worked diligently to protect their Social Security and Medicare benefits, ensuring that our truly needy citizens receive adequate medical treatment. At the same time he strove to revise the welfare system, discontinuing the guaranteed annual income for able-bodied persons who refuse to work.

Under his able leadership of the Senate Finance Committee, Congress passed the landmark 1972 and 1976 Federal revenue-sharing laws and the 1975, 1977, and 1978 tax cuts.

A conservative, articulate Senator, and devoted anti-Communist, RUSSELL LONG has always supported a strong defense and persuaded many of our colleagues to join him in voting to preserve our national security.

He is a man of the people, rendering outstanding service to the citizens of his State and never losing touch with his roots. RUSSELL LONG is a common man of uncommon abilities. He is a leader, a patriot, and a great American.

I will sincerely miss my good friend from Louisiana whose honesty, integrity, intelligence, and humor have added so much to the Senate over the years, and I wish RUSSELL and his lovely wife, Carolyn, many, many years of continued health and happiness.

RETIREMENT OF SENATOR CHARLES McC. MATHIAS

Mr. THURMOND. Mr. President, as the days of the 99th Congress draw to a close, I would like to make a few remarks about our distinguished colleague from Maryland, Senator CHARLES McC. MATHIAS, who is retiring after 18 years of Senate service.

I have known Senator MATHIAS since he first came to the Senate and have had the privilege of serving with him on the Senate Judiciary Committee for many years.

He is an able legislator, who has represented his State fairly and faithfully. Although I have not always agreed with the positions he has taken, I have found him to be a man of integrity who votes his conscience on the issues.

Senator MATHIAS was born in 1922 in Frederick, MD. His schooling at Haverford College was interrupted during World War II while he served in the Coast Guard and the Navy.

He graduated from the University of Maryland Law School in 1949. After admission to the bar, he practiced law with his father, became an assistant attorney general of Maryland, city attorney of Frederick, and in 1958 he was elected to the General Assembly of Maryland as a delegate from Frederick County. He was elected to the U.S. House of Representatives in 1960 and reelected in 1974 and 1980 when

he carried all the counties in the State and the city of Baltimore.

In the Senate, he is currently chairman of the Senate Rules Committee and member of the Foreign Relations Committee, Governmental Affairs Committee, and the Judiciary Committee.

As chairman of the Subcommittee on Patents, Copyrights and Trademarks, Senator MATHIAS has sponsored the the Trademark Counterfeiting Act of 1984, the Semiconductor Chip Protection Act of 1985, and other changes to patent law. He has supported legislation to allow joint research and development for corporations without violating antitrust laws. He has also fought for electronic communications privacy and computer software protection.

In his years in the Senate, Senator MATHIAS has proven to be a dedicated public servant and a truly great American. I am privileged to have known and served with him.

Mr. President, I commend Senator MATHIAS on his years of Senate service, and I wish the best for him, his lovely wife, Ann, and his sons, Charles and Rob, in the years ahead.

RETIREMENT OF SENATOR PAUL LAXALT

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who can be counted among the most admired and respected men in the U.S. Senate—and indeed the entire Nation—Senator PAUL LAXALT, who is retiring at the end of this session after a long and distinguished public service career.

In his years of public service, including 12 years as a Member of this body, Senator LAXALT has shown himself to be a man of integrity and independence. He is a fine example of those things which we consider to be virtues of the American West—strength, independence, loyalty, individuality, and honesty.

The eldest of six Children, Senator LAXALT grew up in Carson City, NV. His upbringing by his Basque parents instilled in him a strong sense of family and the traditional values which have sustained him during his years in public life.

He received an undergraduate degree from the University of Santa Clara and a law degree from the University of Denver Law School interrupting his undergraduate education to serve his country as a U.S. Army corpsman in the South Pacific in World War II.

In 1962, he left a successful private law practice to serve as Lieutenant Governor and then Governor of his State. During his tenure as Governor of Nevada, he concerned himself with establishing a policy of self-reliance and fiscal prudence, which he has con-

tinued to advocate during his Senate career as well.

He came out of a 4-year retirement from public life in 1974 and quickly established himself as a strong conservative influence in the Senate, working to meet the need for a strong national defense and to reduce the size and scope of the Federal Government.

Senator LAXALT has distinguished himself in many areas during his Senate career. He has been an able and dedicated member of the Senate Committee on the Judiciary, where it has been a pleasure to work with him, and I appreciate the valuable service he has rendered as a member of that committee. He also serves as the chairman of the Judiciary's Criminal Law Subcommittee. He served for 2 years as chairman of the Appropriations' State, Justice, Commerce Subcommittee.

Another noteworthy accomplishment was his establishment of the Senate's western coalition, which he formed to help Senators from Western States unite on issues of common concern.

He has shown himself to be an able legislator, leading the opposition to the Panama Canal Treaties during his freshman term, and later chairing the subcommittee which passed the regulatory reform bill through the Senate with no opposition. He also cosponsored the Comprehensive Crime Control Act of 1984. This bill has been called the most sweeping piece of anti-crime legislation in the history of the Congress, and Senator LAXALT's role in its passage is especially noteworthy. He is currently working on the interstate water compact.

He has served as general chairman of the Republican Party since 1983; and after being the only Senator to publicly speak out on behalf of Ronald Reagan's campaign for the Presidency in 1976, he served as President Reagan's national campaign chairman in that year, as well as in 1980 and 1984.

Relying on a friendship which goes back to the early years of then-Governors Reagan and LAXALT, President Reagan now calls frequently on his friend from Nevada and considers him to be his "eyes and ears on Capital Hill."

President Reagan's belief in PAUL LAXALT is so great that he entrusted him with the task of handling delicate negotiations with former President Marcos of the Philippines, prior to the fall of the Marcos government. Senator LAXALT's perception of the situation in the Philippines proved invaluable to the President during the ensuing political upheaval in that country. In the short visit he had with President Marcos, he so impressed that leader that Marcos called to ask for his advice during the crisis.

The qualities which his colleagues have come to value most in him are his deep-seated sense of right and wrong; his quick sense of humor; his openness and honesty; and his unflinching loyalty. Our Nation was founded by men with these qualities—men who were not confined by the stale boundaries of prescription politics.

I am told that Senator LAXALT has a sign on the wall in his office which reads: "There is no limit to what a man can do or how far he can go as long as he does not mind who takes the credit."

This seems to be a true assessment of PAUL LAXALT's ideology. He quietly, and with determination, accomplishes what he thinks is necessary for the good of the people of his State and our Nation.

I shall miss my friend from Nevada, both personally and professionally. I know that all of my distinguished colleagues join me in wishing him and his lovely wife Carol, continued good health and happiness.

RETIREMENT OF SENATOR BARRY GOLDWATER

Mr. THURMOND. Mr. President, I have mixed feelings as I rise to honor Senator BARRY GOLDWATER on his retirement, for it is easy to pay tribute to a man of his character, but difficult to say goodbye to a friend and truly great Member of this body.

I have known him since I came to the Senate 30 years ago and have watched his leadership carry this Nation through some of the most formative and turbulent times in its history. Mr. President, I believe that few have served this country as faithfully as this man, and few will be remembered as well.

When we look back over the decades of this century, Senator GOLDWATER's image will be engraved there. He was part of the glory of World War II and privy to the threat of the cold war. He witnessed the unrest of the sixties and the crisis in Vietnam. He lived through the confusion of Watergate and the growth of the arms race. Through all these years, he has been a strong voice—at times a lonely voice—for fiscal conservatism, a strong defense, peace, and freedom.

We will remember him as the pre-Vietnam Presidential candidate, who warned the Nation that it could not commit itself to war one step at a time—that to shed the lifeblood of a Nation for any less a goal than victory is sacrilege. For his honesty, he was harangued by liberals and castigated by petty politicians. The Nation that was promised no war got a long war. History judges BARRY GOLDWATER to have been right and he is now known as a prophet whose words stood the test of time.

As the years go by, we will treasure his devoted public service, for he has defended this country in military combat and in the legislative trenches. BARRY GOLDWATER has spent 37 years of his life in active military service and in the Reserves, where he retired as a major general. He has spent 37 years in government, with responsibilities ranging from member of the Phoenix City Council to the distinguished chairman of the powerful Senate Armed Services Committee.

In addition, he has served ably as chairman of the Senate Select Committee on Intelligence and as a member on the Commerce, Science and Transportation Committee, the Small Business Committee, the Select Committee on Indian Affairs, and the Aeronautical and Space Sciences Committee.

Recently, in the final days of his career in public service, he crowned the legislative achievements of his years here with the Department of Defense Reorganization Act of 1986. This measure, named in his honor, is a sweeping reorganization of the military services and the culmination of years of work. Future generations will owe an unending debt to the leadership and wisdom of Senator GOLDWATER in this legislation.

As the years go by, these accomplishments will not be the only reminder of BARRY GOLDWATER's time here. His character will also be etched in our memories. We will remember his energy and enthusiasm; his humor and wit; his candor and kindness. We will recall the stubborn way he set his jaw when he thought he was right and the futility of getting him to change his mind. We will remember his courage; his patriotism; his integrity, and his compassion.

So great was my admiration for this man and the principles for which he stood that I switched parties in 1964 to support his Presidential candidacy.

Thomas Paine once said that in the times that try men's souls, "the summer soldier and the sunshine patriot" will shrink from the service of his country. In those times, he says, he who is able to stand "deserves the love and thanks of man and woman."

Mr. President, BARRY GOLDWATER is a man who has proven during his lifetime that in the "times that try men's souls," he will not "shrink from the service of his country." He is a man who has carried the sword so that he could raise the banner of peace. He is a man who has loved freedom and been willing to pay its price—a patriot for all seasons. He is a man who been a national servant and become a national treasure. Yes, Mr. President, he is a man who deserves the gratitude of every person in this Nation.

My words cannot capture all the contributions BARRY GOLDWATER has made, for much that he has offered

has been given from his heart. I can only say that he has served our country well and fought for what is worthy. To him, I give my heartfelt gratitude.

Mr. President, it is with deep regret that I see this truly great American leave this Chamber, but I consider it a great privilege to have served our Nation with him, and I count it highest honor to have known him as a friend.

SENATOR CHARLES "MAC" MATHIAS

Mr. WEICKER. Mr. President, in their unusual and highly informative work entitled "The Book of America," Neal Pierce and Jerry Hagstrom make an interesting point about the State of Maryland as follows, and I quote:

Maryland fits only reluctantly into a single portrait. What, after all, does the blue-collar port city of Baltimore, 55-percent black, have in common with the Washington, DC, suburb of Montgomery County, which has among the highest family incomes in the Nation? What do the watermen of the somnolent Eastern Shore have in common with the residents of mountain-locked Cumberland? What do the people who live in the almost continuous string of middle-class suburbs from Washington to Baltimore, in Prince Georges and Anne Arundel and Baltimore Counties, have in common with the others?

The answer given in the book is "not very much, except that they all live within Maryland's convoluted boundaries." My own answer is that the thing these disparate regions of a single State have in common and have had in common since 1969 to their enduring benefit is MAC MATHIAS.

I know what it is like to be a Republican in a State where the party has registered a minority of the voters. It is often not easy, but MAC, by dint of his honesty, nonpartisan ability, and bipartisan activity, has held the respect and affection of the people of the State of Maryland of all parties for nearly 30 years.

Likewise, he has held the respect and affection of this body and of the great majority of our party who believe that diversity is the key to growth and progress.

Of all the qualities of MAC MATHIAS as a man and as a Senator, none so stands out as his modesty. I remember a little over 1 year ago, standing in the back of the Senate caucus room, listening to MAC MATHIAS deliver his announcement not to seek reelection. He said then, "When I was elected to Congress in 1960, we were a nation divided by barriers of law, custom, and practice. Today, there is no legal barrier of any kind between Americans of differing race and creed. That is change in its most positive form. I am proud to have played a role in that peaceful revolution."

I suggest, Mr. President, that here, our colleague's modesty was excessive. They say that MAC MATHIAS' family has been associated with the Republican Party since the time of Abraham Lincoln.

It shows in the type of Senator he is and the type of Republican he is. In 1963, it was MAC MATHIAS and his Republican colleagues on the House Judiciary Committee who sponsored an omnibus civil rights bill. That bill later became the Civil Rights Act of 1964, the landmark civil rights legislation of the 20th century.

The legacy that MAC MATHIAS leaves to the field of civil rights also includes equal educational opportunity for the handicapped. MAC was the architect of an amendment in 1974 that provided the first Federal funding of schools attempting to serve the handicapped which Congress translated the following year into Public Law 94-142, the Education of All Handicapped Children's Act. His work for the disabled represents all that is best about this body and that is the provision of opportunity for all Americans to excel in a climate of peace.

MAC also played a key role in the work that led to the televising of Senate sessions. My only wish is that the Senate and the people of the United States would have at least another term to look upon the calm countenance of my friend, MAC MATHIAS.

But that is not to be and we must accept it. Some 50 years before MAC MATHIAS came to the Congress as a young Representative, another Maryland Representative, then in the twilight of his career, Joshua Talbott, delivered this wisdom to a freshman Member, and I quote.

There are two kinds of Congressmen, show horses and work horses. If you want to get your name in the paper, be a show horse. If you want to gain the respect of your colleagues, keep quiet and be a work horse.

Not many Members can balance the demands of style and substance in the U.S. Senate, but MAC MATHIAS has done it with grace, he has done it with courage, and the country is richer for it.

SENATOR EAGLETON

Mr. WEICKER. Mr. President some of us in this body have suffered or enjoyed the designation as blunt speakers on occasion. To this Senator, that designation has been especially welcome when it earns a comparison with the senior Senator from Missouri, TOM EAGLETON.

TOM will always be remembered for making the tough decisions. One of my enduring memories of this body, although a very ambivalent memory, is of the difficult matter of Harrison Williams. No one had a more difficult

time than TOM EAGLETON. And when the time came for a decision, TOM EAGLETON made his and explained it with a commanding eloquence on the floor of the Senate.

The Nation, of course, has more than the collective memories of the Senate when it comes to TOM EAGLETON. He played the major role in the establishment of the National Institute on Aging and was instrumental in expanding services available under the Older Americans Act.

TOM EAGLETON is a fighter and though we've found ourselves on opposite sides of an issue or two on this floor, his work in the U.S. Senate represents the very best of this institution. As the Senate moves into the 100th Congress, we will be poorer for his absence.

SENATOR LONG

Mr. WEICKER. Mr. President, today we say goodbye to a number of colleagues, among them a man who wears the title "Mr. Chairman" as comfortably as any in this Chamber.

That man is RUSSELL LONG and though he hasn't been in the majority for a few years he will always be remembered as a leader of uncommon ability; a man of conscience always and a man of compromise when necessary.

There is a quote attributed to Louisiana's senior Senator that makes the point, "In politics, you must help your friends or you won't have any." One thing is for sure, RUSSELL LONG has more friends around here than most Members.

I suspect our colleague is not retiring because he is tired of public life. That doesn't sound like RUSSELL LONG. No; I think he found a better deal down the road and none of us will find out anything about it until we read about it in the newspaper.

After 36 years in the Senate, RUSSELL LONG leaves here to go back to Louisiana where I read that his approval rating is somewhere in the neighborhood of 80 percent. Since so few of us ever get to visit the neighborhood, let me explain what that means.

It means that when 10 people get together in Louisiana, the chances are that 8 of them will have something good to say about RUSSELL LONG. The only rating that could beat that would be one from this body. And I would be willing to bet if I were a gambling man that 100 percent of the Senate would voice their approval of RUSSELL LONG in public or private.

I, for one, consider it a privilege to have served with RUSSELL LONG.

SENATOR LAXALT

Mr. WEICKER. Mr. President, it is no secret in this body that I am often

at odds with the policies of the President of the United States. It is also no secret that PAUL LAXALT is a great friend of the President. But what may not be so well known is the respect and affection I hold for the senior Senator from Nevada.

PAUL has carried with him into the Senate these past 6 years an unusual burden and an unusual benefit. And that is his uncommonly close relationship to the President of the United States. This role is an unofficial liaison between the Senate and the White House has been of benefit to all Senators.

The quality the people of the State of Nevada have found in their senior Senator for the past 12 years is the quality that made PAUL the only Republican to win a previously Democratic seat in 1974.

That quality, quite simply, is candor in dealing with some of the Senate's and the Nation's most contentious issues. Those of us in the Senate who have differed with PAUL LAXALT have always agreed that his work is marked by an open and straightforward approach to public policy. No matter what our different philosophies and agendas, the entire Senate will miss PAUL LAXALT.

SENATOR GOLDWATER

Mr. WEICKER. Mr. President, Robert Frost said, "The middle of the road is where the white line is, and that's the worst place to drive."

Today, we honor a man who never tried to navigate that perilous center of the road and in so doing, constantly enriched both the political dialog and legacy of this Nation.

BARRY GOLDWATER is a man who speaks his mind and speaks it plainly, whatever the circumstance, whatever the issue, whatever the opposition.

Unlike many on this floor over the decades who wear the label only when it suits them, the senior Senator from Arizona is a political conservative to the core. It is not surprising therefore, that the Senator's conscience has caused him to vote and speak out for such supposedly "liberal" positions as the independence of the judiciary with the same passion and precision that marks his support of an adequate national defense.

In recent years, the sort of outspokenness has gotten Senator GOLDWATER in some trouble, not that he ever noticed it. The trouble came from the far right, social-issue wing of our party, those who call themselves conservatives because it is a label that commands respect. In large part, it commands this kind of respect because of BARRY GOLDWATER.

But the bullying of this group does not transfer to the true tenets of conservatism as Senator GOLDWATER him-

self observed in a speech in 1982. He said then:

I am frankly sick and tired of the political preachers across this country telling me as a citizen that if I want to be a moral person, I must believe in "A," "B," and "C" and "D." I will fight them every step of the way if they try to dictate their moral convictions to all Americans in the name of conservatism.

Conservatism will survive the transient pressures of this or that wave or righteousness and the Senate with its rich variety of philosophy will survive after BARRY GOLDWATER moves on to his mountain climbing, photography, and I understand, some teaching. But it will not be the same around here. This year, the Senate loses some of its toughest veterans to bigger and better pursuits. None is a greater loss to the Senate, to the country, than BARRY GOLDWATER, a conservative, an American that I have been proud to call a friend.

TRIBUTE TO DEPARTING COLLEAGUES

Mr. MURKOWSKI. Mr. President, the 99th Congress is nearly over, and the Senate can look back with pride over a record of extraordinary and historic legislative accomplishments. In recent months the Senate has passed a revolutionary tax bill that sets the foundation for true tax reform. Our action on the drug bill, and on Superfund signals our commitment to deal seriously with pollutants that affect the health of our children and of our lands. Few can doubt that our other legislative efforts, including the Gramm-Rudman-Hollings measure to balance the budget, will have lasting legacies for the economic well-being of our Nation.

But while we can take some comfort from the many accomplishments of this 99th Congress, all of us in the Senate must temper our enthusiasm with the realization that six of our colleagues will depart the Senate at the end of this session.

Senator GOLDWATER, Senator LONG, Senator MATHIAS, Senator LAXALT, Senator EAGLETON, and Senator HART, have each made monumental contributions to our Nation. They articulate individual and distinct political philosophies, yet we have witnessed their unified goals to make the United States a better place to live, to make us a trustworthy neighbor to our foreign friends, and to make sure that our citizens realize the promises of democracy that were established by our Founding Fathers.

The accomplishments of our departing colleagues are found in the laws of our Nation, and in our political history. No one among us can doubt that these six Senators have dedicated their lives to serve the public interest. It is not enough to simply say that we will miss BARRY GOLDWATER, RUSSELL

LONG, TOM EAGLETON, GARY HART, PAUL LAXALT, and MAC MATHIAS. It goes without saying that we will miss their companionship and grace. But what we will miss most of all are their gifts of leadership and wisdom.

TRIBUTE TO SENATOR CHARLES McC. MATHIAS

Mr. HATFIELD. Mr. President, with a combination of sorrow and joy, I bid farewell to Senator CHARLES McC. MATHIAS—sorrow because he is a man of conscience and decency whose voice and talents will be sorely missed in this body, but joy because he is a vital and committed man who will undoubtedly apply himself to equally important endeavors outside this body.

I have had the honor of serving with MAC MATHIAS for all 18 year of his Senate career. We often have been jokingly referred to as lonely lepers in the colony we call "moderate Republicanism," and I long ago learned to respect his strong voice and dedicated spirit.

A lot of history has been made during the past 18 years, and not all of it has been proud history: Vietnam, Watergate, and the incredible escalation of the nuclear arms race. But through it all, MAC MATHIAS has maintained not only his commitment but also his civility. He has refused to remain silent when his conscience and vision put him at odds with the majority. But instead of attacking the majority, MAC MATHIAS has set himself to the task of framing alternatives and advocating peace and justice.

Of all the accomplishments MAC MATHIAS can proudly claim, I think the Voting Rights Act stands as one of the greatest testaments to his energy, creativity, and compassion. At a time when domestic politics seemed to be coming apart at the seams, MAC MATHIAS refused to be among the naysayers. He knew what was right and melded it with what was possible and what was needed to frame a lasting piece of legislation. When we one day ratify the Comprehensive Test Ban Treaty, that too will stand as a testament to the will and vision of MAC MATHIAS.

As the ranking member of the Senate Rules Committee, I will miss his leadership. As a moderate Republican, I will miss his companionship. And as a Member of this institution, I will miss his intellect, civility, and decency. But as I join my colleagues in bidding farewell to MAC MATHIAS, I take joy in the certainty that his commitment to civil rights, efficient government, and lasting peace will continue outside this Chamber.

TRIBUTE TO SENATOR THOMAS EAGLETON

Mr. HATFIELD. Mr. President, in a few days, my good friend and distinguished colleague TOM EAGLETON will be leaving this body. I will miss his presence in this Chamber greatly. During my 20 years in the Senate, it has been my honor to serve with many distinguished Americans, who also happened to be U.S. Senators. It always is difficult to come to the end of another term and say goodbye to one of these trusted friends and colleagues.

During the 18 years TOM and I have served as Senators, my appreciation and respect for this man have grown immensely. I am pleased to say that we have stood shoulder to shoulder in battle on this floor on numerous occasions. It is with much less pleasure that I report that we also have stood toe to toe in battle. Of the two, I much prefer the former, because TOM EAGLETON is a fierce warrior—he has no fear of battle. I learned this as chairman of the Appropriations Committee in many a markup session and also on the Senate floor during heated debates. My good friend, the senior Senator from Missouri, always did his homework and came before our colleagues eager to enter the fray.

But beyond our professional relationship, TOM and I have developed a close personal friendship. On a number of occasions, Antoinette and I have had the good fortune to travel with or entertain TOM and his wife, Barbara. He is a wonderful traveling companion. He is able to maintain the most rigorous schedule and always remain gracious. Above all else, TOM EAGLETON is able to keep his wits about him and to find humor in the most common experiences or in the most frenzied times.

Mr. President, it has been a privilege to know and serve with this most distinguished Senator. All who have served with TOM EAGLETON are better for it and we shall feel his absence profoundly.

THE RETIREMENT OF SENATOR BARRY M. GOLDWATER

Mr. DOMENICI. Mr. President, I rise to express my great respect and admiration for my distinguished colleague from the State of Arizona who, as we all know, will be retiring from the Senate after this year. It has been a pleasure and an honor to serve with Senator GOLDWATER in this body during the past 14 years, and I will sorely miss his presence. This Nation of ours has been fortunate to have had a leader such as he, whose commitment to national security and the Constitution go unparalleled.

Senator GOLDWATER came to the Senate in 1952, when he defeated then

Senate Majority Leader Ernest McFarland. Since then, he has been reelected four times and has become the best known member of the Republican Party. For so many years now, he has been the most articulate, forceful, courageous, and consistent advocate of our conservative ideals, and I daresay it will be nearly impossible to replace such a man. True statesmen always are.

Throughout his career, Senator GOLDWATER has been characterized as being an extremist in his views. It is this characterization that hurt his bid for the Presidency in 1964. However, in defending his political views, Senator GOLDWATER once declared, "Extremism in the defense of liberty is no vice, and moderation in the pursuit of justice is no virtue." There's much truth to this saying, and only history will judge whether or not our Nation made a mistake in 1964.

Coming from the Southwest as does Senator GOLDWATER, I feel a special closeness to him. We have shared many issues which are important to both Arizona and New Mexico. And as one of the earliest critics of high Federal spending, he is surely a man after my own heart. Back in 1957, Senator GOLDWATER gave a speech criticizing President Eisenhower's fiscal 1958 budget as being too high. That speech is often regarded as having launched his career as the leader of the conservative wing of our party. Nearly 30 years later, Senator GOLDWATER remains one of the most outspoken critics of Government spending policies. Appropriately enough, it seems as though Government is finally starting to listen.

Senator GOLDWATER'S unrelenting advocacy of a strong defense is all too well known. Again, I think it is appropriate that, as he leaves office, he does so at a time when our Nation's military preparedness has been reestablished after a period of considerable neglect. As chairman of the Senate Armed Services Committee, the Senator has played a key role in the rebuilding of our conventional forces and the modernization of our strategic forces.

In short, the legacy Senator GOLDWATER leaves his Nation is immeasurable. I wish my good friend and colleague all the best.

SENATOR BARRY GOLDWATER

Mr. WALLOP. Mr. President, there are among us, always, some who are giants. BARRY GOLDWATER is clearly one of those, a man of integrity, of vision, of principle, of philosophy, of guiding moral roots that have served him well and benefited his country.

Courage told him to stand on principle when he ran for President. That principle has been vindicated, although in the agony of defeat, clearly,

the temptation to slide off principle into the always embraceable mainstream, must have been overpowering. To watch Senator GOLDWATER resist that has been one of the rare privileges of my life. To watch him urge America to stand up to its greatness, to watch him urge America to stand up to its word with allies such as Taiwan, to watch Senator GOLDWATER urge America to hang on to principles of freedom, liberty, and to fight to defend them has been an inspiration to all of us.

It has been, from time to time, stylish to think that America could get by without strength and that the force of our smiling presence in the world would be enough to win over all the forces of imperialism that washed from ocean to ocean. Senator GOLDWATER has been one who draws us back to the reality that if it is not we who stand for freedom, who then can, and who then will?

I believe that this country owes a tremendous debt of gratitude to BARRY GOLDWATER. I shall miss him as a legislator, miss him as a statesman, miss him deeply as a friend. I wish him well. All of us are better for having served alongside him.

SENATOR RUSSELL LONG

Mr. WALLOP. Mr. President, as we look this year at retirements from the Senate, certainly a couple of them will represent outstanding losses in capability and service to the American people. One of those Senators is my friend RUSSELL LONG.

RUSSELL LONG represents wisdom, experience, exuberant partnership when necessary, exuberant patriotism when obvious. His is a capability of reducing complex issues to understandable terms which focus on the necessary things.

RUSSELL LONG is a good friend. I have worked with him when he was chairman of the Finance Committee, and I have worked with him as ranking member of the Finance Committee. On matters of tax policy, sometimes we agreed, and sometimes we disagreed, but never was there a vitriolic word between us. Always there was an effort to achieve something a President, whether Carter or Reagan, wished within a spectrum of integrity, honesty, and the decent philosophy that American business and American earners have singular rights in a free economy.

RUSSELL LONG was creative. RUSSELL LONG was crafty. I say crafty with genuine admiration because, above all, RUSSELL could achieve goals which he viewed as important. By molding alliances, by relating events, by sheer craftsmanship in the legislative process RUSSELL achieved his objectives and those of the Presidents he served.

Mr. President, on top of all these truly wonderful qualities as a legislator and as a committee chairman, RUSSELL LONG just happens to be my friend. I wish him well as he enters his new life. The country can give thanks it had the services for such a long time of one who was so devoted to the very essence of that which makes America decent and successful.

SENATOR TOM EAGLETON

Mr. WALLOP. Mr. President, as Senator TOM EAGLETON retires this year, I am compelled to express a level of admiration for him that he would not let me express during the painful and trying times of the expulsion of Harrison Williams. TOM EAGLETON and Pete Williams had been friends, and the agony that Senator EAGLETON went through in making a judgment that the interests and integrity of the Senate outweighed bonds of friendship with an old and trusted ally was something that most of the Senate was not privileged to watch. I saw desperate internal struggle as he sought not to choose between the integrity of the Senate and an old friend, but how to handle the choice that he had made instinctively. The choice was one of integrity; it was a choice of a very great and courageous man.

On other instances Senator EAGLETON and I have disagreed philosophically, he riding with his party and I with mine, but over the course of the years, I have worked with him on several legislative initiatives. I have known him always to be honest, straightforward, understanding, and creative. He has been tough in resisting any erosion of principle and understanding as to the needs of others.

Mr. President, TOM EAGLETON is one who shows the civility of American political life, something which can elicit the admiration from friendly partisans and from people whose integrity is above reproach. I will miss TOM. He has been one from whom I have learned much in the course of my Senate career. If I have learned nothing else, I have learned what it is to watch courage and philosophy dominate in a struggle to do what is right. Again I say, America has benefited from the integrity and gentility of one who showed us that.

SENATOR PAUL LAXALT

Mr. WALLOP. Mr. President, one of our colleagues retiring this year is perhaps my first and longest friend in the U.S. Senate, PAUL LAXALT. PAUL came to Wyoming in the dark times of my first year of campaigning for the U.S. Senate and was willing to take a stand in my behalf. Some others who came out were willing to merely be present in my behalf, but PAUL LAXALT

weighed in. This typified PAUL's courage.

Since that time, as a Member of the Senate and as a colleague of the Senator from Nevada, I have watched with absolute admiration his ability to decently embrace the ideas of friend and foe alike, never rejecting anybody with arrogance or by posturing. He has friends, and deservedly so, on both sides of the aisle. PAUL is yet another one of those Americans, the son of a Basque immigrant, whose beginnings have given him an appreciation of the essence of this country—what this country is all about. America benefits enormously by the presence of people of that understanding and that level of devotion to America's greatness. America can be grateful, and I am grateful for the service of PAUL LAXALT, for his friendship and that of his family.

We lose a friend of the President. We lose an able and capable legislator. We lose an amiable and agreeable friend. We lose a tough and skilled fighter. As PAUL moves on, I wish him and his family well. Wherever his path leads him, we can be sure that if his country needs him, he'll be there. By his presence we've all been blessed. The country is stronger; the lives of Americans are more secure.

TRIBUTE TO SENATOR GARY HART

Mr. BOREN. Mr. President, at the end of the 99th Congress we will say farewell to Senator GARY HART. For the past 12 years, Senator HART has been an effective and hard-working spokesman for Colorado in this body. In addition, he has played an active role in defining our national agenda for the 1980's, particularly in the critical areas of economic policy, national security, and energy.

We in Oklahoma are proud that Senator HART spent his undergraduate college days at Bethany Nazarene College in Bethany, OK, obtaining a B.A. there in 1958 before attending divinity school and law school at Yale University.

Throughout his productive career in the Senate, Senator HART has presented innovative ideas to deal with our Nation's most severe problems. He has been a valued member of the Senate Armed Services, Budget, and Environment and Public Works Committees.

Senator HART is an acknowledged expert on military reform, particularly on naval operations, and founded the bipartisan Military Reform Caucus. He is also one of the most knowledgeable Senators in this body on the details of arms control.

In the environmental area, Senator HART has taken a leading role as a member of the Senate Environment and Public Works Committee, most often following a middle course in crit-

ical debates between the desires of environmental groups and business groups. He headed the Senate's investigation of the Three Mile Island nuclear powerplant accident and chaired the National Commission on Air Quality, which released a report in 1981 on the Clean Air Act that drew fire from both sides.

From the start of his career, Senator HART has been a strong advocate of policies to increase our Nation's energy independence, supporting imposition of an oil import fee and opposing the so-called Windfall Profits Tax.

As a member of the Senate Budget Committee, Senator HART proposed a plan which the committee adopted in 1981 to balance the Federal budget. He also introduced legislation to prevent taxpayers from being pushed into higher brackets by inflation.

I have been most honored by Senator HART's support and cosponsorship of my legislation to reform campaign finance laws. He has been an outspoken advocate of the need to change the way campaigns are financed in this country in order to preserve the integrity of our election process. His support for these changes will be sorely missed as we press ahead with this critical debate next year.

I join my fellow colleagues in paying tribute to the career of Senator GARY HART and in thanking him for his service to our country as a Member of the U.S. Senate. Senator HART, we all wish you and your family the very best for the future.

TRIBUTE TO SENATOR RUSSELL LONG

Mr. BOREN. Mr. President, when the 99th Congress adjourns we will say farewell to one of the Senate's most esteemed and senior Members, Senator RUSSELL LONG of Louisiana. His contributions to our Nation as a Senator will be sorely missed. I know that he will continue to make an immense contribution as a private citizen.

Senator LONG is currently second in seniority in this body, ranking behind only Senator JOHN STENNIS of Mississippi in length of service in the Senate. Elected just before his 30th birthday, Senator LONG has devoted more than half of his life to the United States Senate, to his State, and to this Nation.

There is no Member of this body who understands the Federal Tax Code better than Senator LONG. There is no Senator who works harder or better does his homework than does Senator LONG.

He has made his mark on this body in many ways, but most especially through his able service for 15 years as chairman of the Senate Finance Committee where he became known as the master of consensus building, a role he

has continued during his service as the ranking member of that committee. Senator LONG was a skillful manager of the Finance Committee, encouraging bipartisan compromises and allowing all members of the committee to have a voice in the formulation of the critical legislation handled by that panel. His mark is on every major tax bill which has come out of Congress in the past 20 years.

Part of his success stems from his mastery of the Senate's parliamentary procedure, but, no doubt, much of his success also comes from his irrepressibly good sense of humor, his fairness, and his commonsense approach to any problem.

Senator LONG has always correctly believed that the chief priority for our economy should be balancing the budget, and he has worked diligently in promoting that much-needed goal.

Although to list all of his legislative accomplishments would be impossible, among them have been his authorship of the earned income tax credit, which rewards the working poor, and his proposal for welfare reform legislation to put a ceiling on Federal welfare costs and encourage able-bodied welfare recipients to work.

Senator LONG has also proposed a system of catastrophic health insurance and advocated employee stock ownership plans [ESOP's] to boost worker productivity. He has pushed for a reformed tax structure to encourage much-needed capital formation and give the private sector the incentives it needs to move toward full employment.

His work in promoting the need for energy independence in this country is unbounded, and he has always recognized the importance of the energy industry to this country's national security interests.

In addition, Senator LONG has made contributions as a member of the Senate Commerce, Science, and Transportation Committee, the Senate Select Committee on Ethics and the Joint Taxation Committee. He also served a term as Senate majority whip.

The son of the late Senator and former Louisiana Governor, Huey P. Long, Senator LONG was exposed to politics throughout his entire life. In fact, he was first elected to office while a junior at Louisiana State University, when he became student body president. He received his law degree from LSU in 1942 before going into the Navy to serve our country in World War II. In 1946, Senator LONG returned to Baton Rouge to practice law, but was again quickly immersed in politics, working for his uncle, Earl Long, who became Governor of Louisiana in 1948. Senator LONG served his uncle as executive counsel during his gubernatorial term.

Senator LONG won his first election to the U.S. Senate in 1948 to fill the unexpired term of Senator John Overton, who died while in office. He was elected to his first full term in the Senate in 1950 by a more than 68-percent margin, and has been in the U.S. Senate ever since, winning election five more times by comfortable margins.

It has been my distinct honor to serve on the Finance Committee and in this body with Senator LONG. He has been my good friend and adviser since I first came to the U.S. Senate in 1979. I truly value his friendship.

Upon announcing his impending retirement early in 1985, Senator LONG said, "Every Senator should decide for himself at what point he thinks he should retire," but also stated that when he leaves the Senate he will continue to "take an interest in public affairs." Those of us who know RUSSELL LONG and know of his honesty, integrity, and devotion to his country know that he will remain active in counseling us as we deal with our Nation's problems in the future.

I join my fellow colleagues in paying tribute to the career of Senator RUSSELL LONG and in thanking him for his many years of service to our country as a Member of the U.S. Senate.

I also want to thank his wife and partner, Carolyn Long, for supporting Senator LONG in his work and commitment to public service. I thank her also for making a very significant contribution of her own to the good of our Nation through her own earlier work on the staff of the U.S. Senate and for the encouragement and friendship which she has extended to countless Senators, their spouses, and families.

Senator RUSSELL LONG and his wife are truly loved by the people of Louisiana and those who make up the institutional family of the U.S. Senate. My hope is that they will constantly remember the great love and respect in which they are held by all of us and will have much happiness in the years ahead.

RETIREMENT OF SENATOR CHARLES McC. MATHIAS, JR.

Mr. DOMENICI. Mr. President, like most of my colleagues, I will miss my very good friend "Mac" MATHIAS. He is well known for his wide range of talents and ability. As I recall, the Washington Post once commented on his remarkable ability to be at home with the dock workers of Baltimore and the wealthy residents of Maryland's eastern shore.

In the Senate, Mr. MATHIAS is at home in a technical debate about the impact of foreign trade on American industry or the fine points of nuclear proliferation treaties. I have always admired the strength of character and

commitment to ideals of Senator CHARLES McC. MATHIAS, Jr. We in the Senate seldom allow ourselves to take the time to appreciate the work of a fellow Senator. On the occasion of Senator MATHIAS' completion of his last term, we owe it to Mac to thank him for his fine example.

There are two substantive issues about Senator MATHIAS that I would like to share with my colleagues. The first is his commitment to the terms of the agreement reached by the National Bipartisan Commission on Central America. Senator MATHIAS was one of the Senate's most convincing supporters of this bipartisan doctrine. We were trying to convince our colleagues that a balanced approach to the human development, security, and political needs of this troubled region.

While the full Congress did not ultimately implement the terms of our bipartisan effort to the extent we would have liked, I was always impressed with Senator MATHIAS' skillful and articulate exposition of the full range of economic, military, and political change needed in Central America. I will continue to work for our goals in this area, and I will truly miss the energetic support of my fellow senior counselor on the Commission.

The second debt I owe to Senator MATHIAS is for his fine work on patent protection for semiconductors. New Mexico is a producer of semiconductors and the law desperately needed clarification in this scientific and technical arena. The excellent work of Senator MATHIAS has done much to stabilize an otherwise volatile question about the rights of many of our good scientists in New Mexico to have their ideas protected. On behalf of New Mexico and America's computer industry, I thank my good friend for this lasting contribution to a vital industry.

In closing, I would only like to add that the U.S. Senate, as an institution, will sorely miss the calm and intelligence of one of its most individualistic and gentle Members. I hope Mac will continue to work with us in solving some of our most difficult problems. I know his hand can still carve out a path to agreement, as he showed us in the debate on Central America.

Indeed, the entire Senate and the entire Nation owe a debt of gratitude to a hardworking American who understands the problems of this Nation and its great future. We will only reach our national goals when more men and women of high caliber dedicate themselves to national service as Senator CHARLES McC. MATHIAS, Jr., has done.

RETIREMENT OF SENATOR PAUL LAXALT

Mr. DOMENICI. Mr. President, I rise today to pay tribute to my col-

leagues in the Senate who will retire at the conclusion of the 99th Congress.

As these Members retire, they will leave behind many years of outstanding leadership, leadership which has been provided to both sides of the aisle. When I think of the leaders of the Senate, one name which immediately comes to mind is PAUL LAXALT. As my colleagues know, Senator LAXALT is regarded as one of President Reagan's closest friends. This special personal and professional friendship with the President has enabled him to perform a unique leadership role with his Senate colleagues. Senator LAXALT has often been the informal liaison between the Senate and the White House, and I doubt we will be able to find anyone to step into this role.

Senator LAXALT also leaves behind another leadership role which will be difficult to fill, one with which I am particularly concerned. Senator LAXALT is the cochairman of the Western Coalition, a bipartisan, informal group of Western Senators. Recently, I was chosen to succeed Senator LAXALT as cochairman, a job which I believe is very important to my State and other Western States. Every region of the Nation has special characteristics and issues, but I would argue that this is especially true in the West. The vast openness of the West, the extensive public lands, and the scarce availability of water are unique to the Western frontiers. These special attributes require an outstanding leader, and Senator LAXALT has been this man.

As Senator LAXALT leaves the Senate, I would like to take this opportunity to thank him for his friendship and leadership. The void he leaves behind will be difficult to fill, and I am certain my colleagues will agree.

TRIBUTE TO SENATOR THOMAS EAGLETON

Mr. PELL. Mr. President, it is with a sense of pride and regret that I rise to pay tribute to my dear friend and colleague, TOM EAGLETON. I am proud to have served with him for the past 18 years, and I regret very much that this will come to an end with the close of the 99th Congress.

A deep and abiding interest in education has been with TOM EAGLETON for a long, long time. His father was a prominent member of the St. Louis School Board, and a young TOM EAGLETON frequently accompanied his father to meetings. I understand, in fact, that Tom's interest in politics may well have begun when he went to those meetings.

When he was Lieutenant Governor of Missouri, TOM EAGLETON chaired the Governor's Task Force on Vocational Education. That task force came up with the recommendations that result-

ed in the establishment of Missouri's system of areawide vocational-technical schools, a system that prevails even today.

It was only natural, then, that when TOM EAGLETON came to the Senate, he would want to continue his intense and passionate interest in education. His first request as a Member of the Senate was to be assigned to the Subcommittee on Education, Arts, and Humanities. That was also the year that I became chairman, and for the next 15 years we enjoyed one of the best working relationships that I have experienced as a Member of the Senate. When he left the subcommittee in 1985, the loss was immense not only to the subcommittee but to all of education.

His decade and a half of service on the subcommittee was remarkable in its achievements. He was the author of the first basic skills legislation, long before it was fashionable to champion these concerns.

It was Senator EAGLETON's leadership that brought about the reinstatement of the Emergency School Aid Act. This program, which provides critically important Federal assistance to schools undergoing desegregation, had been eliminated in the 1981 budget reconciliation, and it was only through the Herculean efforts of TOM EAGLETON that we got it back.

On a personal note, it was TOM EAGLETON who suggested that the Basic Education Opportunity Grant Program be renamed the Pell Grant Program. That was the effort of a kind and gracious man that I am proud to call my friend and an action for which I shall always be grateful.

This tribute would not be complete without noting also Tom's many contributions in the field of foreign relations. He and I have long shared an interest in the Greece-Cyprus-Turkey relationship. Tom was the most eloquent and forceful opponent of the Turkish invasion of Cyprus in 1974, and he has been a persistently powerful advocate of justice in Cyprus ever since then. I also greatly admired the important contribution that TOM EAGLETON made in the formulation and passage of the war powers resolution, one of the landmark acts of the Congress to reassert its constitutional prerogatives in the area of foreign policy.

For the past 2 years, I have had the great pleasure of serving with TOM EAGLETON on the Foreign Relations Committee. And here, I was particularly appreciative of Tom's leadership in putting together a compromise on the United States-United Kingdom extradition treaty that enabled this controversial treaty to be approved by an overwhelming bipartisan majority. When TOM took up this task the committee was hopelessly deadlocked in its efforts to reconcile antiterrorism concerns with the need to protect indi-

vidual rights. What had seemed impossible soon became possible, and it would not have happened without TOM EAGLETON.

Mr. President, when this Congress comes to a close, TOM EAGLETON will go home to Missouri not to retire but to continue his interest in education and foreign affairs as a professor at Washington University in St. Louis.

I must add, too, that my wife and I shall particularly miss his lovely Barbara. However, his students will then experience what we have experienced for 18 years. For it is they who will learn next what a rare privilege it is to know TOM EAGLETON. It is they who will have the honor of working with him. They are the lucky ones, and the loss will be ours. For what a joy it has been to call him colleague and friend, and what a better place this Chamber is because he was here.

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.

□ 1000

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

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

IMPEACHMENT OF JUDGE HARRY E. CLAIBORNE

COURT OF IMPEACHMENT

The PRESIDING OFFICER (Mr. LAXALT). Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed in closed session to deliberate upon the Articles of Impeachment. The time is equally divided in the usual form.

(At 10 a.m. the doors of the Chamber were closed. The proceedings of the Senate were held in closed session until 2:51 p.m. at which time, the following occurred.)

OPEN SESSION

(At 2:51 p.m. the doors of the Chamber were opened and the Senate resumed proceedings in open session.)

(During the closed session there was a call of the roll, Quorum No. 16.)

The managers of the House of Representatives, together with special counsel, were seated at the table assigned to them in the well of the Senate to the right of the Chair.

The respondent and his counsel were seated at the table assigned to them in the well of the Senate to the left of the Chair.

Mr. DOLE. 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. DOLE. I ask unanimous consent the order for the quorum call be rescinded.

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

AUTHORITY FOR RECORD STATEMENTS UNTIL
WEDNESDAY, OCTOBER 15, 1986

Mr. DOLE. I ask unanimous consent that all Senators may be permitted to insert their statements or their reasons for their votes through Wednesday.

The PRESIDENT pro tempore. Is there objection?

Mr. DOLE. That is through Wednesday of next week.

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

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

Mr. DOLE addressed the Chair.

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

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

The Sergeant at Arms will make a proclamation.

The Sergeant at Arms, Ernest E. Garcia, made proclamation as follows:

All persons are commanded to keep silent on pain of imprisonment while the House of Representatives is exhibiting to the Senate of the United States Articles of Impeachment against Judge Harry E. Claiborne.

ARTICLE I

The PRESIDENT pro tempore. The clerk will read the first Article of Impeachment.

The legislative clerk read as follows:

ARTICLE I

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District of Nevada, was and is guilty of misbehavior and of high crimes and misdemeanors in office in a manner and form as follows:

On or about June 15, 1980, Judge Harry E. Claiborne did willfully and knowingly make and subscribe a United States Individual Income Tax Return for the calendar year 1979, which return was verified by a written declaration that the return was made under penalties of perjury; which return was filed with the Internal Revenue Service; and which return Judge Harry E. Claiborne did not believe to be true and correct as to every material matter in that the return reported total income in the amount of \$80,227.04 whereas, as he then and there well knew and believed, he received and failed to report substantial income in addition to that stated on the return in violation of section 7206(1) of title 26, United States Code.

The facts set forth in the foregoing paragraph were found beyond a reasonable doubt by a twelve-person jury in the United States District Court for the District of Nevada.

Wherefore, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of a high crime and misdemeanor

and, by such conduct, warrants impeachment and trial and removal from office.

□ 1500

VOTE ON ARTICLE I

The PRESIDENT pro tempore. The Chair reminds the Senate that each Senator, when his or her name is called, will stand and vote "guilty" or "not guilty."

Senators, how say you? Is the respondent, Harry E. Claiborne, guilty or not guilty?

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced—guilty 87, not guilty 10, as follows:

[Rollcall Vote No. 335]

[Subject: Article I—Court of Impeachment—Judge H.E. Claiborne]

GUILTY—87

Abdnor	Ford	Melcher
Andrews	Glenn	Mitchell
Armstrong	Goldwater	Moynihan
Baucus	Gore	Murkowski
Bentsen	Gorton	Nickles
Biden	Gramm	Nunn
Boren	Grassley	Packwood
Boschwitz	Harkin	Pell
Bradley	Hart	Pressler
Broyhill	Hawkins	Proxmire
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sarbanes
Cohen	Johnston	Sasser
Cranston	Kassebaum	Simon
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Kerry	Stafford
Denton	Lautenberg	Stennis
Dixon	Leahy	Thurmond
Dodd	Lugar	Tribble
Dole	Mathias	Wallop
Domenici	Matsunaga	Warner
Durenberger	Mattingly	Weicker
Eagleton	McClure	Wilson
Exon	McConnell	Zorinsky

NOT GUILTY—10

Bingaman	Hecht	Metzenbaum
Evans	Laxalt	Pryor
Hatch	Levin	
Hatfield	Long	

ANSWERED "PRESENT"—1

Stevens

NOT VOTING—2

Garn Symms

The PRESIDENT pro tempore. I would remind the gallery there will be no expressions of approval or disapproval when the result is announced.

Upon this Article of Impeachment, 87 Senators have voted guilty; 10 Senators have voted not guilty; 1 voting present.

Two-thirds of the Members present having voted guilty, the Senate adjudges that the respondent, Harry E. Claiborne, is guilty as charged in this Article.

ARTICLE II

The PRESIDENT pro tempore. The clerk will now read the second Article of Impeachment.

The assistant legislative clerk read as follows:

ARTICLE II

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of high crimes and misdemeanors in office in a manner and form as follows:

On or about June 15, 1981, Judge Harry E. Claiborne did willfully and knowingly make and subscribe a United States Individual Income Tax Return for the calendar year 1980, which return was verified by a written declaration that the return was made under penalties of perjury; which return was filed with the Internal Revenue Service; and which return Judge Harry E. Claiborne did not believe to be true and correct as to every material matter in that the return reported total income in the amount of \$54,251 whereas, as he then and there well knew and believed, he received and failed to report substantial income in addition to that stated on the return in violation of section 7206(1) of title 26, United States Code.

The facts set forth in the foregoing paragraph were found beyond a reasonable doubt by a twelve-person jury in the United States District Court for the District of Nevada.

Wherefore, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of a high crime and misdemeanor and, by such conduct, warrants impeachment and trial and removal from office.

□ 1520

VOTE ON ARTICLE II

The PRESIDENT pro tempore. I would remind the Senators when they vote they will stand and announce their decision.

Senators, how say you, is the respondent Henry E. Claiborne guilty or not guilty of this Article?

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced—guilty 90, not guilty 7, as follows:

[Rollcall Vote No. 336]

[Subject: Article II—Court of Impeachment—Judge H.E. Claiborne]

GUILTY—90

Abdnor	Chafee	Durenberger
Andrews	Chiles	Eagleton
Armstrong	Cochran	Exon
Baucus	Cohen	Ford
Bentsen	Cranston	Glenn
Biden	D'Amato	Goldwater
Boren	Danforth	Gore
Boschwitz	DeConcini	Gorton
Bradley	Denton	Gramm
Broyhill	Dixon	Grassley
Bumpers	Dodd	Harkin
Burdick	Dole	Hart
Byrd	Domenici	Hawkins

Hecht	Matsunaga	Rockefeller
Heflin	Mattingly	Roth
Heinz	McClure	Rudman
Helms	McConnell	Sarbanes
Hollings	Melcher	Sasser
Humphrey	Metzenbaum	Simon
Inouye	Mitchell	Simpson
Johnston	Moynihan	Specter
Kassebaum	Murkowski	Stafford
Kasten	Nickles	Stennis
Kennedy	Nunn	Thurmond
Kerry	Packwood	Tribble
Lautenberg	Pell	Wallop
Laxalt	Pressler	Warner
Leahy	Proxmire	Weicker
Lugar	Quayle	Wilson
Mathias	Riegle	Zorinsky

NOT GUILTY—7

Bingaman	Hatfield	Pryor
Evans	Levin	
Hatch	Long	

ANSWERED "PRESENT"—1

Stevens

NOT VOTING—2

Garn Symms

Mr. DOLE. Mr. President, may we have order?

The President pro tempore. The Senate will come to order.

I admonish the galleries again that no noise of approval or disapproval is to be given to the result.

Upon this Article of Impeachment, 90 Senators have voted guilty, 7 Senators have voted not guilty, and 1 Senator voted present. Two-thirds of the Members present and having voted guilty, the Senate adjudges that the respondent, Harry E. Claiborne, is guilty as charged in this Article.

ARTICLE III

The President pro tempore. The clerk will now read the third Article of Impeachment.

The legislative clerk read as follows:

ARTICLE III

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of high crimes in office in a manner and form as follows:

On August 10, 1984, in the United States District Court for the District of Nevada, Judge Harry E. Claiborne was found guilty by a twelve-person jury making and subscribing a false income tax return for the calendar years 1979 and 1980 in violation of section 7206(1) of title 26, United States Code.

Therefore, a judgment of conviction was entered against Judge Harry E. Claiborne for each of the violations of section 7206(1) of title 26, United States Code, and a sentence of two years imprisonment for each violation was imposed, to be served concurrently, together with a fine of \$5,000 for each violation.

VOTE ON ARTICLE III

The President pro tempore. I will remind Senators when they vote they will stand and vote "guilty" or "not guilty" or "present," as the case may be.

Senators, how say you? Is the respondent, Harry E. Claiborne guilty or not guilty, or do you vote "present"?

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

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

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

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

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

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

Mr. D'AMATO (when his name was called). Present.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and

the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced—guilty 46, not guilty 17, as follows:

[Rollcall Vote No. 337]

[Subject: Article III—Court of Impeachment—Judge H.E. Claiborne]

GUilty—46

Baucus	Glenn	Nickles
Bentsen	Grassley	Pressler
Bingaman	Harkin	Proxmire
Boren	Hatfield	Quayle
Boschwitz	Hollings	Riegle
Bradley	Johnston	Rockefeller
Broyhill	Kassebaum	Roth
Bumpers	Kasten	Sasser
Cochran	Kennedy	Simon
Danforth	Lautenberg	Stafford
DeConcini	Leahy	Stennis
Denton	Levin	Trible
Dixon	Long	Wilson
Durenberger	Lugar	Zorinsky
Eagleton	Metzenbaum	
Exon	Mitchell	

NOT GUILTY—17

Chafee	Hawkins	McClure
Chiles	Hecht	Pell
Dodd	Heinz	Pryor
Evans	Helms	Specter
Goldwater	Laxalt	Warner
Hatch	Matsunaga	

Answered "Present"—35.

NOT VOTING—2

Garn	Symms
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The PRESIDENT pro tempore. I admonish the galleries that no expression of approval or disapproval is to be given when the vote is announced.

Upon this Article of Impeachment, 46 Senators have voted guilty; 17 Senators have voted not guilty; and 35 voted "present."

Less than two-thirds of the Members having voted guilty, the Senate adjudges that respondent Harry E. Claiborne is not guilty as charged in this article.

ARTICLE IV

The PRESIDENT pro tempore. The clerk will now read the Fourth Article of Impeachment.

The assistant legislative clerk read as follows:

ARTICLE IV

That Judge Harry E. Claiborne, having been nominated by the President of the United States, confirmed by the Senate of the United States, and while serving as a judge of the United States District Court for the District of Nevada, was and is guilty of misbehavior and of misdemeanors in office in a manner and form as follows:

Judge Harry E. Claiborne took the oath for the office of judge of the United States and is required to discharge and perform all the duties incumbent on him and to uphold and obey the Constitution and laws of the United States.

Judge Harry E. Claiborne, by virtue of his office, is required to uphold the integrity of the judiciary and to perform the duties of his office impartially.

Judge Harry E. Claiborne, by willfully and knowingly falsifying his income on his Federal tax returns for 1979 and 1980, has betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary, thereby bringing disrepute on the Federal courts

and the administration of justice by the courts.

Wherefor, Judge Harry E. Claiborne was and is guilty of misbehavior and was and is guilty of misdemeanors and, by such conduct, warrants impeachment and trial and removal from office.

THE VOTE ON ARTICLE IV

The PRESIDENT pro tempore. I remind Senators that in voting, they will stand and vote "guilty," "not guilty," or "present" as the case may be.

Senators, how say you: Is the respondent, Harry E. Claiborne guilty or not guilty?

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced—guilty 89, not guilty, 8 as follows:

[Rollcall Vote No. 338]

[Subject: Article IV—Court of Impeachment—Judge H.E. Claiborne]

GUilty—89

Abdnor	Glenn	Melcher
Andrews	Goldwater	Mitchell
Armstrong	Gore	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Gramm	Nickles
Biden	Grassley	Nunn
Boren	Harkin	Packwood
Boschwitz	Hart	Pell
Bradley	Hawkins	Pressler
Broyhill	Hecht	Proxmire
Bumpers	Hefflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sarbanes
Cohen	Johnston	Sasser
Cranston	Kassebaum	Simon
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Kerry	Stafford
Denton	Lautenberg	Stennis
Dixon	Leahy	Thurmond
Dodd	Levin	Trible
Dole	Lugar	Wallop
Domenici	Mathias	Warner
Durenberger	Matsunaga	Weicker
Eagleton	Mattingly	Wilson
Exon	McClure	Zorinsky
Ford	McConnell	

NOT GUILTY—8

Bingaman	Hatfield	Metzenbaum
Evans	Laxalt	Pryor
Hatch	Long	

NOT VOTING—2

Garn	Symms
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ANSWERED "PRESENT"—1

Stevens

The PRESIDENT pro tempore. The Senate will be in order. I will again admonish the galleries that when the vote is announced there will be no expression of approval or disapproval.

The PRESIDENT pro tempore. Upon this Article of Impeachment, 89 Senators having voted guilty, 8 Senators having voted not guilty, 1 voting present, two-thirds of the Members present having voted guilty, the

Senate adjudges that the respondent, Harry E. Claiborne, is guilty as charged in this Article.

The Chair directs judgment to be entered in accordance with the vote of the Senate, as follows:

The Senate having tried Harry E. Claiborne, U.S. district judge for the District of Nevada, upon four Articles of Impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present having found him guilty of the charges contained in the first, second, and fourth Articles of Impeachment, it is, therefore, ordered and adjudged that the said Harry E. Claiborne be, and he is hereby removed from office.

Mr. DOLE. Mr. President, I send an order to the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

Ordered, that the Secretary be directed to communicate to the President of the United States and to the House of Representatives the order and judgment of the Senate in the case of Harry E. Claiborne, and transmit a certified copy of same to each.

The PRESIDENT pro tempore. Without objection, the order will be entered and adjudged.

Mr. BINGAMAN. Mr. President, I rise to explain my own votes on the four Articles of Impeachment which have been presented by the House of Representatives against Judge Harry E. Claiborne.

Let me start by putting this proceeding in context as I understand it. This is the first time in history that the U.S. Senate has been asked to try the impeachment of a public official who has already been convicted of a felony in the Federal courts and who is serving time in a Federal penitentiary for that conviction. Judge Claiborne's conviction is final in the sense that all normal appeals from the conviction have been denied.

The charges being brought against Judge Claiborne in this impeachment trial are identical to the charges upon which he was convicted by a jury in the Federal District Court of Nevada.

A threshold question which we in the Senate need to decide is "What is the Senate's proper role in this proceeding?" In most cases, the Constitution clearly contemplates that the Senate shall sit as a trier of fact to determine whether the charged individual is guilty of "high crimes and misdemeanors," and therefore should be removed from office. It is clear to me that article I: section III, clauses 6 and 7 of the Constitution, which provides that the Senate shall have the "sole power to trial impeachments," did not contemplate a situation where the person charged would have already been convicted of a felony.

Since this case presents us with Articles of Impeachment based on the

same underlying facts which supported a jury conviction for a felony, I believe we are not required to once again try those facts and make an independent determination as to those facts. Clearly we have the authority to do so if we believe the criminal proceeding in the courts was so flawed as to justify it, but we are not in any way bound by the Constitution to independently once again try the same factual issues.

In this case, the Senate has chosen to use the procedure under rule 11 of the Rules of the Senate to establish a committee to take testimony and prepare a record of the case to be presented to the full Senate. I have served on that committee and believe the committee did its work in a responsible and fair manner. And in light of my own opinion that the Senate is not required to try the underlying facts in a case such as this where a previous criminal conviction on those facts has been obtained, I believe the Senate action in delegating its responsibility to a special committee was appropriate and met all constitutional requirements imposed upon the Senate.

However, if this were not a case in which factual determinations underlying the Articles of Impeachment had earlier been established in a court, I would have serious doubts about the adequacy of the hearing which we in the full Senate have given to this matter in order to carry out the Senate's responsibilities under the Constitution.

Mr. President, this brings me to a discussion of the four Articles of Impeachment. The House of Representatives has presented its case to the Senate on two distinct theories. First, they have argued that the Senate should make an independent finding that Judge Claiborne willfully and knowingly filed tax returns for the years 1979 and 1980 which he did not believe to be accurate and true and that that willful filing of false tax returns should be established by the Senate as constituting high crimes and misdemeanors justifying his removal from office. This theory is contained in Articles I, II, and IV of the Articles of Impeachment.

The second and alternative theory put forward by the House of Representatives is contained in Article III and essentially is a request that the Senate accept the judgment of conviction which was entered against Judge Claiborne for violation of section 7206(1) of title 26 of the United States Code as an adequate basis for his removal from office. As I understand this second theory, which is contained in Article III, a conviction by the Senate under this theory would not require an independent determination by the Senate as to the underlying facts supporting the conviction.

Let me discuss briefly my own view as to what has been presented under each of the two separate theories.

For the Senate to convict on Articles I, II, and IV, I believe the Senate would have to make an independent determination as to the state of mind of Judge Claiborne when he delivered information to his accountants in the spring of 1980 and 1981—for tax years 1979 and 1980—and when those returns were filed. To make that type of independent determination of his state of mind, I believe it would be essential to hear witnesses and judge the credibility of those witnesses. For the Senate to convict on Articles I, II, and IV, the Senate must conduct itself as a factfinding body and cannot delegate that responsibility to a special committee. In my opinion, putting the record of evidence presented to the committee into the possession of all Senators is not an adequate substitute for Senators hearing the witnesses present their case. At the very least, I believe it would be necessary for the Senate to permit the respondent, Judge Claiborne, to testify as a witness in response to the specific allegations of fact underlying these charges.

The Senator from Maine has argued that Judge Claiborne had a full hour to present his side of the case before the Senate and therefore any constitutional requirement has been fulfilled. In my view, this analysis is wrong. Judge Claiborne's presentation to the full Senate was in the nature of part of a closing statement. It was a plea for the Senate to hear the witnesses in this case and the fact that he did not adequately refute specific charges and specific evidence presented against him in the proceeding before the Senate committee or presented against him in the court case is not a waiver of by him of his right to testify before the Senate and defend himself against those charges.

In short, as to Articles I, II, and IV of the Articles of Impeachment, I believe the Senate has failed to give Judge Claiborne an adequate hearing to justify a finding that he willfully and knowingly filed false tax returns for the years 1979 and 1980. It may be impractical in the closing days of a legislative session to contemplate a week or more of trial presentation to the U.S. Senate, but absent that kind of hearing, I do not believe the Senate can hold itself out as having been a "trier of fact" as we would be required to be under Articles I, II, and IV.

Article III of the Articles of Impeachment does not require the Senate to make an independent factual determination about the willfulness with which the judge acted in 1980 and 1981. This article argues that the Senate should accept the felony conviction of Judge Claiborne in the Federal courts as an adequate basis for a

conviction here which then removes him from office. Mr. President, I will vote to convict on Article III because I believe this is a legally sound and logical course for the Senate to follow.

Mr. President, if we do not go forward with a conviction in this case, we have the anomaly of leaving a Federal district judge in office while he also remains in the Federal penitentiary, has been stripped of his right to vote and continues to be labeled a felon under the criminal laws of this country. To my mind, that is an unacceptable result in this particular case that has been presented.

Mr. President, one other issue needs to be addressed as part of this impeachment and that is the allegations of misconduct and abusive targeting by Federal prosecutors. Judge Claiborne's allegations in this regard are serious and it is clear from the debate which has taken place here in the Senate that many members are concerned about not only the evidence of overreaching by the Government in this case but other instances of similar overreaching. I do not believe that these allegations, even if true, would justify the Senate in failing to convict. However, I do believe that the Senate, in its oversight responsibility as part of the legislative branch of our Federal Government, should direct the Judiciary Committee to hold oversight hearings on this issue and to determine whether legislative action to deal with this problem is required.

In conclusion, Mr. President, we have not given the respondent an adequate hearing to support a conviction on Articles I, II, and IV. A vote of guilty on each of those Articles requires an independent determination as to Judge Claiborne's state of mind and in order to make that determination we need to hear testimony, not have a select few hear testimony, but actually have the Senate hear testimony. Accordingly, I will vote "no" on those three Articles. I believe a decision to remove the respondent on the basis of Article III is appropriate and I will vote to do so.

THE CLAIBORNE TRIAL

Mr. HATCH. Mr. President, the Senate conducted earlier today a trial because the Constitution clearly distinguishes between criminal and impeachment proceedings. Article I, section 3, commits criminal processes to the judiciary and impeachments to the Congress. As a separated power, Congress had the responsibility to make an independent assessment of whether Judge Claiborne had done anything to warrant removal from office. The separation of criminal and impeachment proceedings, in my mind, precludes this body from merely deferring to the existence of a criminal conviction. We have the duty to reach our own independent conclusion about the facts which gave rise to these charges.

REASONABLE DOUBT STANDARD

Each of the four counts of impeachment asserted that this body ought to convict Judge Claiborne because he willfully filed fraudulent tax returns which caused his conviction in a court of law. In other words, the reason the Senate was asked to convict is that a court found beyond a reasonable doubt that the judge willfully underreported his income. This is the charge that the Senate reviewed. It was obligated to ask itself whether, beyond a reasonable doubt, the judge purposefully and wittingly filed a false return. I contended that if the Senate found that he did, then it had to decide that he was properly convicted in court and it had to give him the same verdict on the question of removal. On the other hand, I argued, if there remains a reasonable doubt about his intentions, then the Senate was obligated to conclude that he should not have been convicted in court and that he should not have been impeached and that he should not have been convicted by the Senate. Relying as they did on the criminal conviction, the House Articles of Impeachment required the Senate to ascertain whether, beyond a reasonable doubt, Judge Claiborne intentionally filed a false return.

THE CRIMINAL CONVICTION

Claiborne was charged and convicted under the Internal Revenue Code, 26 U.S.C. 7206(1), which reads:

Any person who * * * willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter * * * shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

Upon his conviction on two counts covering 1979 and 1980, Claiborne was sentenced to 2 years of imprisonment for each violation, to be served concurrently, and was fined \$5,000 for each violation.

WILLFULNESS

All of the issues before the Senate today were reducible to one simple question: Did Judge Harry Claiborne willfully file a false tax return? Both Judge Claiborne and the House agreed that the 1979 and 1980 tax returns fail to report taxable income. The issue before the Nevada District Court and the Senate today was whether that underreporting was "willful."

The Supreme Court, in *United States v. Pomponio*, 429 U.S. 10 (1976) stated that the term "willfully" in the Tax Code requires more than a showing of carelessness or negligence; it requires proof of an intentional violation of a known legal duty. In *United States v. Bishop*, 412 U.S. 346 (1973), the Supreme Court stated:

Degrees of negligence given rise in the tax system to civil penalties * * * The Court's consistent interpretation of the word "willfully" to require an element of mens rea implement the pervasive intent of Congress to construct penalties that separate the purposeful tax violation from the well-meaning, * * * mass of taxpayers. Id at 360-361.

The import of these cases is that willfulness is the intentional, deliberate, voluntary, or witting violation of a know legal obligation.

Certainly Judge Claiborne knew the duty to file an accurate and complete tax return. It is far from clear from the evidence presented either in trial or during the impeachment proceedings that Judge Claiborne deliberately or intentionally or wittingly or purposefully tried to escape the obligation of every taxpayer. To the contrary, there is much to indicate that Judge Claiborne's deliberate actions were an attempt to file an accurate and complete return. According to the judge and much corroborating evidence, miscommunications with accountants and mistakes by those accountants caused errors in the judge's tax returns, or which he was aware until the criminal investigation was already underway. If the judge is correct, the voluminous evidence at most shows that he was negligent in failing to detect his accountant's errors. This, however, would not be willfulness. It would not be deliberate and witting tax evasion. It would be simple negligence, which as the Supreme Court's Bishop case stated, would be corrected by a civil proceeding, not a criminal action.

Because the pivotal issue in this case is the state-of-mind issue, I examined extensively the concept of willfulness. In that connection, I adopted the formulation of that concept found in the House brief. As the House brief concedes, there is no direct evidence of willfulness in this case. There is no letter from the judge to Watson or Wright instructing them to falsify income or conspiring with them to hide some other material fact. No direct evidence of willfulness is found in the records of this case in the courts or before Congress.

In the absence of direct evidence, the House was correct to note that "Willfulness may be inferred by the trier of fact from all the facts and circumstances of the attempted understatement of tax." *U.S. v. Conforte*, 624 F.2d 869, 875 (9th Cir. 1980). The House post-trial brief then detailed several circumstances that may indicate a willful filing of a fraudulent return. These include, for instance, a consistent pattern of underreporting, the magnitude of the error, a sudden change in accountants, and so forth. I examined the evidence of this trial in each of these categories of circumstantial proof to ascertain if they indicate, beyond a reasonable doubt, willfulness.

CIRCUMSTANTIAL WILLFULNESS EVIDENCE
INSUFFICIENT

The House brief purports to show sufficient circumstantial evidence of willfulness. I examined each of these bits of circumstantial evidence of willfulness. The Senate had the duty to ask itself if this evidence leaves any reasonable doubts about Judge Claiborne's state of mind. To the extent that none of them establish beyond a reasonable doubt Judge Claiborne's willfulness, the Senate should not, in my opinion, have convicted.

The first of these is the consistent pattern of underreporting. Judge Claiborne did report fully and accurately his income in both 1979 and 1980. Let's look first at the evidence concerning the 1979 tax return. In his April 11 letter to his accountant, Mr. Wright, the judge gave an accurate accounting of his legal fee income. That letter was handwritten by Judge Claiborne and contained the full and correct amount he had earned in fees, \$41,073. Wright does not remember receiving the letter, but the judge's secretary remembers delivering it, the judge saw the letter on Wright's desk when he visited Wright's office later that afternoon, Wright's employee—Ken Swanson—saw the judge's secretary in Wright's office on April 11, and the judge's tax return accurately reflects the sale of his airplane which was reported to Wright in the April 11 letter. In addition, on the final day of the Senate impeachment proceedings, an affidavit was filed by a former secretary in Mr. Wright's office attesting that she had received the letter from the judge's secretary, Judy Ahlstrom, on April 11, 1979. This enormous body of evidence that the April 11 letter was received includes verification from Wright himself in the form of his recordkeeping. He accurately notes that he received and filed the \$8,000 check which accompanied the April 11 letter. The April 11 letter is a full and fair accounting of the judge's 1979 tax liability. The evidence shows that the judge fully and fairly reported his 1979 income.

Wright maintains that the judge sent him a figure of only \$22,622 in legal fees. This is also naturally and believably explained. On April 11, Judge Claiborne had sent the letter to Wright disclosing his full fee income. On May 1, nearly 3 weeks later, the judge was engaged in a phone conversation with Mr. Wright. Mr. Wright was asking the judge several questions about his tax return. At one point Mr. Wright was searching for the judge's legal fee income. Wright then purported to find the amount and declared it to be \$22,600. Because he had sent the accurate figure to Wright by letter a few weeks earlier, the judge naturally assumed that Wright has found the amount declared in the April 11 letter. The judge wrote that amount on his

worksheet. Later Wright used that same worksheet as the judge's declaration of his income. This is a tragic mistake. It is a classic instance of miscommunication. It is not, however, a crafty plan to defraud the taxpayer.

In 1980, the judge also reported all of his income to his accountant. Judge Claiborne wrote down personally his legal fee income of \$88,500 on a yellow legal pad and gave it to Watson. Charlotte Travaglia, the employee of Watson who did the work on the judge's 1980 return, testified that the judge made a full disclosure of his income. Although the House contended that the \$88,000 never appears on the tax return, evidence presented by Travaglia and others, however, establishes that the only way that the 1980 return could have arrived, on an erroneous Watson theory, at a figure for long-term capital loss in the sale of his law business was by including the \$88,000 as a capital gain to be offset against capital losses. It was improperly treated as a capital gain by Watson, but Judge Claiborne had fully and fairly reported his 1980 income.

On the point of whether this alleged underreporting was a consistent activity, the House made much of the fact that these errors occurred in 2 successive years. An examination of the evidence, however, offers a plausible explanation. After all, Judge Claiborne had only recently taken his position on the bench. He was still adjusting to new financial arrangements, new work schedules, new responsibilities, new demands on his time and talents. It was a time of turmoil and change in his life. He was selling his residence and purchasing another. He was turning over his law firm to his former partners and liquidating his assets in that business. These drastic changes were also an important reason that he elected to switch accountants. With changes of this magnitude underway in his life, it is not wholly unexpected that miscommunications, misperceptions, and mistakes might occur in these 2 years.

Another factor contributing to these errors is Judge Claiborne's reluctance to devote precious time to his financial dealings. The evidence shows that he once left several tens of thousands of dollars in a safety deposit box where it drew no interest for months. Money was not uppermost in the judge's mind. He hired accountants to relieve him of this unsavory part of his business life. In any event, because the judge did in fact disclose his income in each of the years in question, the fact that errors might have occurred in 2 years of turmoil still has no criminal implications.

In sum, Judge Claiborne did not underreport his income—consistently or otherwise.

The next circumstantial point made by the House concerns the magnitude

of the error. The \$18,700 shortfall in his 1979 return was not due to any willful act on Judge Claiborne's part. He thought the income he disclosed on April 11 was part of the return. The judge did not actually review the 1979 tax return before it was filed. On May 2, 1980, he was leaving town to take an assigned case in another jurisdiction. Fearing that he might not return before the filing deadline, the judge went to Wright's office and signed a return in blank. He signed the return in blank because he was going out of town on assignment. He certainly expected that it would contain income which he had reported to his accountant in an earlier hand-written and hand-delivered letter.

Wright's testimony on this point is that he had changed his practice of allowing tax returns to be signed in blank. It is nonetheless uncontroverted that early in his career Wright had permitted tax returns to be signed in blank. Judge Claiborne had been associated with Wright for 30 years. The recent changes in practice may not have been binding on a longstanding customer like Judge Claiborne who testifies persuasively that he signed the form in blank sometime on May 2.

In 1980, Judge Claiborne reported to Watson the \$88,500 in income on the now-famous "yellow sheets." Watson told the judge that the income was reflected in the schedule D form concerning capital gains because it was part of the sale of the law business. Watson pointed out that this method had been checked by the CPA who did the actual work on the judge's tax return and further checked with the IRS.

The 1980 tax return was a mess. It contained numerous blatant errors. It did not even credit Judge Claiborne with the \$22,000 he had already paid in estimated taxes for that same tax year. It was filled out in pencil and had arrows drawn from one part of the return to others. If the judge had intended to defraud, he certainly would have been more cunning. If Judge Claiborne had intended to defraud, he certainly would not have filed a return full of red flags pointing to its likely deficiencies.

Another aspect of the circumstantial evidence of willfulness discussed the disclosure of summary data only. By this the House meant to suggest that Judge Claiborne withheld from Wright or Watson information that they needed to file a complete return. If Judge Claiborne did write and cause to be delivered the April 11 letter, however, he withheld nothing. He had reported all of his income to Mr. Wright. His business practices had necessarily changed in 1978 when he began his service on the bench. For this reason, he no longer had deposits mailed directly to Mr. Wright. This

was because he was no longer paid by clients in the same manner. He did not manage his affairs in the same manner he had when he was managing a law business. Instead some lingering payments came sporadically from his former partners and these the judge often cashed for his living expenses or other needs. Nothing was hidden. The April 11 letter is evidence of his care to report all income.

The same is true in 1980. Judge Claiborne reported his income to Mr. Watson who in turn passed it on to Ms. Travaglia. Nothing was hidden. Nothing was withheld. There is no evidence that Judge Claiborne refused to share all relevant information with his accountants in 1979 and 1980.

The fourth aspect of circumstantial evidence of willfulness was the allegedly sudden change of accountants. Judge Claiborne had several good reasons for changing accountants. In the first place, he no longer was managing a law business. He had no need of the wide range of services provided by Wright. Moreover Wright had treated the judge coldly in some of their recent conversations. This may well have been because Mr. Wright had moved on to a different clientele after 30 years in the business. He may have wished that he was receiving more compensation for his services. The reason that Judge Claiborne and his accountant began drifting apart are not fully stated. It is clear, however, that the judge perceived that his accountant was no longer as interested in his account as he had been in the past.

Mr. Watson, on the other hand, came highly recommended by the judge's wife and had impressed the judge on the one occasion he had to observe his work. Watson was very interested in Judge Claiborne's account. He forthrightly solicited Judge Claiborne's business with the promise that he might be able to save him money on taxes in a legitimate manner. Judge Claiborne was selling his large home and Watson specifically mentioned in his letter a plan to treat that transaction favorably. In light of the distance between the judge and his former accountant, this offer must have been very attractive.

The fourth category of circumstantial evidence of willfulness involved purportedly surreptitious cash transactions. Judge Claiborne was buying and selling at the time of these events two places of residence, some fine riding horses, and was making extensive home improvements. Moreover, he was accustomed to a high standard of living. He consumed cash. Accordingly he cashed his checks at the casinos where he often had lunch or breakfast. These casinos often serve as substitute banks for Nevada residents. There was nothing surreptitious about these dealings. He often deposited the

surplus amounts in his bank account. The evidence shows as well that the judge was accustomed to carrying large amounts of cash.

Another aspect of the circumstantial evidence focused on background of the accused. The House brief attempted to attribute great significance to the judge's expertise in tax matters. Although a fine judge, Harry Claiborne is no tax expert. During his years at the bar, he repeatedly referred tax cases to other attorneys and dealt only with the criminal procedure aspects of those cases. He relied on Wright for 30 years and then on Watson to do his tax preparation.

As a matter of law, reliance on a tax accountant is justified if the judge fully disclosed all pertinent facts and if his reliance was in good faith. In this case, the judge had fully disclosed his income in both 1979 and 1980. He had reason to rely in good faith on Wright because Wright had done his taxes for 30 years without a hitch. He had a reason to rely in good faith on Watson because Watson came highly recommended by his wife and seemed to handle business competently.

A final aspect of the circumstances cited by the House brief involved the question of whether the judge turned a blind eye to the problems with his returns. With respect to 1979, it would be difficult to make that claim because the judge signed the return in blank. He relied fully on his accountant to correctly record the income reported by the April 11 letter. It certainly cannot be maintained that the judge deliberately arranged his schedule to be out of town so that he would have an excuse to sign a fraudulent return in blank. In the first place, he had no idea it would be fraudulent. In the second place, his out-of-town assignment was dictated by his judicial superiors. It was out of his control.

With respect to 1980, the House contended that the judge may have voluntarily kept himself ignorant of the gross errors it contained. From Judge Claiborne's perspective, he had already reported all of his income. He felt no need to double check the work of someone he had paid well to do his taxes. The evidence shows that Charlotte Travaglia, the employee who actually did the work on the judge's return, sought some advice from Watson about the treatment of some items. She placed the incomplete return on Watson's desk and had no further contact with it. A secretary in Watson's office saw the return and called the judge to come sign it. Judge Claiborne went to Watson's office on a lunch break when time was undoubtedly short. He thumbed through the return and signed it.

A few days later, Watson was in the judge's office with a bill for his services. At that time, the judge did question the 1980 return, but Watson as-

sured him that he had checked the theory of the return with IRS agents who agreed with the figures on schedule D. The judge was satisfied "as long as you can support it," in the words he used with Watson at that time. Judge Claiborne pointed out why he wanted it clearly supported by saying to Watson: " * * * I don't want any trouble with the IRS because I got all the trouble with the FBI that I can handle right now." This is an important insight into the judge's state of mind. He knew in 1980 that the FBI was angry with him and perhaps even looking for some way to hang his picture on their trophy wall. In that contentious state of affairs, it is simply inconceivable that Judge Claiborne would attempt to escape tax liability. Not even a 4-year-old attempts to raid the cookie jar when he knows he is being watched.

The sloppiness of the 1980 return is also significant. It is even more unlikely that in this time of tension Judge Claiborne would file a fraudulent return that begs for examination and audit. This is the equivalent of the judge shouting at the top of his lungs that he intends to raid the cookie jar and then proceeding to attempt the feat under his parent's noses.

SUMMARY ON INTENT

Each of the primary circumstantial factors cited by the House brief should not have been dispositive of this case. The House contended that the concurrence of these factors somehow cumulatively showed guilt, but if there is a reasonable doubt as to each of these factors, there must also be reasonable doubt as to their sum total.

NEGLIGENCE, NOT WILLFULNESS

With even this quick overview of the facts of this case in mind, it is easy to find extensive evidence of negligence. Willfulness—that intentional, witting, purposeful, crafty design—is another matter. If the evidence justifies a finding of negligence without willfulness, that would not justify a criminal conviction. In the absence of a criminal conviction, the House may not have urged impeachment. Indeed each of the Articles of Impeachment presupposed a criminal conviction and should not have been effective if the judge had been found to be only negligent. The Senate had to look behind the conviction to see if the judge had done anything that warranted the conviction the House contended as its sole basis for impeachment. Without the conviction, the judge had perhaps miscalculated taxes—a civil matter—which would not have warranted discipline any more than an addition mistake on a tax return.

ETHICS DISCLOSURE

Another important fact demonstrates that the judge was not deliberately attempting to violate the law. He

fully disclosed his 1980 income on his ethics report. Why would he deliberately evade taxes and then tell the Government the facts that disclose his fraud in another filing? This is incredible. If Judge Claiborne was acting with a criminal state of mind, it is inexplicable that he would lie on one Government filing and confess his guilt on another. The judge simply did not act willfully.

With regard to the 1979 ethics report, Judge Claiborne did fail to report some of his income. That is very understandable in light of the totality of the facts. The judge simply grabbed his tax worksheet—the one with Mr. Wright's erroneous suppositions about his 1979 income—when he filled out his ethics report.

VENDETTA

On the point of the Government's role in trying to "bag the judge," I would note that we all understand that law enforcement officers may not stoop to the level of a criminal in order to apprehend criminals. The revered Justice Brandeis gave us an excellent summary of the consequences of lawless law enforcement.

In a Government of laws, existence of a Government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious.

If the Government becomes a lawbreaker, it breeds contempt for law; it invites anarchy. To declare that in the administration of criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private citizen—would bring terrible retribution. *Olmstead v. U.S.*, 277 438 (1928).

In the case of Harry Claiborne, we have not had the opportunity to exhaustively examine the allegations of Government misconduct. That is regrettable. In any event, this body ought to guard against Government overreaching with great care. Where there is even a spectre of this dangerous abuse, we should carefully examine the consequences of that intrusive conduct. This body, too, has the responsibility to stamp out law enforcement abuses. This must not be left to the judiciary.

CONCLUSION

In summary, I do not think that this body can assert that Harry Claiborne purposefully, intentionally, wittingly—willfully—filed a false return. If he had intended to violate the law, he would not have done it so poorly. Neither the 1979 nor the 1980 return shows any evidence of cunning or guile. They contain mistakes discernible by a grade school observer. The judge relied too heavily on unreliable accountants. The judge was negligent in failing to check his accountant's

errors. Frankly if one of the Articles of Impeachment had cited the judge's gross negligence and disregard, I would have voted to impeach. The House Articles, however, are all based on the criminal conviction. The criminal conviction is only valid if Judge Claiborne acted willfully. For the reasons I have cited, I could not find sufficient evidence of willfulness.

I listened very carefully to every aspect of the testimony before the Impeachment Committee. I compared each witness' statements to the assertions made by other witnesses. In the long run, I found Judge Claiborne to be a credible witness. I believed him. Moreover the evidence in this case supported the judge's explanations of the circumstances that led to his indictment and conviction. Giving the judge the benefit of the doubt, as I believe we are obligated to do when his life's work and reputation are at stake, the evidence did not support a finding of willfulness. The evidence clearly showed that the judge had been grossly negligent and had carelessly disregarded his obligations as a taxpayer. He did not, however, conspire or craftily design a plan to defraud the Government. In the absence of willfulness, beyond a reasonable doubt, he should not have been convicted, should not have been impeached, and, in my opinion, should not have been removed from office. This was why I voted not guilty on each of the Articles of Impeachment.

IMPEACHMENT OF JUDGE HARRY CLAIBORNE

Mr. DIXON. Mr. President, the Senate today performed an extremely unpleasant duty. We have impeached a Federal judge for only the fifth time in our history. The last previous impeachment was in 1936—50 years ago.

I listened carefully to the distinguished House managers and Judge Claiborne's representatives on the Senate floor. I have reviewed the transcripts of the committee proceedings. I have discussed the issues raised by the prosecution and the defense at length with my colleagues in our closed sessions. I believe the evidence permits only one conclusion: That Judge Claiborne is guilty as charged in the four Articles of Impeachment, and I, therefore, voted in favor of all four Articles.

Article III of the four Articles of Impeachment, in my view, states a kind of "per se" case for impeachment. Essentially, that Article makes the argument that Judge Claiborne should be impeached because he was tried and found guilty in Federal court by a 12-person jury of two felony counts of filing false tax returns. In my own State of Illinois, the simple fact of his conviction for some crimes would automatically remove him from office.

Frankly, I find it unconscionable that a person serving a 2-year prison sentence should be able to continue to receive his judicial salary. Judge Clai-

borne had all the rights the American system of justice gives to anyone accused of a crime. He had the right to a trial by jury. Like any other defendant, he could not be convicted unless the jury found him guilty beyond a reasonable doubt. The jury in Judge Claiborne's case did find him guilty. He had the right, and exercised the right, to appeal his case. His appeal was heard by the court of appeals and turned down. The Supreme Court found no reason to overturn the jury verdict.

I think the Federal judiciary is no place for convicted felons, and that the third Article of Impeachment stated a sufficient case for impeachment. However, it is important for all of us to remember that the impeachment process is not part of our judicial system. Under the Constitution, the impeachment process is totally separate from and independent of ordinary judicial processes. The Senate had a responsibility to look behind the jury verdict and to make its own determination as to whether Judge Claiborne, as Judge Claiborne's defense phrased it, "willfully and knowingly made a false statement" on his 1979 and 1980 tax returns in violation of section 7206(1) of the United States Code.

I believe the Senate has made a full, fair, and independent evaluation of the charges. I will not take the time of my colleagues to recite the abundant evidence that convinces me that he is guilty. Let me simply say that I am convinced that Judge Claiborne willfully and knowingly failed to report almost half of the \$41,072.93 he received in fee income in 1979. I am also convinced that Judge Claiborne knowingly and willfully failed to report \$87,912 in fee income in 1980, and that he failed to report a taxable gain of \$214,812 on the sale of his home, with the result that he reported taxes owed of only \$1,101 for that year—about 1.1 percent of the \$97,864 he actually owed.

Finally, Mr. President, I must say that I share the conclusions stated in the fourth Article of Impeachment. I believe his deliberate attempt to avoid paying his lawful tax obligations betrayed the trust of the people of the United States. His actions do reduce confidence in the integrity and impartiality of the judiciary, and do bring disrepute on the Federal courts and the administration of justice by the courts. The only way to restore that trust and confidence was for the Senate to take the action that it did take—to impeach Judge Claiborne and remove him from office.

IMPEACHMENT TRIAL OF JUDGE HARRY E. CLAIBORNE

Mr. SPECTER. Mr. President, the historical proceedings involving the trial of Judge Harry E. Claiborne are noteworthy not only because they are

the first such proceedings to be held since the impeachment trial of Judge Ritter in 1936, but also because, for the first time, the initial evidence received in the trial was taken by a committee, and not by the full Senate.

Yesterday, the Senate conducted a rollcall vote on Judge Claiborne's contention that this process was unconstitutional, and constituted a denial of his right to a "full and fair" trial. The distinguished majority leader placed before the Senate the question: "Yes or no—the Senate should not hear additional witnesses in the case." The purpose behind this question was to determine whether or not the Senate should reopen the case and conduct a more extensive trial. The vote on the motion was yeas 61, nays 32, thereby obviating the need to continue the trial, and allowing the Senate to proceed to consideration of the four Articles of Impeachment.

I voted in favor of precluding further witnesses to be heard in this matter. A full 7-day trial was held before the Senate Impeachment Committee, comprised of 12 of my able colleagues. A trial transcript consisting of thousands of pages was made available by this committee. A series of preliminary motions made by Judge Claiborne were referred to the full Senate for consideration, and determination.

In my opinion, Judge Claiborne has been accorded a full and fair proceeding. It should be noted, that U.S. District Court Judge Harold H. Greene yesterday ruled that the committee procedure was constitutional.

Article I, section 3 of the Constitution declares that the Senate has the sole power to try all impeachments. The Constitution does not dictate the manner in which the trial shall be conducted, apart from its command that "no person shall be convicted without the concurrence of two-thirds of the Members present." Article I, section 3. The Senate thus has the authority to fashion rules that govern the admissibility of evidence, the scope of the proceeding, and the manner, form, and location in which evidence will be received. Therefore, Senate Impeachment Rule XI, providing for evidence to be received by a committee of Senators, falls within the discretion of the Senate's power to conduct an impeachment trial.

As to the issue of Judge Claiborne's guilt, I have been convinced, on the basis of the evidence adduced by the House managers, that Judge Claiborne should be convicted on three of the four Articles of Impeachment. The House established that Judge Claiborne received and negotiated checks representing income received in 1979 and 1980 that was not reported on his income tax returns. This was set forth in prior admissions under oath by Judge Claiborne, through prior sworn testimony of witnesses, and by live tes-

timony of a number of those same witnesses.

This evidence establishes that Judge Claiborne willfully and knowingly made false statements on his 1979 and 1980 returns in violation of title 26, section 7206(1) of the United States Code. Articles I and II of Impeachment. The testimony and written documentation depicts the changed behavior of Judge Claiborne—cashing fee income checks at local casinos, rather than at the bank which he had been utilizing for years, changing accountants to prepare tax returns despite a 30-year relationship with one accountant, Mr. Joseph C. Wright, and dealing in large amounts of cash. The defense, rather than succeeding in rebutting this evidence, concentrated on developing a picture of judicial and prosecutorial misconduct against Judge Claiborne. Although such allegations are indeed serious, and have been examined by this body, they are not determinative on the issue of guilt or innocence in this case.

As to Article III, I do not believe that that is a sufficient basis for impeachment. In my opinion, the Senate has a duty to make an independent determination of the underlying facts. That has been done on Articles I, II, and IV. The Senate should not merely accept the judgment of the U.S. district court in which Judge Claiborne was tried and convicted. Accordingly, I do not believe that Article III establishes in and of itself a basis of impeachment.

As to Articles I, II, and IV the evidence establishes that Judge Claiborne has betrayed the trust of the people of the United States, reduced confidence in the integrity and impartiality of the judiciary, and thereby brought disrepute on the Federal courts and the administration of justice. Such conduct by a Federal judge—one who should warrant respect from the American people—is particularly heinous. Our citizens have the right to expect and even demand proper conduct on the part of public officials, whether they be elected or appointed. As Judge Claiborne's case has emphasized, Federal judges are unique in that once convicted even by the trial court system of illegal conduct, the people may not simply vote them out of office if they so choose, assuming that the party refused to resign. Instead, a judge reluctant to relinquish his office must be subject to the impeachment procedures established by the Constitution.

The full gamut of those procedures has now been exhausted. Judge Claiborne has had his day in court, before the House, and before the Senate. It is time for him now to become an ordinary U.S. citizen, convicted of a felony offense, who must serve his remaining time in prison, without the reward of believing that he can then return to

his bench and resume life as before. Judge Claiborne must pay for the offenses he committed, and can no longer assume the distinguished mantle of a Federal judge.

Mr. DOLE. Mr. President, I move that the Senate, sitting as a court of impeachment, adjourn sine die.

(Thereupon, at 4:13 p.m., the Senate, sitting as a court of impeachment, adjourned sine die.)

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to the consideration of executive business.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD addressed the Chair.

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

The Senate will come to order.

Mr. BYRD. Mr. President, may we have order in the Senate? There is further business, and there is going to be at least one rollcall vote.

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

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

Mr. DOLE. Mr. President, I advise my colleagues that there will be one vote that counts for six. It will take place immediately.

TREATIES

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following treaties on the executive calendar: Executive Calendar Nos. 14, 15, 16, 17, 18, and 19.

The PRESIDING OFFICER (Mr. GRAMM). Is there objection?

Mr. BYRD. Mr. President, there is no objection. These treaties have been cleared on this side by all Members, and we are ready to proceed.

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

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Members will clear the well. The Senator will withhold until the well is cleared and the Senate is in order.

Mr. DOLE. Mr. President, I further ask unanimous consent that the treaties be advanced through the various parliamentary stages, up to and including the presentation of the resolutions of ratification, and all committee reported reservations and the two reservations introduced by Senator

LUGAR, which appear in the September 25 RECORD, be considered agreed to.

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

Mr. DOLE. I further ask unanimous consent that a vote occur on the resolutions of ratification immediately upon reporting by the clerk, and that one vote count as six votes, and that it be in order now to request the yeas and nays, with one show of seconds.

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.

Mr. LUGAR. Mr. President, the Senate will shortly vote on six treaties. Each one of these six has been carefully reviewed by the Senate Foreign Relations Committee. In each case, the committee unanimously recommended that the Senate give its advice and consent to ratification.

Five of the six relate to private law treaties. By this, I mean these treaties govern relations between individuals and companies located in different countries. These five are:

Hague Convention on the Civil Aspects of International Child Abduction.

U.N. Convention on Contracts for the International Sale of Goods.

Inter-American Convention on Commercial Arbitration.

Inter-American Convention on Letters Rogatory, and

Request for Advice and Consent to Withdrawal of a Reservation to the 1975 Patent Cooperation Treaty.

Each one of these treaties has been endorsed by the American Bar Association and by other associations concerned with private international law. I know of no opposition to any of them.

Mr. President, through an oversight, two reservations to the Inter-American Convention on Letters Rogatory and one to the U.N. Convention on the International Sale of Goods were not included in the resolutions of ratification to accompany these conventions. These reservations were recommended by the Department of State in the transmittal letters accompanying the conventions. I ask unanimous consent that they be printed in the RECORD at the end of my statement.

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

[See exhibit 1.]

Mr. LUGAR. Mr. President, of the five, the Hague Convention on Child Abduction merits special attention. This convention addresses the problems created when children are wrongfully removed or retained abroad in connection with parental custody disputes. It requires that these children be promptly returned to the country of their habitual residence upon application of the left-behind parent, sub-

ject only to express conditions and narrow exceptions.

The convention will help in resolving what is often a painful and difficult problem. It has been endorsed by the American Bar Association, the American Public Welfare Association, the National Center for Missing & Exploited Children, Vanished Children's Alliance, Children's Rights of Pennsylvania, the Kevin Collins Foundation for Missing Children and other groups concerned with missing children.

In addition, the distinguished Senator from Florida [Mrs. HAWKINS] together with the Senator from Wyoming [Mr. WALLOP], the Senator from California [Mr. CRANSTON] and the Senator from Illinois [Mr. SIMON] has strongly supported the convention. Their efforts in bringing the convention to the floor are deeply appreciated. Mr. President, I ask unanimous consent that a letter from the four Senators be printed in the RECORD at the end of my remarks.

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

[See exhibit 2.]

Mr. LUGAR. Mr. President, the sixth treaty we will vote on is the Convention on Wetlands of International Importance. This convention will provide a framework for promoting the conservation of wetlands through international cooperation. It is supported by a variety of State agencies and environmental organizations including the Southeastern Association of Fish & Wildlife Agencies, the Natural Resources Defense Council and the Department of Natural Resources of the State of Wisconsin.

Mr. President, Dr. Faith Campbell of the Natural Resources Defense Council recently wrote me explaining the importance of this convention. I ask unanimous consent that a copy of Dr. Campbell's letter appear in the RECORD at the end of my remarks. It points out quite well the reasons for approving the convention.

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

[See exhibit 3.]

Mr. LUGAR. In sum, Mr. President, each of these six treaties is worthy of Senate consent to ratification. I urge my colleagues to support them.

EXHIBIT No. 1

INTER-AMERICAN CONVENTION ON LETTERS ROGATORY TREATY DOCUMENT 98-7

(Reservations intended to be proposed by Mr. Lugar)

Before the period at the end of the resolution of ratification, insert a comma and add the following:

"Subject to the following reservations:

"1. Pursuant to Article 2(b) of the Inter-American Convention on Letters Rogatory, letters rogatory that have as their purpose the taking of evidence shall be excluded from the rights, obligations and operation of this Convention between the United States and another State Party.

"2. In ratifying the Inter-American Convention on Letters Rogatory, the United States accepts entry into force and undertakes treaty relations only with respect to States which have ratified or acceded to the Additional Protocol as well as the Inter-American Convention, and not with respect to States which have ratified or acceded to the Inter-American Convention alone.

U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

(Reservation intended to be proposed by Mr. Lugar)

Before the period at the end of the resolution of ratification, insert a comma and add the following:

"Subject to the following reservation:

"Pursuant to Article 95 the United States will not be bound by subparagraphs (1)(b) of Article 1."

EXHIBIT No. 2

U.S. SENATE,

Washington, DC, April 9, 1986.

HON. RICHARD G. LUGAR,

Chairman, Senate Committee on Foreign Relations, Washington, DC.

DEAR MR. CHAIRMAN: As this session gets under way, it is our strong hope that as Chairman of the Senate Committee on Foreign Relations you will schedule prompt action on the Hague Convention on the Civil Aspects of International Child Abduction, which the President transmitted to the Senate for advice and consent to ratification on October 30, 1985. The Convention has already been ratified by France, Switzerland, Portugal and nearly all of Canada's Provinces. The United Kingdom is presently working toward ratification.

We have long been concerned with the problem of parental kidnapping—the wrongful removal or retention of a child by one of its parents. An attorney on the staff of Senator Wallop joined the U.S. delegation as Congressional Observer at the final negotiations of the Convention in October, 1980. The United States signed the Convention in December, 1981.

The Convention establishes an administrative and a judicial mechanism to bring about the prompt return of children who have been abducted from, or retained outside of, their country of habitual residence. Each country that becomes party to the Convention would establish a Central Authority to process applications from aggrieved parents for the return of their abducted children. Where a voluntary return could not be achieved, the Convention would give the aggrieved parent the right to seek the child's return in court. The court would be under a treaty obligation to order the child promptly returned unless one of the few exceptions to the return obligation set forth in the Convention was found to apply.

The object of the Convention is to restore an abducted child to his or her home country as soon after an abduction as possible in order to minimize the trauma to the child, to ensure that any litigation on the merits of child custody can be heard in the child's home country, and to deprive the abductor parent of any legal advantage resulting from the abduction. If the Convention succeeds in swiftly returning children to their pre-abduction circumstances, the ever-important goal of deterring abductions can be achieved.

The Convention is a logical extension of legislation enacted by Congress in 1980 to deal with interstate parental kidnapping. In

recognition of the intolerably high incidence of parental kidnapping in this country and the painful effects it has on children, the Congress adopted the Parental Kidnapping Prevention Act of 1980. That law, supported by a strong, bipartisan coalition in both Houses, mandates interstate enforcement of state custody decrees made in conformity with federal statute, directs the FBI to investigate state felony parental kidnapping cases pursuant to the Fugitive Felon Act, and authorizes the Federal Parent Locator Service to locate abductor-parents. The federal law complements the Uniform Child Custody Jurisdiction Act, now in effect in every state and the District of Columbia, governing interstate recognition and enforcement of child custody orders. Neither of these laws helps a parent whose child is abducted from the U.S. and taken abroad. The Hague Child Abduction Convention will fill this gap. It addresses the global dimension of the parental kidnapping problem, and, if ratified, will provide a meaningful remedy to parents whose children are abducted across international borders. The American Bar Association strongly supports this Convention. We know of no opposition to it.

We respectfully request that you schedule the Hague Convention on the Civil Aspects of International Child Abduction for the earliest possible consideration by your committee and expeditious ratification by the Senate. Please call upon us if we can be of any assistance to you in this regard.

Sincerely,

MALCOLM WALLOP,
ALAN CRANSTON,
PAULA HAWKINS,
PAUL SIMON,

U.S. Senators.

EXHIBIT No. 3

NATURAL RESOURCES DEFENSE COUNCIL,
Washington, DC, July 17, 1986.

HON. RICHARD LUGAR,
U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: The Natural Resources Defense Council would like to take this opportunity to support prompt ratification of the Convention on Wetlands of International Importance Especially and Waterfowl Habitat (the Ramsar Convention).

The Natural Resources Defense Council represents 62,021 members throughout the United States. For over a decade, NRDC's International Program has promoted greater efforts to conserve the global environment, including specifically the diversity of the Earth's plant and animal species. Wetlands are extremely rich habitats which support a wide range of species, including waterfowl important to sportsmen and marine and freshwater fin and shellfish important to the human diet. Wetlands also perform a myriad of ecological services, including filtration of pollutants, maintenance of water supplies, dampening of flood levels, and stabilization of shorelines.

Unfortunately, wetlands throughout the world are under threat from various human activities, including drainage for agriculture or urbanization; pollution by agricultural, domestic, or industrial discharges or careless dumping of poisonous wastes; and overexploitation of the native birds, fish, or vegetation (especially timber). The Ramsar Convention is an established and effective international forum for addressing these problems. NRDC is pleased that the United States is finally joining the treaty.

On a personal level, I can attest to the aesthetic and biological values of two of the

wetlands chosen for addition to the List of Wetlands of International Importance. The Edwin B. Forsythe (Brigantine) National Wildlife Refuge is a prime habitat for ducks and geese, as well as wading birds, raptors, and forest birds, and such mammals as river otter, muskrat, and fox. Okefenokee NWR is a wonderful place, home of the alligator, pitcher plants, cranes and ibis, as well as the endangered red-cockaded woodpecker. Although I have not visited Ash Meadows NWR, I understand that it is home to a dozen federally listed threatened and endangered fish and plant species—the highest density of such species anywhere in the continental United States. NRDC congratulates the Fish and Wildlife Service on nominating this unique wetland for recognition by this international program.

The Natural Resources Defense Council hopes that the Senate will move rapidly to complete the ratification process for the Ramsar Convention. We look forward to working with our colleagues in the conservation community—both inside and outside government—to utilize Ramsar's mechanisms to improve conservation of wetlands around the world.

Sincerely,

FAITH THOMPSON CAMPBELL, Ph.D.

RATIFICATION OF THE HAGUE TREATY ON CHILD
ABDUCTION

Mrs. HAWKINS, Mr. President, I am pleased that the Senate is considering the ratification of the treaty for the 1980 Hague Conference on Private International Law. The Hague conference conducted a convention on the civil aspects of international child abduction and drafted a treaty to help resolve custody disputes. The convention proposed the prompt return of the child by the country of refuge.

The foreign court does not determine or redetermine which parent keeps the child. It is not a criminal remedy. It simply decides whether a youngster under the age of 16 has been wrongfully removed or retained by the alleged abductor. The treaty covers parental kidnappings that occur both before and after a custody order has been rendered and abductions by joint custodians. The treaty also addresses visitation rights grievances. Under the convention, each participating nation sets up a government office called a central authority, which will process applications for help by parents. Each central authority will be linked to other participating countries with the aim of trying to locate the child, to bring about the voluntary return of the child in order to resolve the custody or visitation conflict and to offer legal representation.

Every parental kidnapping is heartbreaking, but an international child kidnapping is even more so because of the costs, complications and difficulties in trying to work within a foreign jurisdiction's legal system. Sally Abrahams in her book, "Children in the Crossfire: The Tragedy of Parental Kidnapping," related the difficulties that American parents have faced in trying to locate and regain custody of children who have been taken abroad

by ex-spouses who are unhappy with custody or visitation orders. Ms. Abrahams cited the possibility of the United States and additional countries ratifying the Hague conference as the one hope that an attempt to eliminate the redtape and facilitate a safer method of resolving custody disputes will be made internationally.

Florida has been fortunate to have some of the leading experts on international child abduction residing in our State. Kathy Rosenthal of Children's Rights of America, which is located in Largo, FL, has assisted numerous parents in the legal morass of redtape involved in locating and securing the return of a child abducted to a foreign jurisdiction.

HAGUE CONVENTION ON THE CIVIL ASPECTS OF
INTERNATIONAL CHILD ABDUCTION

Mr. WALLOP, Mr. President, I strongly support Senate ratification of the Hague Convention on the Civil Aspects of International Child Abduction. This convention establishes administrative and judicial mechanisms to bring about the prompt return of children who have been abducted from, or retained outside of, their country of habitual residence. In rapidly returning a child to his or her preabduction circumstances, the convention seeks to minimize the trauma to the child caused by the abduction, to ensure that litigation on the merits of child custody be heard in the child's home country, to deprive the abductor of any legal advantage resulting from the abduction, and, ultimately, to deter international, parental kidnapping.

Parental kidnaping has long been a concern of mine. It is clear that parental kidnaping has harmful and long-lasting psychological consequences for its victim—children. In 1980, Congress enacted the Parental Kidnapping Prevention Act, legislation I had sponsored to reduce the incidence of interstate child abduction, and which enjoyed strong, bipartisan support in both Houses of the Congress. The Hague Child Abduction Convention is a logical and necessary extension of the Parental Kidnapping Prevention Act; it addresses the global dimension of the parental kidnaping problem. When ratified, it will provide a meaningful remedy to parents whose children are abducted across international borders.

I ask unanimous consent that the statement of the American Bar Association with respect to this convention be printed in the RECORD at the conclusion of my remarks. The portion of the ABA's statement on the child abduction convention was written by Patricia M. Hoff, who, as an attorney on my staff between 1977 and 1980, worked with me on the Parental Kidnapping Prevention Act and joined the U.S. delegation as congressional ob-

server at the final negotiations of the child abduction convention in October 1980.

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

STATEMENT OF ARTHUR W. ROVINE, CHAIRMAN, SECTION OF INTERNATIONAL LAW AND PRACTICE, AMERICAN BAR ASSOCIATION

CONTENTS

In the preparation of this statement, the American Bar Association (ABA) has had the benefit of a number of experts whose authorship of each section is noted here. The professional background of each of these lawyers, as well as those who will be assisting in orally presenting the ABA's views, appear in Appendix A to this statement.

II. HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION (TREATY DOC. 99-11)

Mr. Chairman, I would next turn to the most recent of the treaties before us, and in many respects the most urgently needed—the Hague Convention on the Civil Aspects of International Child Abduction ("child abduction convention" or "Convention").

The ABA's endorsement of the child abduction convention is a direct outgrowth of nearly two decades of deep concern on the part of the Association and the ABA's Family Law Section about the harmful effects that parental kidnapping has on children. Parental kidnapping involves the unilateral taking, retention or concealment of a child by one parent from the other parent. Whatever the provocation, parental kidnapping is rarely, if ever, in the child's best interest. Rather, the child is uprooted from home, family, friends, school, and all that is familiar, and forced into an existence similar to that of a fugitive—a life on the run, frequently with new identities, denial of all past relationships, and above all, the loss of emotional security and stability that is so crucial to normal child development.

In recognition of the need to enact laws to safeguard children from parental kidnapping, the ABA in 1968 approved for enactment in all states the Uniform Child Custody Jurisdiction Act ("UCCJA"), drafted that same year by the National Conference of Commissioners on Uniform State Laws. The UCCJA, now the law in every state and the District of Columbia, eliminates a major incentive for parental kidnapping by denying the abductor any legal advantage in the state to which he or she removes the child. The UCCJA limits the exercise of custody jurisdiction to the state where the child had his home or where there were other significant contacts with the child and his family. It provides for the recognition and enforcement of out-of-state custody decrees in many instances and limits the right of states to modify sister state decrees. Judges in sister states are directed to communicate and cooperate with one another in order to avoid jurisdictional conflicts that can result in the issuance of inconsistent custody decrees, which suspend the child in a state of legal limbo.

While the UCCJA represented a major improvement in the legal system's response to parental kidnapping, the ABA recognized a need for a more comprehensive solution to the problems of interstate and international parental kidnapping. In 1978, at the request of the Family Law Section, the Association's House of Delegates adopted five resolutions designed to stem the proliferation of paren-

tal kidnapping. Among other things, the ABA supported passage by Congress of the Parental Kidnapping Prevention Act ("PKPA") which was enacted on December 28, 1980.

The PKPA is the federal analog to the UCCJA. It requires interstate enforcement of child custody decrees that conform to the articulated federal jurisdictional and related criteria (28 U.S.C. 1738a); makes the Federal Parent Locator Service available to locate absconding parents who abduct their children and conceal their whereabouts (42 U.S.C. 663); and authorizes the F.B.I. to investigate interstate felony parental kidnapping cases in accordance with the Fugitive Felon Act (18 U.S.C. 1073 note).

The UCCJA and PKPA, together with state criminal parental kidnapping statutes, today provide a fairly effective mechanism for deterring, or remedying, interstate parental kidnapping. There remains a need to expand the existing legal framework to provide more effective remedies in international parental kidnapping cases.

Cognizant of this need, the ABA has been interested from the outset in the development of the child abduction convention. The Association kept abreast of the brilliant contributions by the late Brigitte Bodenheimer, professor of law at the University of California at Davis Law School, to the drafting of the Convention. Then in October, 1980, Larry Stotter, past chairman of the Family Law Section, represented the ABA as observer on the U.S. delegation at the final negotiations of the Convention.

At the Midyear Meeting in February, 1981, only four months after the completion of the Convention, the ABA House of Delegates adopted a resolution urging "the appropriate government agencies to approve and ratify the Convention on the Civil Aspects of International Child Abduction as proposed by the Hague Conference on Private International Law."

The ABA's interest in ratification of the Convention has intensified over the last five years as the number of reported international parental kidnapping cases has steadily grown. According to State Department figures, between 1973 and the present there have been 2,184 cases reported to the Department involving children removed from our country and taken abroad.

The two-thousand-plus cases of children abducted from the United States represents two-thousands-plus bereft victim parents—those left behind after the child has been taken or kept abroad—and the same or greater number of children—depending upon the number of siblings who are victimized—whose lives have been disrupted and who oftentimes have been thrust into new cultures with unfamiliar languages and customs. The cost to the victim parent is significant—in legal fees, travel expenses and emotional upheaval. The cost to the victim child is beyond calculation.

For lawyers consulted by victim parents whose children have been taken out of the country, each of these cases represents a legal challenge of international dimension: the lawyer must learn the applicable foreign law and in all probability retain counsel in the foreign country to pursue the appropriate administrative or judicial procedures to secure the child's return. And no matter how artful the legal representation is, there is no certainty of success in recovering the child of children. Frequently, the foreign court is under no legal obligation to recognize and enforce a U.S. custody decree, and, absent a statutory requirement, will not en-

force the U.S. order as a matter of comity. It then becomes necessary for the U.S. parent to reapply for custody in a foreign tribunal, which typically pits the U.S. petitioner against a citizen or resident of the foreign country who has the benefit of defending the custody suit in a family, if not friendly, forum. Moreover, in the absence of a custody decree in existence at the time of the abduction of retention which defines the respective custody, visitation or joint custody rights of the parents, it is extremely unlikely that a foreign court will order the child returned to the parent in the United States either pursuant to law or as a matter of comity.

In essence, under the present system, victim parents in the United States and their lawyers face very real and too often insurmountable obstacles in securing the return to the United States of a child who has been taken abroad.

Ironically, under present law when children are wrongfully brought to this country it is much more likely that they will be ordered returned to their country of origin. Over the last three years, 43 cases in this category have been reported to the State Department. For victim parents abroad, section 23 of the UCCJA, adopted by nearly every state, provides the statutory means for having a state court recognize and enforce a foreign custody determination, so long as it was made in conformity with UCCJA policies after notice and opportunity to be heard were given to the abducting parent. Section 23 applies to orders made even after the child has been abducted. UCCJA case law reflects adherence by courts in many states to section 23's mandate, with resulting orders to parents in the U.S. to return children to their parents abroad.

The Hague Convention on the Civil Aspects of Child Abduction will do for victim parents in the United States what UCCJA § 23 now does for many victim parents abroad—establish tangible remedies for recovering a child who has been wrongfully removed to, or retained in, a ratifying country. The Convention will likewise provide additional legal tools for parents abroad who seek return of their children for the United States.

Specifically, the child abduction convention is designed to secure the prompt return of children who have been abducted from, or retained outside of, their country of habitual residence, and to facilitate the exercise of visitation across international borders.

The Convention does not depend upon the existence of court orders as a condition of returning children, nor does it seek to settle disputes about legal custody rights. The goal is to restore the child to the factual situation that existed prior to the removal or retention as quickly as possible, while reserving to the courts of the child's country of habitual residence the right to make substantive custody decisions regarding the child once the child is back home. By promising a swift and sure return remedy when a child is wrongfully removed or retained, the effect of the Convention, if successfully implemented here and abroad, will be to discourage abductions in ratifying countries.

In order to invoke the Convention remedies, the child's removal or retention must be wrongful within the meaning of the Convention. For purposes of the Convention, a removal or retention is wrongful if it violates custody rights that are defined in an agreement or court order, or that arise by

operation of law, provided these rights are actually exercised. The Convention covers abductions that occur both before and after the issuance of custody orders, as well as abductions by joint custodians. The Convention remedies apply to children under the age of sixteen.

ADMINISTRATIVE REMEDY

Each country that ratifies the Convention must establish at least one Central Authority ("CA") to process incoming and outgoing requests for assistance in securing the return of a child or the exercise of visitation rights. The duties of the CA include locating abducted children, facilitating the voluntary return of children, providing legal representation, either directly or indirectly, if voluntary return is impossible and judicial recourse is sought, promoting the exercise of visitation rights, and helping to arrange for the child's return travel.

Establishment of a Central Authority in each country party to the Convention will be remarkably beneficial for victim parents and their lawyers. At last there will be a government office charged with assisting parents recover their abducted children! No longer will victim parents be shunted from one office to the next in search of assistance. To parents who have been through this hellish experience, and to their lawyers who have found themselves apologizing for the official indifferences and legal process inability to right a wrong, the mere existence of a CA will be a meaningful improvement over current law.

JUDICIAL REMEDY

With all of its potential, the CA will sometimes attempt but fail to secure the voluntary return of a child, or determine it best not to seek a voluntary return from an abductor who has shown a propensity to flee and hide with the child. For wrongful removal and retention cases where voluntary return is impossible, the Convention establishes a judicial remedy which permits an aggrieved parent to seek a court order for the prompt return of a child. An aggrieved parent may pursue judicial relief while simultaneously pursuing administrative relief through the CA.

Articles 11-17 are the major provisions governing legal proceedings for the return of an abducted child. Under Article 12, if a proceeding is brought less than a year from the date of the wrongful removal or retention and the court finds that the conduct was wrongful, the court is under a treaty obligation to order the child returned. When proceedings are brought a year or more after the wrongful removal or retention, the court is still obligated to order the child returned unless the person resisting return demonstrates that the child is settled in the new environment.

Article 13 enumerates the exceptional circumstances under which a court need not order a child returned. The person opposing return has the burden of proving that (1) custody rights were not actually being exercised by the person seeking return, or the person seeking return had consented to or subsequently acquiesced in the removal or retention, or (2) there is a grave risk that return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation. A court also has discretion to refuse to order a child returned if it finds that the child objects to being returned and has reached an age or degree of maturity making it appropriate to consider his or her views. Finally, Article 20 permits a court to deny a return request if

returning the child would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

Visitation rights, referred to in the Convention as "access rights," are covered in Article 21. The remedies for breach of access rights do not include the return remedy provided by Article 12. However, the noncustodial parent may apply to the CA under Article 21 for "organizing or securing the effective exercise of rights of access." The CA is charged with promoting the peaceful enjoyment of those rights.

Custodial parents in the United States who are reluctant to send their children abroad for court-ordered visitation with the noncustodial parent may also benefit from this provision. Prior to the visitation, it may be possible to enlist the cooperation of the foreign CA to monitor the visitation and take steps, if necessary, to have the child returned at the end of the lawful visitation period. Moreover, the Convention's return remedy would become available in the event of an unauthorized "holdover" visit. Thus, this provision will safeguard the custodial parent's rights while fostering the noncustodial parent's exercise of visitation rights across international borders.

The ABA is aware that Secretary Shultz has recommended that the United States enter two reservations, both of which are permitted by the Convention. The first reservation, pursuant to Articles 24 and 42, would require that all documents submitted to the U.S. Central Authority be accompanied by an English translation. The second reservation, pursuant to Article 26, would exempt the United States from paying any legal expenses incurred in connection with efforts to secure a child's return from the United States, except as otherwise covered by a legal aid program. The ABA supports entry of these reservations. With respect to the latter, the Family Law Section will attempt to identify lawyers willing to represent parents who seek relief pursuant to the Convention, and encourage the provision of legal services either on a pro bono or reduced fee basis.

To date, France, Portugal, Switzerland, and most of Canada's provinces and territories have become parties to the Convention. The United Kingdom has also very recently ratified the Convention, and Australia has taken all steps preliminary to ratification. The sooner the United States becomes a party to the Convention, the sooner parents in this country will have a meaningful vehicle for securing the return of children who are wrongfully removed to, or retained in, these ratifying countries and others that become party to the Convention. Toward this end, the American Bar Association strongly recommends prompt and favorable committee and Senate action on the Hague Convention on the Civil Aspects of International Child Abduction, as well as swift congressional approval of federal legislation to ensure its effective implementation.

Mr. DENTON. Mr. President, today I rise to encourage my colleagues to consider thoughtfully and thereafter ratify the Hague convention on the Civil Aspects of Child Abduction. I further urge my fellow Senators to support ensuing legislation which will implement aspects of the Hague convention and assure uniform enforcement of the convention.

Mr. President, between 1973 and the present there have been 2,184 cases re-

ported to the State Department involving children abducted from our country and taken abroad. Higher rates of international marriages and resultant divorces have increased this caseload by 1,507 in the last 3 years. This amounts to an average of over 40 such abductions per month.

The long-term psychological trauma experienced by these children is staggering. In a recent article, the *Journal of Pediatrics* indicated that children who are victims of parental kidnapping suffer from one or more of five types of trauma ranging from long-term grief to rage to mental indoctrination. Other research has shown that parental kidnapping contributes to a child's depression, anger toward both parents; and obvious disruption of schooling.

Within the borders of our Nation, child abduction by a noncustodial parent has received appropriate and effective statutory attention at both the State and national levels. The Uniform Child Custody Jurisdiction Act drafted in 1968 and adopted by all States and the District of Columbia, eliminates the incentive for parental kidnapping by denying an abductor any legal advantage in any State to which he or she removes a child. The act eliminates incentive for parent abduction by providing for the recognition and enforcement of out-of-State custody decrees of sister States. The Parental Kidnapping Prevention Act, Public Law 96-611, is the corresponding Federal statute which requires interstate enforcement of child custody decrees conforming to Federal jurisdictional criteria, provides for the Federal Parent Locator Service to locate absconding parents, and authorizes the FBI to investigate interstate felony parental kidnapping cases.

A need remains to confront the problem of parental abduction of children at the international level. This need was recently addressed by the Hague convention on the Civil Aspects of International Child Abduction.

The Hague convention, signed by the United States on December 23, 1981, was transmitted to the Senate by the President in October 1985. Hearings on the convention were completed earlier this month by the Foreign Relations Committee.

The Hague convention has three major purposes:

First, to restore an abducted child to the same status held by that child prior to abduction, in the country of his or her habitual residence.

Second, to provide central offices and procedures in each country by which applications can be made to locate and return abducted children; and

Third, to place the country to which a child has been abducted or in which a child is being wrongfully detained

under a treaty obligation to return the child promptly to the parent in the child's country of habitual residence.

Countries which are parties to the treaty are required to establish a central authority which will receive and process requests for locating and returning children. Expected duties of the U.S. central authority will be: To locate children removed or retained in the United States, to determine possibilities of voluntary return of abducted children without court proceedings; to expedite return of children by court proceedings when voluntary return is refused; to arrange for provisional care of the children during return proceedings; and to arrange for transportation of the child when a return is ordered.

Of particular interest is a measure contained in article 26 of the convention requiring that the costs of a successful return proceeding be levied against the wrongfully removing or retaining parent. It is the hope of the convention that this provision will deter the actions of a removing parent.

Other articles in the convention govern legal proceedings for the return of the abducted child. Timing of a custody hearing, visitation rights and exceptional circumstances precluding the return of a child are all enumerated by the convention.

Current parties to the convention include France, Portugal, Switzerland, Hungary, Canada, and the United Kingdom. Australia has completed all steps toward ratification. Our representatives to the convention have been informed that other countries will adopt the convention provided the United States does so.

Mr. President, in order to provide for full and uniform implementation of the Hague convention throughout the United States, the State Department has encouraged passage of legislation accompanying the convention ratification. This legislation would specifically deal with venue, determination of original jurisdiction, the effect of court orders in other U.S. jurisdictions, and necessary measures for the protection of children.

Again, I reemphasize, the approval of the Hague convention and the enactment of enabling legislation will represent a significant step in combating the child abduction problem. I urge my colleagues to lend their unanimous and enthusiastic support to both the Hague convention and ensuing legislation.

I ask unanimous consent to have a letter in this connection printed in the RECORD.

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

Re: The Hague Convention on the Civil Aspects of International Child Abduction.
Attention: Richard Holcomb.

NATIONAL CENTER FOR MISSING
AND EXPLOITED CHILDREN,
Washington, DC, October 2, 1986.

Hon. JEREMIAH DENTON,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DENTON: In response to your inquiry concerning the position of the National Center for Missing and Exploited Children on the Hague Convention on the Civil Aspects of International Child Abduction, I wish to take this opportunity to express the opinion of the Center that the Hague Convention on the Civil Aspects of International Child Abduction, which has just been favorably reported out of the Senate Foreign Relations Committee, be ratified. Parental kidnapping is a serious problem encountered by many American families as parents increasingly take the law into their own hands by unilaterally removing and often concealing the children from the other parent when the marriage or non-marital partnership dissolves. Many times parents lose all contact with their children, unable to see or speak to them for years.

Recent research on the effects on the child-victim of parental kidnapping reveals that, in addition to the suffering of the left-behind parent, many of the children who have been kidnapped by noncustodial parents suffer long-term psychological trauma and other consequences. Clinical research (*Journal of Pediatrics*, July 1983, Terr) has demonstrated that children who are the victims of parental kidnapping suffer one or more of five basic kinds of psychic trauma—from long-term grief to rage to mental indoctrination.

In addition, a study done by Dr. Dorothy Huntington of the Center for the Family in Transition (Corte Madera, California) found that children victimized by parental kidnapping suffer from depression at having been torn from their families, their friends, and their school. These children are not only deprived of the other parent, they are deprived of both parents' families. Children become very angry at both parents as they continue to be a pawn in the struggle between the two parents. Their schooling is disrupted, and they find it difficult to make and keep friends, as the abductor parent may move frequently in order to avoid discovery. Moreover, in some cases these children are abused, neglected, or abandoned by the parents who snatched them vengefully. It is impossible to know whether these children are well cared for until they are located.

Families victimized by parental kidnapping routinely face tremendous difficulties in finding their children and in obtaining court orders for their return. These difficulties are compounded when the abductor parent removes the child from the United States. Court custody orders obtained in American courts are of little value when custody decisions must be relitigated in foreign courts.

The Hague Convention on the Civil Aspects of international Child Abduction promises to be of significant assistance in international cases of parental kidnapping, since it will require the return of the child to the country of the child's habitual residence. Disputes about custody rights can then be heard and settled in the courts of the child's habitual domicile. The abductor is, thus, denied legal advantage from the abduction to or retention in a foreign country. Moreover, the establishment of a Central Authority in the ratifying state will provide assistance to the families in locating their

children and in securing the cooperation of foreign states.

Since the cooperation of countries other than the United States depends on the reciprocity of obligations, American citizens cannot avail themselves of the services of the Central Authorities of other countries until the United States ratifies this Convention. Nor can they avail themselves of the provisions requiring the return of the children to the country of habitual residence. Over 2,100 American families have experienced the difficulties of international child abduction since 1973. Of these, over one half (1,132) involved countries who have expressed an interest in ratifying the Hague Convention. State Department records reveal that over 137 Americans sought assistance on international child abduction cases in the first five months of 1986 alone.

The National Center for Missing and Exploited Children views the ratification of the Hague Convention on the Civil Aspects of Child abduction to be an important step in resolving the dilemmas currently faced by families victimized by international child abduction. Accordingly, the National Center for Missing and Exploited Children urges the Senate to ratify this Convention and requests your assistance in obtaining expeditious action on this matter.

Sincerely,

JAY HOWELL,
Executive Director.

THE RAMSAR CONVENTION: TOWARD THE
PROTECTION OF WETLANDS

Mr. BIDEN. Mr. President, the Senate Committee on Foreign Relations recently reported the Convention on Wetlands of International Importance for Senate Consideration. The so-called Ramsar Convention will lay the groundwork for United States cooperation in international efforts to protect and preserve fragile wetland areas. As a member of the Foreign Relations Committee, and as a strong supporter of wetland protection, I urge the Senate to give its consent to this convention.

There is a growing recognition in this country of the importance of marshes, swamps, and bogs to the environment. The diversity of wildlife supported by wetlands, the vital role of wetlands in the life cycles of fish and birds, and the tenuous grasp on survival of wetland vegetation have led to strong public actions in support of the protection of these areas.

Wetlands have traditionally been viewed in the context of local or regional ecosystems. But this is only part of the story. Migratory waterfowl and fish depend on viable wetland systems in many countries for their survival. The United States needs to protect its wetlands, but that determination has to be matched in other countries for these migratory animals to survive. The Ramsar Convention, when approved by the Senate, will act as an encouragement for other nations to make similar commitments, and as a foundation for the exchange of information to improve the care and management of wetlands around the world.

The most important benefits for the United States will come from increased cooperation with Latin American and Caribbean countries, where many species of North American migratory birds have wintering habitats. The convention calls for the recognition by each signatory country of at least one wetland area of international importance. The designation of a wetland highlights the decision of that country to ensure its protection and survival. It also provides a focus for international technology and expertise in wetland protection and management.

Four national wildlife refuges have been proposed for designation under the Ramsar Convention. The diverse locations of these sites—Alaska, New Jersey, Florida, and Nevada—show that wetlands in all regions of our country are part of a larger, international ecosystem. The Ramsar Convention helps expand the recognition of the interconnection of seemingly separate wetlands, to the benefit of migratory birds and fish, which know no national boundaries.

The Ramsar Convention does not require any outlays of Federal dollars. However, it does signal a clear commitment on the part of the United States to the preservation and enhancement of our wetlands for the good of all. Of equal importance, the convention provides the assurance that our efforts are matched by those in other countries. Approval of the Ramsar Convention serves notice that we are willing to commit our knowledge and experience to other countries who make a similar dedication to their own wetland areas.

One final point: This is not the final step toward international cooperation and understanding of wetlands management and protection; it is just a beginning. Other steps can and should be taken. The United States has clearly been at the forefront of wetland protection. Approval of the Ramsar Convention provides us with framework to put that experience to work on a larger scale.

Mr. CHAFEE. Mr. President, the Hague Convention on the Civil Aspects of International Child Abduction the Senate now has before it a treaty which is of major importance to the safety and well-being of our children. Before the 99th Congress come to a close, we should give this treaty, known as the Hague Convention, our resounding approval.

Negotiated in 1981, the Hague Convention deals with the problem of parental kidnaping—specifically, with the legal and practical complications that can result when a child is taken beyond national boundaries.

At present, a parent whose child has been abducted to a foreign country in violation of a valid custody decree must go through the costly and time-

consuming process of getting a foreign court to recognize that decree. The U.S. Department of State can offer some aid, but its authority in this area is at present quite limited, and the FBI can only become involved if the abduction is a State felony. Criminal extradition treaties have been of little effect under these circumstances.

These are the reasons that the proposed Hague Convention—approved last month by the Foreign Relations Committee and now before the full Senate ratification—represents a major stride forward. This convention requires that children who are wrongfully taken or retained abroad be promptly returned to their country of residence. Thus, it simply requires restoration of the custody status quo that existed before the abduction.

Mr. President, I urge the Members of the Senate to delay no further and to give their prompt approval to this valuable agreement.

HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Mr. CRANSTON. Mr. President, I am particularly pleased that the Senate is today approving the Hague Convention on the Civil Aspects of International Child Abduction. This treaty establishes an administrative and judicial mechanism to bring about the prompt return of children who have been abducted from their country in parental custody struggles.

In 1980, I coauthored with the Senator from Wyoming [Mr. WALLOP] the Parental Kidnapping Prevention Act which addressed the problem of domestic parental kidnaping cases. During the hearings I chaired on the problem of parental kidnaping in the 96th Congress, the need for a remedy to deal with international—as well as domestic—parental kidnaping cases was well documented.

On a number of occasions, I have seen the difficulties that parents from California have experienced in attempting to recover their children when they have been taken abroad by a noncustodial parent. Ratification of this treaty by the United States is a significant step forward in dealing with these very difficult cases. Each country that becomes a party to the Hague Convention is obligated to establish a central authority to process applications from aggrieved parents for the return of their abducted children and provide a judicial mechanism for the parent to recover these children.

Although ratification of this treaty will not end the heartache and distress that parental kidnaping brings about, it is designed to provide for a clear and hopefully a swift mechanism for restoring abducted children to their homes.

Mr. DOLE. Mr. President, I ask unanimous consent that the vote show

in the record as six separate rollcall votes on the resolutions.

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

The clerk will report the treaties.

The legislative clerk read as follows:

Calendar No. 14, Treaty Doc. No. 98-9, United Nations Convention on Contracts for the International Sale of Goods; Calendar No. 15, Treaty Doc. No. 98-27, Inter-American Convention on Letters Rogatory, with Protocol; Calendar No. 16, Treaty Doc. No. 99-28, the Convention on Wetlands of International Importance; Calendar No. 17, Treaty Doc. No. 98-29, Request for Advice and Consent to Withdrawal of a Reservation made to the 1975 Patent Cooperation Treaty; Calendar No. 18, Treaty Doc. No. 97-12, Inter-American Convention on Commercial Arbitration; and Calendar No. 19, Treaty No. 99-11, Hague Convention on the Civil Aspects of International Child Abduction.

□ 1620

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

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

Mr. BYRD. Mr. President, a good many Senators have left the Chamber not knowing there was going to be another rollcall vote. This one counts for six.

I wonder, while our cloakrooms are alerting, if the distinguished majority leader could tell us whether or not there are going to be any votes following this one today.

Mr. DOLE. I may be able to give the minority leader that reply in about 30 minutes. We are still working on reconciliation. That could occur.

Mr. BYRD. The majority leader would expect the Senate to be late today?

Mr. DOLE. If we have reconciliation we could be as late as 7:30 or 8, not real late.

Mr. BYRD. I thank the majority leader.

Mr. DOLE. We will leave the vote open for a while.

Mr. BYRD. Very well.

I thank the majority leader.

The PRESIDING OFFICER. The question is on agreeing to the resolutions of ratification.

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 announced that the Senator from Utah [Mr. GARN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

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

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 98, nays 0 as follows:

[Rollcall Vote No. 339—Treaty Doc. No. 98-9.]
 [Rollcall Vote No. 340—Treaty Doc. No. 98-27.]
 [Rollcall Vote No. 341—Treaty Doc. No. 99-28.]
 [Rollcall Vote No. 342—Treaty Doc. No. 98-29.]
 [Rollcall Vote No. 343—Treaty Doc. No. 97-12.]
 [Rollcall Vote No. 344—Treaty Doc. No. 99-11.]
 [Rollcall Vote No. 339, 340, 341, 342, 343, 344 Ex.]

YEAS—98

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

NAY—0

NOT VOTING—2

Garn Symms

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the United Nations Convention on Contracts for the International Sale of Goods, adopted by a United Nations conference of sixty-two States on April 11, 1980, subject to the following reservation:

Pursuant to Article 95 the United States will not be bound by subparagraphs (1)(b) of Article 1.

INTER-AMERICAN CONVENTION ON LETTERS ROGATORY, WITH PROTOCOL

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Inter-American Convention on Letters Rogatory, adopted at Panama City, Panama, on January 30, 1975, together with the Additional Protocol to the Convention, adopted at Montevideo, Uruguay, on May 8, 1979, and signed on behalf of the United States on April 15, 1980, subject to the following reservations:

1. Pursuant to Article 2(b) of the Inter-American Convention on Letters Rogatory, letters rogatory that have as their purpose the taking of evidence shall be excluded from the rights, obligations and operation of this Convention between the United States and another State Party.

2. In ratifying the Inter-American Convention on Letters Rogatory, the United States accepts entry into force and undertakes treaty relations only with respect to States which have ratified or acceded to the Additional Protocol as well as the Inter-American Convention, and not with respect to States which have ratified or acceded to the Inter-American Convention alone.

3. The United States of America will apply the Convention, on the basis of reciprocity, to the recognition and enforcement of only those awards made in the territory of another Contracting State.

HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Hague Convention on the Civil Aspects of International Child Abduction, adopted on October 24, 1980, at the 14th Session of the Hague Conference on Private International Law and signed on behalf of the United States on December 23, 1981, subject to the following two reservations:

(1) Pursuant to the second paragraph of Article 24, and Article 42, the United States makes the following reservation: All applications, communications and other documents sent to the U.S. Central Authority should be accompanied by their translation into English.

(2) Pursuant to the third paragraph of Article 26, the United States declares that it will not be bound to assume any costs or expenses resulting from the participation of legal counsel or advisers or from court and legal proceedings in connection with efforts to return children from the United States pursuant to the Convention except insofar as those costs or expenses are covered by a legal aid program.

□ 1640

Mr. KASTEN and Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I ask unanimous consent to proceed as if in morning business for not to exceed 2 minutes.

The PRESIDING OFFICER. The Senate is now in executive session.

Mr. KASTEN. I am pleased to yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, was there a motion to reconsider the vote by which treaties were ratified?

The PRESIDING OFFICER. There was not.

Mr. PACKWOOD. Mr. President, I have been asked by the majority leader to move to reconsider the vote, and I move to reconsider the vote by which the resolutions of ratification were agreed to.

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

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. KASTEN. Mr. President, I ask unanimous consent that we go out of executive session, and that I be recognized as if in morning business for not to exceed 2 minutes.

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

The Senator from Wisconsin is recognized.

THE CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Wetlands of International Importance especially as Waterfowl Habitat, concluded at Ramsar, Iran, February 2, 1971, with a Protocol to the Convention, concluded at Paris on December 3, 1982.

REQUEST FOR ADVICE AND CONSENT TO WITHDRAWAL OF A RESERVATION MADE TO THE 1975 PATENT COOPERATION TREATY

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Request for Advice and Consent to withdraw a reservation declaring that the United States would not be bound by the provisions of Chapter II of the Treaty made when the United States deposited its instrument of ratification of the Patent Cooperation Treaty with the World Intellectual Property Organization on November 26, 1975.

INTER-AMERICAN CONVENTION ON COMMERCIAL ARBITRATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Inter-American Convention on Commercial Arbitration adopted by the First Inter-American Specialized Conference on Private International Law, at Panama City, Panama, on January 30, 1975, and signed by the United States on June 9, 1978, subject to the following reservations:

1. Unless there is an express agreement among the parties to an arbitration agreement to the contrary, where the requirements for application of both the Inter-American Convention on International Commercial Arbitration and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards are met, if a majority of such parties are citizens of a state or states that have ratified or acceded to the Inter-American Convention and are member states of the Organization of American States, the Inter-American Convention shall apply. In all other cases, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards shall apply.

2. The United States of America will apply the rules of procedure of the Inter-American Commercial Arbitration Commission which are in effect on the date that the United States of America deposits its instrument of ratification, unless the United States of America makes a later official determination to adopt and apply subsequent amendments to such rules.

THE GOVERNMENT OF NICARAGUA'S VIOLATION OF INTERNATIONAL LAW

Mr. KASTEN. Mr. President, today, the Government of Nicaragua is in violation of international law. Eugene Hasenfus, a Wisconsinite, a United States citizen, is imprisoned in Nicaragua, and has not been allowed to speak to United States Embassy officials.

By international law, the Nicaraguan Government is violating the Vienna Convention. Under article 36, subparagraph a:

Consulate officials shall be free to communicate with nationals of the sending state, and to have access to them.

Subparagraph b says that:

If he so requests, the authorities for the receiving state shall without delay inform the sending state whenever a national is arrested or is detained in any other manner.

Subparagraph c goes on to say:

Consulate officials shall have the right to visit a national of the sending state who is in prison, custody, or detention.

Mr. President, this treaty was signed by approximately 100 nations around the world, including the United States and Nicaragua. What this means is, all citizens have the right of access to their embassy officials in Nicaragua. The Government of Nicaragua is using Eugene Hasenfus as a pawn in an inflammatory media game. Our efforts must be to protect this man and create an environment that does not give the Nicaraguan Government an incentive to imprison Mr. Hasenfus.

I urge my colleagues here, and all Americans, to speak out against this injustice. I urge my colleagues to contact the Nicaraguan Embassy and protest their violations of international law. If this government continues to mistreat Eugene Hasenfus, we will not stand for it. This man must have his rights protected as an American citizen in a foreign country.

Mr. HARKIN and Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, are we in executive session?

The PRESIDING OFFICER. There is nothing before the Senate. We are in legislative session.

Mr. HARKIN. Mr. President, I ask unanimous consent that I be able to proceed as if in morning business.

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

The Senator from Iowa.

EUGENE HASENFUS AND THE DOWNING OF FLIGHT C-123

Mr. HARKIN. Mr. President, as more and more news of Eugene Hasenfus, and the Sunday downing of the C-123 cargo plane over Nicaragua comes out, I am reminded of a line from Alice in Wonderland: "This story gets cur-

iouser and curiouseer." First, no one claims ownership of the plane.

General Singlaub denies it, so does the Reagan administration, and so does Southern Air Transport which apparently commissioned two of the Americans on the flight.

No one claims responsibility for the Americans on the flight. Yet, Hasenfus' wife claims that her husband worked for the CIA.

The Salvadoran Government claims that it had no knowledge of the Hasenfus flight or any other mission in support of the Contras. Yet, the plane, after leaving Miami, landed in Ilopango, which we know is the Salvadoran military's main airport.

The President totally disavows any connection between the U.S. Government and the downed plane. Yet Hasenfus and his companions were wearing dogtags identifying them as U.S. military advisers.

The President's "absolute denials" and the administration's smoke and mirrors cannot hide from the American people and the Congress the real facts behind this incident.

When dealing with an administration which claims that truth must be protected by deception, we must keep asking questions and keep looking for the truth.

First, we have to ask who owned the C-123 downed over Nicaragua? The Contras deny ownership of the C-123 downed over Nicaragua, but claim that there was a third country involved in purchase of the plane; and General Singlaub, the commander of the private war against Nicaragua, denies that his group owns it and has completely disassociated itself from the Hasenfus mission. We know the Contras have never owned a C-123, yet their spokesman claims that a third country was involved in the mission.

Was the plane purchased with funds from a third country? Did the administration assist in any way in linking that country with the Contras?

What was the country? Why are they involved? Who involved them?

Second, just who is Eugene Hasenfus and what connection is there between Southern Air Transport and the CIA? From the President to Secretary Shultz to the Central Intelligence Agency, the administration claims that no one on the plane was an employee of the CIA or Defense Department.

Yet, Eugene Hasenfus' wife, Sally, admits that her husband worked for the CIA. Furthermore, Hasenfus and two other Americans on board had been employed by Southern Air Transport. Southern Air has a long history of ties with the CIA.

According to the Church Committee Report of 1976, Southern Air was owned by the CIA from 1960 to 1973. The airline has since maintained contact with the Agency, and according to

a CBS News story of July 8, 1984, Southern Air flew guns to the Contras at the behest of the CIA.

Furthermore, Hasenfus was an employee of Air America during the Vietnam War. According to the Church Committee, Air America was also a proprietary of the CIA.

□ 1650

Has Mr. Hasenfus ever worked for the CIA? What was the last date of contract between CIA personnel and Hasenfus? Has the CIA or any other U.S. Government agency contracted with Southern Air Transport within the last year for flights in Central America?

Was there any prior knowledge by the U.S. Government? President Reagan admits that the U.S. Government has been aware of private efforts to aid Nicaraguan rebels, but denies any government role in the mission leading to Hasenfus' capture.

Yet, how did Hasenfus and his associates get ID cards from the Salvadoran Air Force identifying them as U.S. military advisers in El Salvador? Did any DOD or other U.S. Government employee approve the issuance of those identification cards by the Salvadoran Air Force?

Where did the Hasenfus flight originate? If it began in Miami, were any U.S. Government personnel aware that the flight was carrying or eventually would carry weapons to the Contras?

Most curious of all, Mr. President, how did the C-123 land at Ilopango Airport without the knowledge of U.S. military personnel at the airport? It is my understanding that a half dozen members of the U.S. milgroup are stationed at Ilopango, and one U.S. adviser is stationed at the control tower at the airport. Were U.S. personnel in Ilopango aware of the cargo on the C-123 flight and aware of its flight path?

Were any of them involved in any way in refueling, loading, transferring material, or in other ways supporting that aircraft at Ilopango Airport?

It seems unlikely to me, Mr. President, that the plane could land at Ilopango Airport yet no one knows anything about it. This C-123 lands, probably refuels, maybe takes on cargo, and yet nobody saw it.

It strains credulity to think that our military personnel there did not know of it or perhaps did not even have something to do with it.

Did U.S. personnel provide any assistance to the Hasenfus flight? Did any Defense Department or other U.S. Government employee assist Hasenfus and his companions in loading or refueling the cargo plane? Did any DOD or other U.S. Government employee meet with Hasenfus, advise them, or in any way assist them in carrying out their supply operation? Were the

weapons on board ever the property of the CIA, or purchased by U.S. Government funds?

Getting to the truth in this case is like trying to capture the Cheshire Cat in the Alice in Wonderland story. Every time you think you are getting closer, it disappears.

With the Hasenfus mission, we have entered that grey world of spooks and spies, where the law is an inconvenience and where truth is smothered by lies and half truths.

Mr. President, we have a responsibility to see that the laws, the laws which this body has passed and which previous Presidents have signed—such as the Neutrality Act and prohibitions against the CIA aiding the Contras—are not being broken. We have a responsibility to insure that the American people as well as our colleagues are not victims once again of an elaborate disinformation campaign.

Toward this end, next week I intend to offer an amendment seeking from the President a full and detailed accounting of both direct and indirect association, knowledge, or assistance provided Eugene Hasenfus and the downed flight, by the U.S. Government.

Again, Mr. President, I believe we have taken those final steps which are going to involve us ever more deeply in war in Central America. As I said yesterday, Mr. Hasenfus is the first POW. His American compatriots who were killed will be coming home in the first body bags.

There will be more, if the President continues this illogical, illegal, and damaging policy in Central America.

I am hopeful that we can get answers to these questions. I am hopeful that the Congress will speak before we adjourn and go home for the elections, not to probably meet again until next year in a new Congress. I am hopeful that this Congress will at least insist that we have a reporting from the President and a full accounting, not any coverups, not any grinning Cheshire cat that seems to evaporate when you get closer, but some cold, hard data on where this airplane came from and who owns it, who was the third country involved, and, if that is so, how was that country dragged into this?

Where did the arms come from? Who was Eugene Hasenfus? For whom did he really work?

And, most important of all, is the CIA, under the directorship of William Casey, obeying the law, or is it skirting the law, and possibly violating it, by using proxies such as Mr. Hasenfus and others to carry out what we in the Congress have declared should not be done?

Second, what was the involvement of the U.S. Department of Defense in this, if any, and were personnel aware

of this at Ilopango Airport, and what were their orders?

What were the orders to the military group at Ilopango in terms of assisting this type of a mission or this particular mission?

If, in fact, those orders were to assist, then I submit, Mr. President, that certain officers or officials in the Department of Defense are also guilty of violating the laws of this country.

We just had an impeachment proceeding today, the first one in many years, in which the U.S. Senate has taken an official of the U.S. Government, a member of the third coequal branch of our Government, and, according to the procedures set forth in the Constitution of the United States, removed him from that office.

I believe that we ought to be taking a look at certain military officials if they are involved in this operation, if they have given orders to others under their command in clear violation of the laws of the land.

If such is the case, then those officers, no less than Judge Harry Claiborne, ought to also be removed from their positions for violating the laws of the United States.

So Mr. President, as more and more of information leaks out on this flight, and more and more questions are raised, I intend to take the floor on a daily basis to raise those questions and to ask for a full accounting.

As I said, Mr. President, sometime before this body adjourns, I hope to offer an amendment that will ask the President to be forthcoming with a full accounting of just who was involved in this flight, where the flight originated, and what, if any, was the involvement of both the Central Intelligence Agency and the Department of Defense.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President. I ask unanimous consent that I may proceed as in morning business.

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

DR. ABBY NKOMO, CHAIRMAN OF THE ATTERIDGEVILLE/SAULSVILLE CIVIC ASSOCIATION

Mr. McCONNELL. Mr. President, on behalf of Mr. COHEN, Mr. BOREN, Mr. LUGAR, Mr. KENNEDY, Mr. DURENBERGER, Mr. LEAHY, Mr. BRADLEY, Mr. MURKOWSKI, Mr. ROTH, and myself, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, this resolution has been cleared on this side of the aisle.

Mr. McCONNELL. I thank the distinguished minority leader.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 503) relative to Dr. Abby Nkomo, Chairman of the Atteridgeville/Saulsville Civic Association.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, as we all know, on June 12, 1986, the South African Government imposed sweeping state of emergency regulations which grant the military and police broad powers to question and detain individuals.

Since June 12, 1986, the Government has acknowledged detaining close to 10,000 South Africans. Independent monitoring groups estimate more than 12,000 people have actually been detained. But I am not here to talk about these statistics, as horrifying as they may be. I would like to take a moment of my colleague's time to discuss just one victim of apartheid and the state of emergency regulations.

The resolution I have submitted concerns the case of Dr. Abby Nkomo. Over the past several years, Dr. Nkomo has been an active and well respected community leader. In addition to his successful medical practice, he has chaired the Atteridgeville Civic Association and served as vice chairman of the Pretoria Council of Churches. But most importantly, Dr. Nkomo has worked tirelessly for peaceful change in South Africa.

□ 1700

My colleagues probably wonder why I would bring Dr. Nkomo's case to their attention. Has he distinguished himself in some unusual way? The answer is "No." The fact of the matter is Dr. Nkomo is very much like many other community leaders who advocate including the black majority in the South African political process and power.

Inexplicably, it is just these voices of moderation that the South African Government has chosen to harass, detain, and put on trial. Dr. Nkomo is representative of thousands of black citizens and leaders who has advocated dialog with the Government—and the Government has responded with repression.

Over the past year, Dr. Nkomo and his family have been threatened, his clinics have been ransacked, and his car and home have been bombed. In spite of his pleas, none of these incidents have been investigated by the police. In fact, instead, his daughter was detained for 47 days and he has been detained since June 12. He has suffered solitary confinement, he has

been separated from his family, and he has been denied adequate medical attention.

Prior to his arrest, Dr. Nkomo was representative of the many moderate voices of reason within the black communities of South Africa who believe in dialog. As a detainee under the state of emergency, he is representative of thousands who have been stripped of their civil liberties and basic rights.

This resolution expresses the Senate's concern with the treatment Dr. Nkomo has suffered. But it is more than a statement of support for an individual victim of apartheid. It is a statement of support for due process and civil liberties for all South Africans. Most importantly, this resolution is a strong statement of support for dialog between the Government and the moderate advocates of peaceful change that Dr. Nkomo represents.

Last week, the Senate made the difficult decision to override the President's veto of the Anti-Apartheid Act of 1986. None of us should feel this action resolved the issue or closed discussion of the problems South Africa confronts.

By overriding the veto, we confirmed our responsibility and role in shaping our policy toward South Africa. This sense of the Senate resolution reaffirms our support for those who seek dialog and peaceful ways to dismantle apartheid.

The resolution has been cleared by the majority and minority leaders and the chairman and ranking minority members of the Foreign Relations Committee. I ask my colleagues' support in immediately adopting the resolution.

SOUTH AFRICA'S TREATMENT OF DR. ABBY NKOMO

● Mr. COHEN. Mr. President, I am pleased to join as a cosponsor of this amendment. It is important that the Senate make this firm statement on behalf of human rights and civil liberties for all citizens of the Republic of South Africa.

One of the real tragedies in that troubled country is that the Government, which is already oppressing the vast majority of its citizens under its apartheid policies, is harassing the moderate black leaders with whom it should be talking as forces seeking peaceful, rather than violent change in that country.

The case of Dr. Abby Nkomo is representative of many in South Africa today. Dr. Nkomo is a respected community leader, highly regarded by his peers and, I might add, by American Embassy officials in South Africa. He is a successful physician, chairman of the Atteridgeville/Saulsville Civic Association, vice chairman of the Pretoria Council of Churches, and an active member of the Methodist Church. Dr.

Nkomo has also been a vocal advocate of peaceful change in South Africa.

Despite this, the Government, when it declared its state of emergency, detained Dr. Nkomo, placing him in solitary confinement on June 12. Since that time, he has been denied adequate medical attention, including medication for diabetes. He has been separated from his family and permitted only infrequent visits by his wife. Even then, the couple has suffered harassment from prison guards.

The harassment of Dr. Nkomo—and of other black leaders like him throughout the country—did not begin on June 12. Dr. Nkomo's clinics have been sabotaged, his home and car have been petrol-bombed, and telephone threats have been made against him and his family. The police have refused to investigate any of these incidents or threats.

Dr. Nkomo represents the majority of South Africans, black and white alike, who seek peaceful change. He is exactly the sort of individual with whom the South African Government should be engaged in dialog, rather than persecution.

The Senate must do all it can to encourage the Government of South Africa to enter into dialog with moderate forces within that country so that positive action can be taken to bring an end to apartheid policies. This resolution on behalf of Dr. Nkomo, who is representative of thousands of similar victims currently detained under the state of emergency regulations, is a forceful statement in that regard. My hope is that it will have the broad support of Members of this body and win unanimous approval.●

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 503

Whereas, Dr. Abby Nkomo, Chairman of the Atteridgeville/Saulsville Civic Association, Vice Chairman of the Pretoria Council of Churches and an active member of the Methodist Church, has been detained by the South African police for an extended period without charge or trial;

Whereas, Dr. Nkomo has been a vocal advocate of peaceful change in South Africa;

Whereas, Dr. Nkomo has been in solitary confinement since his incarceration on June 12, 1986 and has been denied adequate medical attention including medication for diabetes;

Whereas, Dr. Nkomo has been separated from his family and permitted infrequent visits by his wife during which the couple suffers harassment from prison guards;

Whereas, Dr. Nkomo and his family have been harassed for more than twenty months, including the gasoline bombing of his home and car, the sabotage of the doc-

tor's clinics, and telephone threats on their lives;

Whereas, the police have refused to investigate any of these threats or incidents;

Whereas, the police detained the doctor's daughter Suzan for 47 days and threatened his wife Marjorie with arrest:

Now, therefore, be it

Resolved, That it is the sense of the Senate that Dr. Nkomo is representative of the majority of South Africans who seek peaceful change and with whom the South African government should be engaged in dialogue rather than persecution;

That the government of South Africa be encouraged to enter into dialogue with moderate forces within that country so that positive action can be taken to bring an end to apartheid policies;

That Dr. Nkomo has been subjected to an unreasonable and reprehensible deprivation of his civil rights;

That Dr. Nkomo is representative of thousands of similar victims currently detained under the state of emergency regulations;

That Dr. Nkomo's family has been the victim of continual, excessive harassment by the police authorities of South Africa causing severe emotional and financial loss;

That the actions of the South African government toward Dr. Nkomo are condemned as an obstruction to prospects for peaceful change in South Africa;

That the United States Government and its representatives should emphasize to officials of the Republic of South Africa our nation's resolve that all individuals in that country be afforded due process and that their civil liberties be protected.

Mr. McCONNELL. I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

EXTENSION OF SBA PILOT PROGRAM

Mr. WEICKER. Mr. President, I send a bill to the desk on behalf of myself and Senator BUMPERS and ask unanimous consent for its immediate consideration.

Mr. BYRD. Mr. President, reserving the right to object, I shall not object. Mr. WEICKER and Senator BUMPERS have cleared this bill on this side of the aisle. We are ready to proceed. Therefore, I withdraw my reservation.

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

The legislative clerk read as follows:

A bill (S. 2914) to extend through fiscal year 1988 SBA pilot programs under section 8 of the Small Business Act.

The Senate proceeded to consider the bill.

Mr. WEICKER. Mr. President, the legislation before the Senate would extend through fiscal year 1988, two Small Business Administration [SBA] Pilot Procurement Programs, which are designed to enhance the SBA's ability to assist minority-owned firms. This legislation is identical to Title I of H.R. 2787, which was unanimously

passed by both the House and Senate. Unfortunately, President Reagan, on October 7, 1986, vetoed H.R. 2787.

In his veto message, the President concentrated his remarks on title II of H.R. 2787, which authorized funding for a technology institute at the University of Bridgeport. Therefore, the pending legislation strikes title II of H.R. 2787 and simply reauthorizes these two important minority business development programs.

The principal program reauthorized by this legislation gives SBA the increased authority to select and reserve certain contracts from one agency designated by the President and to match that contract with a qualified minority-owned business. You might say it gives SBA additional clout to negotiate for quality contracts that foster business development. The administration argues that this authority is unnecessary, but the unanimous testimony of minority business owners at Small Business Committee hearings contradicted that point of view.

Under the regular 8(a) program, minority small business have traditionally received less sophisticated contracts, predominantly in service areas. The nature of the contracts offered to SBA by other agencies for the program has limited the growth potential for firms under the regular 8(a) program. The pilot authority was intended to give SBA authority to address that problem on a limited basis.

The pilot program was originally authorized in 1978. Since 1983 until it expired in 1985, the program operated in the Department of Transportation [DOT]. From testimony at committee hearings, I might add it has worked very well at DOT.

As I stated, each of the minority business owners who testified at committee hearings believed that without the existence of the pilot program their contract opportunity would not have been made available. According to Mr. Robert Jones of AMAF Industries, the pilot authority helps break some of the institutional resistance of procuring agencies to award quality contracts to minority businesses. As Mr. Jones stated,

The pilot program is a countervailing force which alleviates the internal and external pressures not to make quality contracts available under the program.

In other words, the visibility and importance that Congress and the designated agency give to the program make the program work, even if SBA chooses not to use the additional clout provided under the law.

The second pilot program extended by this legislation is the Surety Bond Waiver Pilot Program. Under this authority the SBA can waive surety bonding requirements for section 8(a) startup firms, if certain other requirements are met. Again, this program is intended to give SBA a tool to help mi-

nority firms develop a track record and gain Government contracting experience. Since the program was originally authorized in 1978, SBA has never utilized this authority. Again, the administration has argued that it is unnecessary. Besides the fact that in this instance the administration has simply defied the will of Congress by refusing to test the concept, I am not persuaded by the argument that private surety companies will totally ignore actual performance on a previous job solely because it was done without a bond.

I would also point out that this legislation has been supported by the Latin American Manufacturers Association, the National Association of Minority Contracts, the National Federation of 8(a) Companies, and the Black Presidents' Roundtable—associations representing thousands of minority businesses.

Mr. President, this week, as proclaimed by the President, is "Minority Enterprise Development Week." Since Sunday, there have been celebrations here in Washington and around the Nation honoring the accomplishments and contributions of minority entrepreneurs to our Nation's economy. I am sure that a central question raised in many of the forums discussing issues of concern to minority businesses has been the role and commitment of the Federal Government to continuing the gains made over the past 15 years. It is unfortunate that the President has seen fit to veto reauthorization of these two modest programs. I believe it is important that we pass this legislation to give him another opportunity to reaffirm the Federal commitment to minority business development. Therefore, I urge my colleagues to support passage of this bill.

The PRESIDING OFFICER. Is there further debate? If not, 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. 2914

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

SECTION 1. (a) Subparagraph (B) of section 8(a)(1) of the Small Business Act is amended by striking out "(other than the Department of Defense or any component thereof)".

(b) The designation of an agency pursuant to the amendment made by subsection (a) shall be made not later than sixty days after the date of enactment of this Act.

SEC. 2. The last sentence of section 8(a)(1) of the Small Business Act is amended to read as follows: "No contract may be entered into under subparagraph (B) after September 30, 1988."

SEC. 3. The last sentence of section 8(a)(2) is amended to read as follows: "The authority to waive bonds provided in this para-

graph (2) may not be exercised after September 30, 1988."

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

Mr. BYRD. Mr. President, before I move to lay the motion on the table, I want to compliment the distinguished Senator from Connecticut. I think it is a reflection of the high esteem in which he is held in this body that he calls up a bill, introduces it, has it advanced to third reading, voted on, and passed and motion to reconsider made—and the motion to reconsider will, I assume, be tabled—all in the space of less than 5 minutes.

I move to lay that motion on the table.

Mr. WEICKER. I thank the distinguished minority leader, who has been a dear friend of mine in this body, for his kind remarks.

I also thank the ranking member of the Small Business Committee (Mr. BUMPERS) who has assisted in every way in making this action possible.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1710

Mr. PRYOR. Mr. President, I ask unanimous consent that the proceedings under the quorum call be dispensed with.

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

Mr. PRYOR. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. I thank the Chair.

ABUSE OF FEDERAL POWER

Mr. PRYOR. Mr. President, today I rise to speak against the raw and awesome power of the Federal agencies of the U.S. Government and about an abuse of that power that I truly believe led to the ultimate conviction in the lower court of Judge Harry Claiborne.

Mr. President, I rise today to speak for the opportunity, if not the basic right, of every American taxpayer to have the right to face an auditor of the Internal Revenue Service Civil Division to explain their tax return before criminal prosecution starts. Judge Claiborne did not have that opportunity. He was denied it.

Mr. President, I rise today to speak against what has become the accepted practice of arbitrarily and capriciously targeting individual citizens of our country, of intimidating witnesses in their trials, of forgiving past crimes to testify against particular people, of en-

snaring individuals into crime or become Government bounty hunters.

□ 1720

This is not what our Government or our country must stand for. The framers of our Constitution never intended it this way. In fact, in their wisdom and in their vision, they made it possible, as in this particular instance of Judge Claiborne, for the legislative branch to have a check over the judicial branch of Government.

Our constitutional framers spoke eloquently to the majesty and to the strength of our American system when they permitted one Harry Claiborne to bring his case to the court of last resort, the U.S. Senate.

After sitting for days as a member of the impeachment committee, I have attempted to the best of my ability to fairly judge and determine the case of Harry Claiborne. I must admit to my colleagues that a month ago, I, like most Americans, wondered why we were giving him even the benefit of the doubt. As the weeks passed, after reading transcripts and listening to and observing witness after witness, I must say at this time, and during this day, that at least in my mind there was a reasonable doubt about his willfulness or his deliberate intent to defraud the Government.

But, Mr. President, there is no reasonable doubt in my mind about another aspect of this case, and that is the long arm of the U.S. Government and the abuse of power that ultimately led to Judge Claiborne's conviction.

I have concluded that he was targeted by the Federal Bureau of Investigation in a very arbitrary and capricious manner. If we have any doubts about Judge Claiborne having been a target, then I ask these questions:

Why did our Government forgive \$16 million in back income taxes to a criminal fugitive named Conforte to come back from Brazil and help make a case against Judge Claiborne?

Why did Harry Claiborne, unlike most other citizens, not have the opportunity to face an IRS audit in the civil division before criminal prosecution charges occurred?

Why did one IRS agent assigned to this sting operation of Harry Claiborne become so incensed and rebelled to the degree that he refused to participate, and ultimately was demoted and sent to another State?

Why was it that after administering a polygraph test to Harry Claiborne, a test which he passed, the polygraph operator, himself, became a target of intimidation by the Federal Bureau of Investigation?

What is going on in this country when we allow this sort of practice to occur?

In the Article of Impeachment No. III, we were asked by the managers to impeach from office Harry Claiborne.

Why? Because, simply, he was convicted by a lower court and a jury.

My question concerning Article III this afternoon was, how was that conviction actually obtained?

Once again, I have concluded in my own mind that had Harry Claiborne not been a target of the Federal Government, had Harry Claiborne's accountant not been intimidated by the U.S. Government, had Harry Claiborne had the opportunity to submit all evidence into the lower court decision and trial, had an appeal en banc to the Ninth Circuit Court of Appeals been granted, I believe the case of Harry Claiborne might not have been before the U.S. Senate today.

No, Mr. President, I cannot, as one Senator or as one American, defend Harry Claiborne's abysmal tax return, especially for 1980.

No, I cannot defend his cashing checks at the casino and, no, I certainly cannot defend his Elmer Gantry type tax preparer. But especially, Mr. President, I cannot defend how this conviction was ultimately obtained.

The Federal Bureau of Investigation sent a special representative to Nevada by the name of Yablonsky. Mr. Yablonsky evidently was given the widest and unchecked latitude to headhunt in Nevada. He wanted someone big and someone important. Did he go after the drug lords? Did he go after the major crime figures? Did he go after the child pornographers? No. He went after Judge Claiborne, and allegedly he also wanted Senator LAXALT. He said he did not like LAXALT. I ask, is that the criteria our Federal Bureau of Investigation uses in going after someone?

I fear that there are too many Yablonsky's out there in this country, working for various agencies of government, who have become headhunters. They are unchecked. They are unbridled. They are people who arbitrarily and capriciously make these decisions which can suddenly bring to a crushing end the careers and lives of any American citizen they so choose.

The next Yablonsky may not like the names of people like MATSUNAGA or BOSCHWITZ or LAUTENBERG or IACCOCIA or Smith or Jones. What happens then? Where do we install this system of checks, and when is our Government finally going to realize that these sorts of operations represent not the best but the worst within our system?

They set up Pete Williams. He was entrapped. They tried it on Senator PRESSLER. He smelled a rat.

The Claiborne conviction, Mr. President, is over. In my opinion, it is the fruit of the poisoned tree.

Judge Harry Claiborne has been found guilty. He has been impeached and removed from office, as I have said.

I hope that the resolution that I and other Members of this body will introduce within the next several hours, or certainly the next several days, calling for a full and total investigation of sting operations—how they are set up, how they are administered, and what checks and balances must be placed in that area of our system of Government—will certainly be passed by the great majority of this body.

Mr. President, we have seen a very sad day today, but I must say, also, that it has been a day when we have seen the majesty and the strength of our system work. I hope it worked well, and I hope it will be a lesson for us in the future, to make certain that such situations do not happen again.

Mr. President, I yield the floor.

□ 1730

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.

□ 1740

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

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

AN INVESTIGATION IS NEEDED

Mr. HEFLIN. Mr. President, we have just finished a very historic event in the U.S. Senate; that is, the U.S. Senate has just sat as a court of impeachment and has removed a life-tenured Federal judge from office.

I have some thoughts that I would like to mention in a preliminary manner now, but I will develop and set them forth in a more succinct manner at a later date.

First, I think there is no question that most of the Members of the Senate feel that there should be an investigation by an appropriate committee pertaining to the possible overreaching by the executive branch into the judicial branch and an investigation into the procedure which has been called targeting.

I am not accusing the Executive Branch, the Department of Justice, the FBI or the Internal Revenue Service of improper targeting or of improper activity. But I feel that there is enough smoke to justify whether or not a fire exists.

We also had in recent years the Abscam incidents. It seems to me that if an appropriate committee of Congress investigates what potentially may have been an abuse of power in Nevada—it may not have been, I am not accusing anyone—but they should also take a look into Abscam.

I think that a vast number of the Members of Congress feel that a thor-

ough investigation ought to be made and that we ought to look into both incidents and determine whether or not there was targeting. Further, we should determine whether the targeting was proper or not. I think we all know that sting operations by the Department of Justice are necessary and that they may have to operate in a certain manner to catch some serious violators of the law. I think we must bear in mind that if you are going to apprehend criminals, sometimes it is necessary for FBI agents and others to disguise themselves as being "gutter brothers" and get into the gutter with the criminals. On the other hand, there is the potential for overreaching, there is the potential that someone may be out to get someone and that proper due process is not allowed the targeted person. Therefore, I think a thorough investigation is needed to determine if proper due process was allowed in the above two cases.

Second, I believe that a 100-man jury is too cumbersome and is unworkable. I think that we ought to examine what the States have done relative to the judiciary and the removal from office of judges who have become corrupt.

□ 1750

Most of the States originally followed the Federal pattern if they had a bicameral system of legislation which established the Senate as being the court of impeachment, and required the House of Representatives to act as a grand jury, or the indicting body.

Many of the States found that this procedure presents numerous problems and, therefore, they adopted other methods. Some States have created judicial inquiry commissions which are very representative and have broad-based membership. The members come from the laity, the judiciary, and some members come from the lawyer ranks. The commission in effect serves as the investigating body and the indicting body. There is a separate mechanism, usually composed of something like 10 or 12 people that would be a court of the judiciary, or a judicial commission, which would determine the guilt or innocence of the accused under the articles of the indictment that would come from the judicial inquiry commission. Most of the States have found this procedure to be workable. It has been adopted in their constitutions, and has proved to be very effective. I am going to study the various systems that now prevail in the States and I am going to offer a constitutional amendment to alter the Federal pattern when we return in January at the start the 100th Congress.

I feel like we ought to explore alternatives. In my own home State of Alabama we adopted a different procedure

from the Federal scheme. We have a court of the judiciary, and a judicial inquiry commission which serves as the grand jury. There are other systems in the States. I think we ought to study them all.

I think we ought to replace the procedure that we have because in my judgment a 100-man jury is too cumbersome and is unworkable. When Judge Claiborne was giving his argument or testimony here on the floor of the Senate, I counted the number of Senators, in attendance and there were 63 present. Thirty-seven were absent. I think it is very crucial that all Senators should have been in a position to hear what he said at that time.

I suppose that throughout the entire proceedings there could have been as many as 30 Senators that never heard a word of the argument. If we are to sit as a court of impeachment, I think it is necessary that each individual Senator hear the arguments, read the transcripts, read the briefs, and prepare. Because, in effect, we act as judges. And I feel our system is not effective, I think it is unworkable, and I think as we look to the future, we can expect many, many more instances of impeachment or proposed impeachment of members of the judiciary.

The judiciary has grown, and it is now in the neighborhood of around 1,000 judges. There is no question in my mind that there are some bad eggs, or bad apples in the barrel, and that we need to look at this now. But, at the same time, we must protect the independence of the judiciary.

Therefore, I say to the Members of the Senate, let us benefit from the experiences of the States who have experimented with other systems. Some of those procedures have been in existence for 30 or 40 years. I think we can profit from a study. In my judgment, we need to adopt a better forum by which a life-tenure judge is removed from office.

Thank you, Mr. President.

The PRESIDING OFFICER. Would the Senator from Alabama like to suggest the absence of a quorum?

Mr. HEFLIN. Mr. President, I will follow the Chair's suggestion, and suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

□ 1830

PROGRAM

Mr. DOLE. Mr. President, let me indicate that there will be no votes this

evening, but we will be in session tomorrow.

I have had a number of Senators make inquiries: "Are we going to have any votes tomorrow?" I really believe we will have two or more, but I cannot say that with certainty.

Reconciliation should be available tomorrow morning, and we would like to work out some way to resolve any outstanding issues on the drug bill and dispose of those two matters tomorrow.

There are other matters that I understand could require votes, and it may be that we can dispose of one or two of those.

So we will be in session tomorrow. I am almost certain there will be votes. There will be no votes before noon, but there could be votes starting at noon and continuing into the afternoon.

I hope we will be able to complete our work by early afternoon, but I have no assurance and have no control over whether or not that can be done.

CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished minority leader if he is in a position to pass or indefinitely postpone any of the following calendar items: Calendar Nos. 216, 592, 593, 775, 1027, 1067, 1068.

Mr. BYRD. Mr. President, the first four items enumerated by the distinguished majority leader have been cleared for postponement on this side, and the three closing ones—1027, 1067, and 1068—are cleared for action on this side.

Mr. DOLE. I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar items just identified, and that they be considered en bloc, and passed or indefinitely postponed en bloc, and that all committee-reported amendments be agreed to en bloc.

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

ESTABLISHMENT OF AN INFORMATION AGE COMMISSION

The Senate proceeded to consider the bill (S. 786) to establish an Information Age Commission, which had been reported from the Committee on Governmental Affairs, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 786

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 "Information Age Commission Act of [1985] 1986".

SEC. 2. The Congress finds and declares that—

(1) the introduction and use of computer and communications systems have brought our Nation and the world into the Information Age;

(2) computer and communications systems are affecting the manner in which business, education, and government operate, and the manner in which our Nation's security and involvement in world trade are carried out;

(3) the rapid pace of technological change and the complexity of the issues involved with respect to computers and communications systems have combined to diminish public awareness and understanding of their impact on society;

(4) the impact of computer and communications systems on society has not been completely analyzed; and

(5) while Congress has begun to address issues relating to the Information Age, such as intellectual property rights, computer education, computer crime, and privacy, there remains a need for a comprehensive and systematic study of the Information Age.

SEC. 3. The purposes of this Act are to—

(1) create a forum for discussions and targeted research on the present and future impact of computer and communications system on our Nation and its citizens; and

(2) present critical alternative views and choices to the President, Congress, and the public generally, so that such views and choices may serve as a catalyst for change, if necessary, and maximize the benefits of the Information Age to our society.

SEC. 4. (a) There is established a commission to be known as the Information Age Commission (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty-three members. Individuals appointed to the Commission pursuant to clause (3) of this subsection shall have a competence in the areas with which the Commission deals. Members of the Commission shall be appointed as follows:

(1) three members appointed by the President pro tempore of the Senate, two upon the recommendation of the Majority Leader of the Senate and one upon the recommendation of the Minority Leader of the Senate;

(2) three members appointed by the Speaker of the House of Representatives, two upon the recommendation of the Majority Leader of the House of Representatives and one upon the recommendation of the Minority Leader of the House of Representatives;

(3) seventeen members appointed by the President including, to the extent feasible, at least three representatives each from the information industry, labor, and academe, not more than two public officials from State and local governments, and six members drawn from the Executive branch of the Federal Government, including the Secretary of Commerce or his designee, the Secretary of Defense or his designee, and the Secretary of Education or his designee.

(c) Of the members specified in paragraphs (1) and (2) of subsection (b) of this section, not more than two members specified in each such paragraph shall be from the same political party.

(d) The President shall designate one member of the Commission appointed from the private sector as Chairman of the Commission, and one such member as Vice Chairman of the Commission.

(e) Twelve members of the Commission shall constitute a quorum.

(f) Any vacancy in the Commission shall not affect its power, but shall be filled in the same manner in which the original appointment was made.

SEC. 5. (a) The Commission shall conduct or have conducted, through subcommittees or study groups, such research and studies as it determines necessary to develop a responsible understanding of the Information Age, including, but not limited to—

(1) the efforts and resources needed to maximize the benefit to society of computer and communications systems;

(2) the effort and resources needed to maintain the lead of the United States in the world information marketplace;

(3) the education and reeducation required to equip the people of the United States for the Information Age;

(4) the use and impact of computer and communications systems on the national defense of the United States;

(5) the effort and resources needed to encourage new technological innovations; and

(6) the impact of the computer and communications systems on labor and [employment.] *employment; and*

(7) *the effect of computer and communications systems on personal privacy.*

(b) In carrying out its functions and duties, the Commission shall make every reasonable effort to avoid duplication of studies and research relating to the matters referred to in subsection (a) of this section, and shall marshal existing information for reevaluation.

(c) The Commission shall develop a data base of material information to which the public shall have reasonable access during the life of the Commission.

(d) The Commission shall, from time to time, submit to the President and Congress analyses and reports summarizing the materials and positions of the Commission, and outlining responsive alternative views and choices developed by the Commission.

(e) The Commission shall assemble and reasonably make available, upon request, a comprehensive index of relevant materials.

(f) The Commission shall provide maximum information to the media and the public so as to stimulate the broadest responsible public understanding and appreciation of the Information Age.

SEC. 6. (a) The Commission, or on the authorization of the Commission, any subcommittee or study group thereof, shall, for the purpose of carrying out the functions and duties of the Commission, hold such public hearings and sit and act at such times and places throughout the Nation as the Commission or such subcommittee or study group may deem advisable.

(b) The Commission is authorized to negotiate and enter into such contracts with private organizations as the Commission determines necessary to enable it to carry out its duties and functions under this Act relating to research and studies and the preparation of analyses and reports.

(c) The Administrator of General Services, at the request of the Chairman of the Commission, shall provide the Commission with necessary administrative services (including those relating to budgeting, accounting, financial reporting, personnel, and procurement). Payment for such services shall be made in advance or by reimbursement from funds appropriated to the Commission. Payments shall be in such manner and in such amounts as may be agreed upon by the Commission and the Administrator of General Services.

(d) The Commission is authorized, in accordance with this subsection, to secure di-

rectly from any executive department, agency, or independent instrumentality of the Federal Government any information, facilities, and services the Commission deems necessary to carry out its functions and duties under this Act; and each such department, agency, and instrumentality is authorized and directed to cooperate with the Commission and, to the extent permitted by law, to furnish such information, facilities, and services to the Commission upon request made by the Chairman, unless the head of such department, agency, or instrumentality determines that urgent, overriding reasons will not permit the making of such information, facilities, or services available to the Commission and so notifies the Chairman in writing.

SEC. 7. Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

(1) appoint, terminate, and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, or any other provision of law relating to the number, classification, and General Schedule rates, of such personnel as the Commission deems advisable to assist in the performance of its duties; and

(2) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the extent as is authorized by law for agencies in the Executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule.

SEC. 8. (a) Members of the Commission shall serve on the Commission without additional compensation for their services as such.

(b) All members of the Commission shall be reimbursed for travel as authorized by section 5703 of title 5, United States Code, subsistence, and other necessary expenses incurred in the performance of the functions and duties of the Commission.

SEC. 9. The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

SEC. 10. For the purpose of carrying out its functions and duties under this Act, the Commission may accept, use, and dispose of gifts or donations of money, services, or property.

SEC. 11. On or before the expiration of the twenty-four-month period following the date on which this Act becomes law, the Commission shall transmit to the President and to the Congress a final report containing a detailed statement of the findings of, and studies conducted by, the Commission under this Act, together with its recommendations, if any. Upon the expiration of the thirty-day period following the date of the transmission of such report to the President and the Congress, the Commission shall terminate.

[SEC. 12. There is authorized to be appropriated the sum of \$3,000,000 to carry out the provisions of this Act.]

Mr. NUNN. Mr. President, I rise in support of legislation that Senator LAUTENBERG and I introduced last year, the Information Age Commission Act. The purpose of this bill is to create a forum for discussions on the present

and future impact of computer and communications systems on our Nation and its citizens, and to present critical choices to the President, the Congress, and the public that will maximize the benefits of the "information age" to our society.

Mr. President, information systems of all kinds are playing an increasingly important and controlling role in our society. Sophisticated computer technology is being used routinely in business, education, government, and the military. It is being used in information storage, processing, management, and decisionmaking. Most of this technology was not even in the conceptual phase several years ago.

Furthermore, the introduction of additional information technology is driving social and economic changes. Most of these changes are benefiting our society and generally improving the quality of our lives. In the next few years, information technology will continue to undergo rapid development and will be applied to a growing number of activities. However, these technologies changes also appear to be rapidly outpacing the capability of our economic and legal system to respond.

To date, policy development regarding the "information age" has been a piecemeal effort, and generally reactive to situations that have come to our attention. For example, in the last Congress we adopted changes to the copyright laws for protecting computer chips. We adopted legislation, which I cosponsored with Senator TSONGAS, to provide assistance to small business in the areas of computer security and education; this legislation was the first of several "computer crime" bills adopted in the 98th Congress. We enacted several laws making it a crime to alter medical records or use a computer to obtain classified information.

Nevertheless, the 40 or so criminal laws which are on the books today, even coupled with the actions we took previously, are not sufficient to provide a firm basis for combating computer crime. Many States were not able to wait for the Federal Government, and have adopted their own set of laws on computer crime and security.

Mr. President, I will not take the time here to spell out the litany of congressional reports, executive agency actions, or private sector studies that demonstrate that fragmented nature of our "information age" policy, or the need for a comprehensive review of this issue. Suffice it to say that our current understanding of these issues, and our ability to respond, is neither adequate nor satisfactory.

We cannot continue to tackle these critical national issues in such a piecemeal fashion. In my view, it is worth the time and effort to take a step

beyond our current reactive efforts and try to identify in advance those issues that need to be addressed at the national level. It is for this reason that the Information Age Commission Act is essential.

The Commission, to be composed of 23 members, will draw from government at all levels, industry, labor, education, and academia. Under the legislation, the Commission will conduct studies and analyses of the "information age" that will include the efforts and resources needed to:

First, maximize the benefit to society of computer and communications systems; second, maintain the lead of the United States in the world information marketplace; third, educate and reeducate our people; fourth, assess the impact of computers and communications systems on our national security, labor, and employment; and fifth, encourage technological innovations.

The Commission is to complete its work within 2 years and then submit its final report to the Congress and the President. I would hope that there would be interim reports as necessary when the Commission identifies critical issues which Congress or the Executive should immediately address.

We have purposely structured the Commission to select the best resources that are available within and outside the Federal Government. For example, we have specifically included the Secretaries of Commerce, Defense, and Education as members of the Commission. Each of these departments are directly and significantly affected by the use of computers and communications systems, and each has a critical role in any comprehensive solution to the problems of the "information age."

Of the public members, we have specified that at least three representatives be drawn from the information industry, labor, and academe. This will ensure that each of these perspectives are made available to the Commission for its deliberations. In fact, under the terms of the bill, the non-Federal members of the Commission have a majority of the votes on the Commission. We believe that such broad participation will enable the Commission to conduct its work with a diverse perspective that can only strengthen the product of its labors and lend credibility to its effort.

Mr. President, the \$3 million authorization in the original bill Senator LAUTENBERG and I introduced has been deleted. In my view this \$3 million authorization represented a modest commitment by the Federal Government to the important work of the Commission. In light of the serious budgetary constraints which exist at the Federal level, I believe this was all that could reasonably have been allocated to this function at this time.

However, in an effort to move this legislation through the Governmental Affairs Committee, I complied with Chairman ROTH's request to strike the funding provision from the bill. It is my understanding that private industry has agreed to underwrite the work of the Commission.

While the private sector is expected to make a significant contribution to the work of the Commission, Government participation is essential to provide a balance against protective or biased action by industry. Federal responsibilities in the areas of national security, trade policy, and education will broaden and complement the private sector perspective.

Mr. President, in the development of this legislative proposal, we have been working with many of the "information age" industry associations and companies. The Association of Data Processing Service Organizations [ADAPSO] has been particularly helpful in framing this issue and assisting me in developing the outlines of this legislation. However, this bill is not, and cannot be, a competitive proposal, with one group or company or type of technology seeking to use this Commission for its own purposes.

While this legislation is the culmination of substantial time and effort, it is also the beginning of a long, arduous process that we as a nation must undertake if we are to adequately deal with the complexities and multifaceted nature of our computer and communications society. But we cannot delay the process much longer. Upon enactment of this bill, I look forward to working with the Commission to provide answers to questions that have, thus far, in my view, received far too little attention.

Mr. President, identical legislation, H.R. 5515, has been introduced and cosponsored by Representatives GEORGE BROWN of California, and PAT SWINDALL and DOUG BARNARD both of Georgia. I am hopeful that in the little time remaining in the current session of Congress, this measure will be approved in the House so that the Information Age Commission's important work can begin without further delay.

I urge adoption of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

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.

ARTHUR R. MARSHALL LOXAHATCHEE NATIONAL WILDLIFE REFUGE

The Senate proceeded to consider the bill (S. 511) to change the name of the Loxahatchee National Wildlife Refuge, FL, to the Arthur R. Marshall Loxahatchee National Wildlife Refuge.

Mr. CHILES. Mr. President, I am very pleased that the Senate is now acting on legislation I introduced to honor an individual who has contributed greatly to the enhancement and protection of my State's natural resources.

S. 511, as reported by the Environment and Public Works Committee, re-names the Loxahatchee National Wildlife Refuge in south Florida after Arthur R. Marshall. Art's academic work and personal efforts in the field of environmental protection have had tremendous impact on south Florida's ecosystem, particularly the everglades.

The Loxahatchee National Wildlife Refuge is, in fact, a small portion of the Florida Everglades and is one of the largest freshwater marshes on the North American continent. It is fitting, therefore, that this particular refuge bear the name of Arthur Marshall.

Art Marshall is highly regarded as an early champion of theories regarding the impact of growth on south Florida's natural system. He designed and advocated policies aimed at restoring the everglades system to permit the sheet flow of water across them, as once had occurred naturally.

He supported acquiring lands now known as the Big Cypress National Preserve, an area purchased by the Federal Government in order to ensure protected sheet flow of water necessary for the survival and livelihood of Everglades National Park.

Art Marshall was a pioneer in environmental conservation and has justly earned the respect and recognition of major environmental organizations in the State of Florida. He served as advisor to three Florida Governors and worked for 15 years for the U.S. Fish and Wildlife Service in south Florida.

Art felt the protection of our south Florida ecosystem was worth fighting for. He waged one conservation battle after another and was fortunate to see many of his ideas and initiatives put into constructive action. Art died on February 18. His death will be a loss to the fighters of conservation battles yet to be waged. It is highly appropriate that an example of the habitat and natural systems he worked so diligently to preserve bear his name.

For this reason, I am pleased the Senate is acting on legislation to rename the Loxahatchee National Wildlife Refuge in honor of the contributions of Arthur R. Marshall.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Loxahatchee National Wildlife Refuge, in the State of Florida, shall hereafter be known and designated as the "Arthur R. Marshall Loxahatchee National Wildlife Refuge". Any reference in any law, regulation, map, document, record, or other paper of the United States to such wildlife refuge, shall be held and considered to be a reference to the "Arthur R. Marshall Loxahatchee National Wildlife Refuge".

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.

ALBERT V. BRYAN FEDERAL COURTHOUSE

The Senate proceeded to consider the bill (S. 2890) to designate the U.S. Courthouse for the Eastern District of Virginia in Alexandria, VA, as the "Albert V. Bryan Federal Courthouse," which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 2890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Courthouse for the Eastern District of Virginia, located at 200 South Washington Street in Alexandria, Virginia, shall hereafter be known and designated as the "Albert V. Bryan [Federal] United States Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such courthouse is deemed to be a reference to the "Albert V. Bryan [Federal] United States Courthouse".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "A bill to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the Albert V. Bryan United States Courthouse."

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.

NATIONAL FOREST SKI AREA PERMIT ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 922, S. 2266, the ski area permit system.

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

The assistant legislative clerk read as follows:

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forest Ski Area Permit Act of 1986".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(a) provide a unified and modern permitting process for nordic and alpine ski areas on national forest lands;

(b) provide for ski area permits which more closely reflect the acreage and other physical requirements of modern ski area development; and

(c) provide a permit system which will be more commensurate with the long-term construction, financing, and operation needs of ski areas on national forest lands.

SEC. 3. SKI AREA PERMITS.

(a) **LAW APPLICABLE TO PERMITS.**—The provisions of the Act of March 4, 1915 (16 U.S.C. 497) notwithstanding, the term and acreage of permits for the operation of nordic and alpine ski areas and facilities on National Forest System lands shall henceforth be governed by this Act and other applicable law.

(b) **AUTHORITY.**—The Secretary of Agriculture (hereinafter referred to as "the Secretary"), is authorized to issue permits (hereinafter referred to as "ski area permits") for the use and occupancy of suitable lands within the National Forest System for nordic and alpine skiing operations and purposes. A ski area permit—

(1) may be issued for a term not to exceed 40 years;

(2) shall ordinarily be issued for a term of 40 years (unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation), or that there are public policy reasons specific to a particular permit for a shorter term;

(3) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee's needs for ski operations and appropriate ancillary facilities;

(4) may be renewed at the discretion of the Secretary;

(5) may be cancelled by the Secretary in whole or in part for any violation of the permit terms or conditions, for nonpayment of permit fees, or upon the determination, by the Secretary in his planning for the uses of the national forests that the permitted area is needed for higher public purposes;

(6) may be modified from time to time by the Secretary to accommodate changes in

plans or operations in accordance with the provisions of applicable law;

(7) shall be subject to such reasonable terms and conditions as the Secretary deems appropriate; and

(8) shall be subject to a permit fee based on fair market value in accordance with applicable law.

(c) **RULES AND REGULATIONS.**—Within one year after the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act, and shall, to the extent practicable and with the consent of existing permit holders, convert all existing ski area permits or leases on National Forest System lands into ski area permits which conform to the provisions of this Act within 3 years of the date of enactment of this Act.

(d) Nothing in this Act shall be deemed to amend, modify or otherwise affect the Secretary's duties under the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act, including his duties to involve the public in his decisionmaking and planning for the national forests.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "A bill to establish a ski area permit system on national forest lands, and for other purposes."

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.

RAILROAD RIGHT-OF-WAY CONVEYANCE VALIDATION ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 99, H.R. 2067, to validate conveyance of certain lands in California.

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

The assistant legislative clerk read as follows:

A bill (H.R. 2067) to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

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

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

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.

RELEASE OF RESTRICTIONS ON CERTAIN AIRPORT LAND

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1000, S. 2852, dealing with the Peninsula Airport Commission.

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

The assistant legislative clerk read as follows:

A bill (S. 2852) to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3265

(Purpose: To provide that the release of the use of certain property conveyed to the Peninsula Airport Commission, Virginia, be subject to certain conditions.)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator TRIBLE.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. TRIBLE, proposes an amendment numbered 3265.

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

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

The amendment is as follows:

On page 2, add after line 21 the following new paragraphs:

(3) Any release granted by the Secretary of Transportation under subsection (a) of this section may not apply to more than 7.5 acres of real property.

(4) The Peninsula Airport Commission may not lease or convey any interest in any of the property which the United States conveyed to such Commission by the deed described in subsection (a), to any person or business concern other than the city of Newport News, Virginia.

Mr. TRIBLE. Mr. President, the Peninsula Airport Commission which operates the Patrick Henry Airport in Newport News, VA, would like to grant a right-of-way to the city of Newport News for the construction of a public road that would provide access to a presently unusable tract of airport land. In addition the public road would serve a planned residential and commercial project adjacent to the airport property. In return for the right-of-way the public road and other improvements will be built by the developer of the adjacent project at no cost to the airport commission. The developer will also deed other adjacent land to the commission for airport use.

The current airport deed restricts land use to airport purposes. The Federal Aviation Administration cannot

grant this right-of-way without legislative action, they lack the administrative flexibility under the Federal Airport Act which allowed the United States to transfer the property in 1947.

This is a local issue that can best be handled by the FAA and the Peninsula Airport Commission. The amendment to S. 2852 protects the public interest in the airport property by limiting the total amount of land that can be used for the right-of-way and by requiring that the grantee of the right-of-way be the city of Newport News, VA.

Mr. President, I believe that this measure has been cleared on both sides. Therefore I move the adoption of the amendment and the passage of S. 2852 as amended, and thank my colleagues for their support.

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

The amendment (No. 3265) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment 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. 2852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 16 of the Federal Airport Act (as in effect on May 14, 1947), the Secretary of Transportation is authorized, subject to section 4 of the Act of October 1, 1949 (50 U.S.C. App. 1622c) and subsection (b) of this section, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated May 14, 1947, under which the United States conveyed certain property in Newport News, and York County, Virginia, to the Peninsula Airport Commission for airport purposes.

(b) Any release granted by the Secretary of Transportation under subsection (a) of this section shall be subject to the following conditions—

(1) The Peninsula Airport Commission shall agree that in leasing or conveying any interest in the property which the United States conveyed to such Commission by the deed described in subsection (a), the Commission will receive an amount for such interest which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by the Secretary).

(2) Any amount so received by the Peninsula Airport Commission shall be used by the Commission for the development, improvement, operation, or maintenance of a public airport.

(3) Any release granted by the Secretary of Transportation under subsection (a) of this section may not apply to more than 7.5 acres of real property.

(4) The Peninsula Airport Commission may not lease or convey any interest in any of the property which the United States

conveyed to such Commission by the deed described in subsection (a), to any person or business concern other than the City of Newport News, Virginia.

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.

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar No. 1001, H.R. 5379, the House companion bill, be indefinitely postponed.

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

KOREAN WAR VETERANS MEMORIAL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 943, H.R. 2205, the Korean War Veterans Memorial.

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

The legislative clerk read as follows:

A bill (H.R. 2205) to authorize the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces of the United States who served in the Korean conflict.

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

AUTHORIZATION OF MEMORIAL

SECTION 1. The American Battle Monuments Commission is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the Senate on September 10, 1986 S. Rpt. 99-421).

ESTABLISHMENT OF KOREAN WAR VETERANS MEMORIAL ADVISORY BOARD

SEC. 2. (a) There is hereby established a Korean War Veterans Memorial Advisory Board which shall consist of 12 veterans who served in the Korean War. The members of the Board shall be appointed by the President within 120 calendar days of enactment of this Act.

(b) The Korean War Veterans Memorial Advisory Board shall be responsible for:

(1) recommending the site and selecting the design for the memorial, subject to the approval of the American Battle Monuments Commission and in accordance with section 7(a) of H.R. 4378, as approved by the Senate on September 10, 1986; and

(2) promoting the establishment of the memorial and encouraging the donation of private funds for the construction and maintenance of the memorial.

FEDERAL AUTHORIZATION AND PRIVATE FUNDING

SEC. 3. (a) The American Battle Monuments Commission shall establish the me-

morial with private funds except as provided in subsection (b) of this section. For the purpose of carrying out this Act, the American Battle Monuments Commission is authorized to solicit and accept private contributions. The Commission is directed to establish an account into which these private funds shall be deposited and to maintain documentation of such contributions.

(b) There are hereby authorized to be appropriated:

(1) \$500,000 for site preparation, design, planning and associated administrative costs for the establishment of the memorial; and

(2) \$500,000 for construction of the memorial, to be available only after a construction permit has been issued for the memorial.

(c) Private funds donated in excess of the cost of construction and maintenance of the memorial shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (b) of this section.

AMENDMENT NO. 3266

Mr. DOLE. Mr. President, I send an amendment to the committee substitute to the desk on behalf of Senator McClure and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. McClure, proposes an amendment numbered 3266.

On page 3, line 5, of H.R. 2205 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rpt. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

On page 3, line 20, of H.R. 2205 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986" and insert in lieu thereof "House of Representatives on September 29, 1986".

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

The amendment (No. 3266) was agreed to.

Mr. HEFLIN. Mr. President, it gives me great pleasure to see the Korean War Veterans Memorial Act finally come before the full Senate. This legislation would authorize the erection of a memorial to honor those members of the U.S. Armed Forces who so bravely and honorably served more than three decades ago, without reservation, in the struggle against the Communist threat to the country of South Korea. This is legislation which I have supported and advocated for quite some time. With this in mind, it gives me even greater pleasure to rise in support of this act.

Mr. President, on that day in June 1950 when the Communist forces of North Korea invaded South Korea, the people of the United States were outraged. Shortly after that, the Soviet Union and the People's Republic of China joined North Korea in its attempt to lay the cloak of communism over the people of South Korea. It soon became obvious that the free

people of South Korea could not alone, even with their vast determination, withstand the surge from the North.

It was at this time that President Truman, honoring his commitment to South Korea, authorized U.S. combat support of what we may call the Korean freedom fighters; and entered, along with 16 other nations, into the Korean war. And, Mr. President, that is exactly what it was—war. Time and time again, we have heard this war called a "conflict" or a "police action." But it was war, Mr. President.

For 3 long years, brave American men and women gave of their all in a fierce struggle for freedom. What is more, these heroic men and women gave of their all for the freedom of the people of another country. They did this because they believed in the institution of liberty for all. The most accurate figures show that nearly 6 million Americans served in the Korean war. Of those, close to 5,000 were captured or missing in action. More than 100,000 were wounded and close to 55,000 paid the supreme sacrifice, giving their lives to the cause of freedom.

Mr. President, there are close to 90,000 Korean war veterans in my home State of Alabama. Many of these have spoken to me personally concerning the absence of a Korean war memorial in Washington. Others have either written or phoned, asking for something to be done about this indiscretion. There is a monument in this city honoring the veterans of every other war in which the United States has been engaged; but there is no memorial honoring the brave American veterans of the Korean war. Mr. President, the time for something to be done about this is long overdue.

This legislation would do just that. The Korean War Veterans Memorial Act would justly honor those brave men and women of the U.S. Armed Forces who so unselfishly gave of themselves when freedom was in need.

Mr. President, I urge speedy passage of this act.

Mr. WARNER. Mr. President, as a cosponsor of S. 1223 introduced by my distinguished colleague from Colorado [Mr. ARMSTRONG,] I rise as a strong supporter of this legislation as amended.

This memorial is long overdue. Our Nation's veterans of the Korean war deserve this recognition for having fought successfully under extremely harsh conditions.

As a Korean war veteran myself, serving with the U.S. Marine Corps, I experienced firsthand the adversities that confronted our troops. From 1950 to 1952, I served as a first lieutenant and communications officer with the First Marine Air Wing.

Our soldiers, sailors, marines, and airmen, together with the troops of other United Nations countries, fought valiantly, honorably and successfully to stop the advance of communism in Asia.

From Pusan to the Yalu River, in summer heat and arctic cold, almost always outnumbered and—in the beginning—ill-equipped, our men wrote a shining chapter of valor in the long history of the U.S. Armed Forces.

Their reward was not victory parades, but, unfortunately, public indifference and confusion at America's first "limited" war.

The memorial the Senate authorizes today is a belated step toward giving our Korean war veterans the honor they so richly deserve.

Their true monument, of course, is a free and prosperous South Korea, a strong ally of the United States and a bastion of freedom in the Far East.

To paraphrase Sir Christopher Wren's memorial in St. Paul's Cathedral in London, "If you would see their monument, look around you."

Nevertheless, it is fitting and proper that we should, before the Korean war fades from the national memory, recognize the bravery and sacrifice of our Armed Forces in a tangible form in the Nation's Capital.

Mr. GRAMM. Mr. President, as we take up the Korean War Memorial bill, I am proud to rise as a cosponsor of this important and long overdue legislation.

For over three decades since the conclusion of the Korean war, our recognition of the tremendous sacrifices and ultimate triumph of our Korean war veterans has, I believe, been incomplete. Nearly 6 million Americans served in that 3-year conflict and 54,000 paid the ultimate price, yet in our Nation's Capital we have erected no memorial to their noble service.

I visited the Republic of Korea last winter and found a thriving nation that itself stands as the greatest living monument to the American veterans of the Korean war. Every visitor to that country can see what our American heroes won in battle: they won a future of freedom and prosperity for 40 million people who otherwise would have been doomed to a life of oppression, poverty, and unrelieved suffering. And they won for America the lasting and palpable gratitude of the Korean people and nation.

Today, in authorizing the construction in Washington, DC, of a national memorial to the American veterans of the Korean war, we are acting to build a tangible symbol of the respect, admiration, and gratitude that up to now has been inadequately expressed, but that has lived within our hearts.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing

to the committee amendment, as amended, in the nature of a substitute.

The committee amendment, as amended, was agreed to.

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

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

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2205) as amended, was passed.

The title was amended so as to read "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War."

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

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

The motion to lay on the table was agreed to.

ADDITIONAL LEASES IN THE EL PORTAL ADMINISTRATIVE SITE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 764, H.R. 1390, dealing with the Yosemite National Park.

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

The assistant legislative clerk read as follows:

A bill (H.R. 1390) to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes.

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

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the Secretary of the Interior to grant long-term leases with respect to lands in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes", approved July 21, 1968 (82 Stat. 393; 16 U.S.C. 47-2), is amended—

(1) by striking out "fifty-five years to any operator of concession facilities in the park, or its successor for purposes of providing employee housing.", in the first sentence of the first section and inserting in lieu thereof "not to exceed ninety-nine years to any in-

dividual, including an employee of the United States Government, to any operator of concession facilities in the park, or the administrative site, or its successor, or to any public or private corporation or organization (including a nonprofit corporation) for purposes of providing employee housing, community facilities, administrative offices, maintenance facilities, and commercial services.";

(2) by striking out "the concessioner may sublease the property to its employees" in the second sentence of the first section and inserting in lieu thereof "if the lessee is a concessioner, corporation, or other organization (including a nonprofit corporation) such lessee may sublease the property to its employees, employees of the United States Government, or other individuals whose residence on the leased premises is solely in support of Yosemite National Park or the El Portal administrative site,";

(3) in the proviso to the first section by striking out "an annual", inserting a period after "him", and deleting the remainder of the sentence; and

(4) by redesignating "Sec. 2." as "Sec. 3." and inserting the following new section after the first section:

"Sec. 2. (a) Notwithstanding any other provision of law, the proceeds from any leases issued by the Secretary pursuant to the first section of this Act may be credited to the appropriation bearing the cost of administering (directly or by contract) the leases and of constructing, improving, and maintaining roads, utilities, buildings, and other facilities within the El Portal administrative site. In the administration of the leases, the Secretary may contract for the management of the leases and of the leased premises, subject to such terms and conditions, including the right of the Secretary to purchase and sell the unexpired terms of leases and subleases, as will protect the interests of the United States. The Secretary may also contract for the use by him of any improvements to leased property for purposes of the El Portal administrative site or for purposes of Yosemite National Park, and he may use the proceeds from any leases for the purpose of making payments under any such contract.

"(b) The Secretary may at any time acquire the unexpired term of any lease or sublease issued or entered into pursuant to this Act by purchase with funds available from the proceeds of leases, or with donated or appropriated funds, or by donation or exchange.";

(5) by adding at the end thereof the following new [section:] sections:

"Sec. 4. After the date of enactment of this section, no lease may be issued for the purpose of providing housing or other facilities in the El Portal administrative site except in accordance with regulations promulgated by the Secretary of the Interior. Such regulations shall establish the qualifications of natural persons and corporations who may be eligible to acquire a lease and a sublease, and they shall set forth the circumstances under which the Secretary may elect to acquire any unexpired lease or sublease. Such regulations shall become effective only after sixty calendar days from the day on which they have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate."

["Sec. 5. Concurrent with the submission of the regulations referred to in section 4, the Secretary shall submit a summary

report on the El Portal administrative site including existing and projected lease arrangements at that time contemplated to be exercised under the provisions of this Act, along with a timetable for the consequent removal of specific facilities in Yosemite National Park (with particular emphasis on Yosemite Valley). Not later than three years after the date the summary report is submitted, the Secretary shall submit an additional report to the committees referenced in section 4 as to the progress achieved in the development of the El Portal administrative site pursuant to the provisions of this Act. The report also shall include information as to the progress achieved in removal of facilities from Yosemite National Park. Implementation of the provisions of this Act shall at all times be in full accord with the then current general management plan for the park.]

"Sec. 5. In carrying out the provisions of this Act, the Secretary shall take care that there be no opportunity for any personal influence by an employee of the Department of the Interior upon the availability of housing for other such employees or employees of persons in a contractual relationship with the Department. In the selection of lessees and sublessees, the issuance of leases and subleases, the establishment of rental values, and the acquisition of any unexpired term of any lease or sublease, the Secretary shall act through an agent or agents appointed by the Secretary from among associations, corporations, or natural persons having no material, financial, legal, or equitable interest in the action proposed, other than a reasonable fee for their services.

"Sec. 6. Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts or to the extent that proceeds are available from any leases issued by the Secretary pursuant to the first section of this Act."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

AMENDMENT NO. 3267

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator McClure.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. McClure, proposes an amendment numbered 3267.

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

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

The amendment is as follows:

On page 4, line 12, after the word "sublease," insert the following:

"the process to be used in establishing fees for such leases and subleases,"

On page 6, line one, delete "Sec. 6." and insert in lieu thereof: "Sec. 2."

On page 6, after line 7, add the following new section 3:

"Sec. 3. Notwithstanding any other provision of law, the Secretary of the Interior shall, within six months of the enactment of this Act, complete the exchange of all lands in four isolated federal parcels within the boundaries of Inks Creek Ranch, Tehama County, California, as described in Exhibit A of the July 25, 1986, letter of intent to exchange issued by the District Manager, Ukiah District Office, Bureau of Land Management."

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

The amendment (No. 3267) was agreed to.

Mr. WILSON. Mr. President, I would like to take this opportunity to thank the Energy Committee for successfully completing action on the bill before us, H.R. 1390. It will go a long way toward relieving the congested housing situation in Yosemite Valley, and thereby help to enhance the natural setting within the park.

The only question I have with regard to the committee's action on this bill relates to the intent of section 4. My reading of this section suggests to me that the Secretary is directed to allow for the full participation of the affected community and park employees in the writing of the regulations that will govern leases issued for the purpose of providing housing or other facilities in the El Portal administrative site.

Would the distinguished chairman of the Energy Committee state for the record whether my interpretation of section 4 of the bill is correct?

Mr. McClure. I am happy to respond to my friend from California and would like to assure him that it is the intent of the committee that the Secretary will make every reasonable effort to solicit input from affected employees and residents during the period in which the regulations relating to the making of leases are being drafted.

Mr. Wilson. I thank the chairman for clarifying this matter.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 1390) as amended, was passed.

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

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

The motion to lay on the table was agreed to.

FRANCIS SCOTT KEY MEMORIAL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 941, S. 2370, the Francis Scott Key Memorial.

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

The assistant legislative clerk read as follows:

A bill (S. 2370) to allow the Francis Scott Key Park Foundation, Incorporated to erect a memorial in the District of Columbia.

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

SECTION 1. That the Francis Scott Key Park Foundation, Inc. is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of Francis Scott Key, the author of the words to "The Star Spangled Banner," our National Anthem, who lived and practiced law in Washington, District of Columbia at the time he penned those immortal words.

Sec. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia upon which may be erected the memorial authorized in the first section of this Act.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

Sec. 3. The authority conferred by this Act shall lapse unless (1) the erection of the memorial is commenced within five years from the date of enactment of this Act, and (2) prior to groundbreaking for the actual construction on the site funds are determined available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

Sec. 4. If the site for the memorial authorized herein shall be on public grounds belonging to or under the jurisdiction of the District of Columbia, the words "Mayor of the District of Columbia" shall be substituted for the words "Secretary of the Interior" at each place in sections 2 and 3 of this Act where the words "Secretary of the Interior" appear.

Sec. 5. In the event that the memorial authorized herein is erected on Federal lands in the District of Columbia and its environs as defined in H.R. 4378, as approved by the Senate on September 10, 1986 (S. Rpt. 99-421), such memorial shall be required to comply with the provisions of that Act.

Sec. 6. If the memorial erected under the provisions of this Act is on public grounds belonging to or under the jurisdiction of the District of Columbia, the Mayor of the District of Columbia shall be responsible for the care and maintenance of the memorial.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "A bill to authorize the Francis Scott Key Park Foundation, Inc., to erect a memorial in the District of Columbia."

AMENDMENT NO. 3268

Mr. DOLE. Mr. President, I send an amendment on behalf of Senator McClure to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. McClure, proposes an amendment numbered 3268.

On page 4, line 25, of S. 2370 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

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

The amendment (No. 3268) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the 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. 2370

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

SECTION 1. That the Francis Scott Key Park Foundation, Inc. is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of Francis Scott Key, the author of the words to "The Star Spangled Banner", our National Anthem, who lived and practiced law in Washington, District of Columbia at the time he penned those immortal words.

Sec. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia upon which may be erected the memorial authorized in the first section of this Act.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

Sec. 3. The authority conferred by this Act shall lapse unless (1) the erection of the memorial is commenced within five years from the date of enactment of this Act, and (2) prior to groundbreaking for the actual construction on the site funds are determined available in an amount sufficient, in

the judgment of the Secretary of the Interior, to insure completion of the memorial.

Sec. 4. If the site for the memorial authorized herein shall be on public grounds belonging to or under the jurisdiction of the District of Columbia, the words "Mayor of the District of Columbia" shall be substituted for the words "Secretary of the Interior" at each place in sections 2 and 3 of this Act where the words "Secretary of the Interior" appear.

Sec. 5. In the event that the memorial authorized herein is erected on Federal lands in the District of Columbia and its environs as defined in H.R. 4378, as approved by the House of Representatives on September 29, 1986, such memorial shall be required to comply with the provisions of that Act.

Sec. 6. If the memorial erected under the provisions of this Act is on public grounds belonging to or under the jurisdiction of the District of Columbia, the Mayor of the District of Columbia shall be responsible for the care and maintenance of the memorial.

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

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

The motion to lay on the table was agreed to.

□ 1840

LOWER COLORADO WATER SUPPLY ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 1006, H.R. 5028, dealing with the Lower Colorado Water Supply Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5028) entitled the "Lower Colorado Water Supply Act."

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics):

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

SECTION 1. AUTHORIZATION.

(a) The Secretary of the Interior is authorized to construct, operate, and maintain the Lower Colorado Water Supply Project, California, in order to supply water for domestic, municipal, industrial and recreational purposes [only] only: *Provided, That, the Secretary is hereby authorized, in his discretion, to contract with non-Federal interests for the care, operation, and maintenance of all or any part of the project works subject to such rules and regulations as he may prescribe.*

Such project shall be constructed in stages as increases in demand warrant and substantially in accordance with the plans

set forth in the document entitled "Lower Colorado Water Supply Study, California" (December 1985): *Provided, That the Secretary is prohibited from constructing facilities with a total capacity in excess of ten thousand acre-feet per annum under authority of this Act.*

(b)(1) The Secretary is further authorized to enter into exchange contracts and take such actions as the Secretary deems appropriate to facilitate a water exchange agreement between non-Federal interests and those interests designated in section 2(b) of this Act in which such non-Federal interests agree to exchange a portion of their rights to divert water from the Colorado River for an equivalent quantity and quality of groundwater to be withdrawn from a well field located in the Sand Hills area, Imperial County, California.

(2) The Secretary is prohibited from executing any contracts under the authority of subsection (b)(1) of this section until such contracts have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and ninety calendar days have elapsed.

SEC. 2. REPAYMENT OF COSTS.

(a) The Secretary is prohibited from obligating or expending any of the funds authorized to be appropriated by section 3 of this Act until—

(1) a study has been completed, and submitted to the appropriate committees of the Congress, allocating among the Federal and non-Federal beneficiaries the capital costs and the costs of operating, maintaining, and replacing the project authorized by section 1 of this Act;

(2) the Secretary has entered into a contract or contracts with non-Federal interests for repayment of the capital costs, plus [interest,] interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations to the United States with remaining periods to maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 per centum, allocated to non-Federal interests for [municipal and industrial] domestic, municipal, industrial, and recreational purposes as identified in the cost allocation study prepared under subsection (a)(1): *Provided, That the terms and provisions of such contracts and repayment shall be governed by section 9(c) of the Reclamation Project Act of 1939 (Act of August 4, 1939, ch. 418, 53 Stat. 1187) and by the provisions of the Water Supply Act of 1958 which were in effect on January 1, 1986; and*

(3) the Secretary has entered into a contract or contracts with non-Federal interests for payment of 100 per centum of the costs allocated to such non-Federal interests for the operation, maintenance, and replacement of the project.

(b) Any contracts executed by the Secretary to fulfill the requirements of subsections (a)(2) and (a)(3) of this section must be with persons, or Federal or non-Federal governmental entities whose lands or interests in lands are located adjacent to the Colorado River in the State of California who do not hold rights to Colorado River water or whose rights are insufficient to meet their present or anticipated future needs, as determined by the Secretary. Such persons, or Federal or non-Federal governmental en-

titles shall include the city of Needles, the town of Winterhaven, and other domestic, municipal, industrial, and recreational water users along the Colorado River in the State of California.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the construction of the Lower Colorado Water Supply Project [through September 30, 1991, the sum of \$1,800,000, such sums to remain available until expended. There is further authorized to be appropriated for each of the fiscal years through September 30, 1991, the sum of \$100,000 for the operation, maintenance, and replacement of that portion of the project used to supply] the sum of \$1,800,000 plus or minus such amounts, if any, as may be justified by reason of ordinary cost indices applicable to the types of construction involved therein and in addition thereto such sums as may be required for operation, maintenance and replacement of that portion of the project used to supply domestic, municipal, industrial, or recreational water supplies for lands managed by the Federal Government. No funds are authorized to be appropriated for payment of the operation, maintenance, or replacement costs allocated to non-Federal beneficiaries as determined by the study undertaken under authority of section 2(a)(1).

SEC. 4. SAVINGS PROVISION.

Nothing contained in this Act shall be construed to alter, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Water Treaty of 1944 with the United Mexican States (Treaty Series 994, 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California, and others (376 U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057), the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a), or the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501). Nor shall any provision of this Act—

(a) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or streams or over any groundwater resources, or

(b) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 3269

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senators McClure and MetzENBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], on behalf of Mr. McClure and Mr. MetzENBAUM, proposes an amendment numbered 3269.

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

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

The amendment reads as follows:

Page 4, line 8, strike the period and insert: "on a current basis."

Page 4, line 8, following the period insert: "(4) The Secretary has transmitted to Congress the final planning report/environmental assessment on the Lower Colorado Water Supply Project."

Page 4, line 23, following "struction" insert: "through September 30, 1993".

Page 5, line 16, insert the following new section and renumber the existing section 4 as section 5:

SEC. 4. CONTRIBUTION OF CONSTRUCTION COSTS.

"The Secretary is authorized to accept monetary contributions from the City of Needles and other incorporated cities for the construction of project features of the Lower Colorado Water Supply Project allocated to the provision of water supplies to the City of Needles and other incorporated cities: *Provided*, That, such contributions shall be credited towards the reimbursable costs to be repaid by the City of Needles and other incorporated cities pursuant to the contracts entered into pursuant to section 2 of this Act. Such contribution by the City of Needles and other incorporated cities shall be contributed during the construction of the appropriate project features and shall constitute twenty percent of the costs of such project features allocated to the City of Needles and other incorporated cities for repayment."

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

The amendment (No. 3269) was agreed to.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The amendments were engrossed and the bill was read the third time.

The bill (H.R. 5028), as amended, was passed.

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.

ESTABLISHMENT OF A NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 1028, S. 1209, to establish the National Commission to Prevent Infant Mortality.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1209) to establish the National Commission to Prevent Infant Mortality.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in *italics*.)

S. 1209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Commission to Prevent Infant Mortality".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds and declares that:

(1) The United States ranked seventeenth in the world in 1982 with an infant mortality rate of eleven and two-tenths deaths per thousand live births, a higher rate than many developed nations of the world.

(2) The infant mortality rate in some areas of the United States is twice the national rate.

(3) The main cause of a high infant mortality rate is low birthweight. Some 6.7 percent of all infants born in the United States are of low birthweight.

(4) Inadequate prenatal care is associated with an increased risk of low birthweight. Some twenty-five percent of all pregnant women in the United States do not begin prenatal care until after the first three months of pregnancy, if at all.

(5) In certain areas throughout the United States, there exist barriers to medical services, nutritional support, educational opportunities, and financial support for adequate health care for pregnant mothers and infants. The absence of needed support services during prenatal care, labor and delivery, and post-partum care through the age of one year contributes substantially to a high national infant mortality rate.

(6) Our Nation, which benefits from many diverse governmental and private resources, has a patchwork, uncoordinated, and little understood approach to the delivery of services associated with preventing infant mortality.

(7) The Congress and the President can act to prevent infant mortality and the incidence of low birthweight infants by establishing a commission by law, whose purpose shall be to address respective governmental and private roles in the delivery of services associated with preventing infant mortality, and to recommend actions designed to change and improve the Nation's comprehensive approach to this national problem.

DEFINITION

SEC. 3. For the purposes of this Act, the term "infant mortality" refers to the number of infants born alive but who die before their first birthday.

ESTABLISHMENT OF A NATIONAL COMMISSION

SEC. 4. (a) To accomplish the purpose set forth in section 2 of this Act there is established the National Commission to Prevent Infant Mortality (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of fifteen members, as follows:

(1) Two members of the Senate, one to be selected by the majority leader of the

Senate, the other to be selected by the minority leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House, the other to be selected by the minority leader of the House.

(3) Three members from representatives of State and local government; to be selected by the President and no more than two of whom shall be members of the same political party. One shall be a Governor; one shall be a State legislator; and one shall be a representative of local government.

(4) The Secretary of Health and Human Services shall be a member.

(5) The Comptroller General of the United States shall be a member.

(6) Six at large members, with demonstrated expertise in maternal and child health, shall be jointly selected by the majority leader of the Senate and the Speaker of the House.

(c) The Commission shall select a Chairperson and Vice Chairperson from among its members.

(d) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) The Commission shall meet at the call of the Chairperson.

(f) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall:

(1) Identify and examine comprehensively Federal, State, local, and private resources which impact infant mortality, including but not limited to—

(A) the effectiveness and adequacy of programs such as the Supplemental Feeding Program for Women, Infants, and Children; the Maternity and Infant Care Program; the Improved Pregnancy Outcome Program; the Maternal and Child Health Block Grant; Community Health Centers; pregnancy services and other programs that increase access to prenatal and postnatal education, care, and nutrition;

(B) the effectiveness of current Federal and State policies under the Medicaid Program to ensure adequate access to prenatal and postnatal care for low-income pregnant women and mothers;

(C) the role of income maintenance and other programs that impact infant mortality such as Aid to Families With Dependent Children and Federal housing subsidies; and

(D) the adequacy of current Federal and State efforts to enable an appropriate distribution of properly trained health care professionals to provide comprehensive maternal and child health services.

(2) Identify current financial, intergovernmental, and within the Federal Government, interagency barriers to the health care needed to prevent high infant mortality.

(3) Review recommendations made in recent regional and national reports that promote the health status of childbearing women and their infants and carry forward such recommendations as deemed appropriate.

(b) The Commission shall—

(1) recommend a national policy designed to change and improve the current approach to preventing infant [mortality. Such recommendations shall include] mortality, including recommendations concerning appropriate roles for the Federal Gov-

ernment, States, local governments, and private institutions;

(2) recommend to the Congress and the President what specific changes are needed within Federal laws and Federal programs to achieve an effective Federal role in preventing infant mortality; and

(3) present such recommendations to the President, the Speaker of the House, and the majority leader of the Senate no later than one year after enactment of this Act.

POWERS OF THE COMMISSION

SEC. 7. (a) The Commission, or at its direction, any subcommittee or member thereof, may for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such subcommittee or member may deem advisable. [Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.] Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission, subcommittee, or member thereof.

[(b) The Commission may require by subpoena the attendance and testimony of such witness and production of such materials as the Commission may deem advisable.]

(b) *The Commission may secure directly from any Federal department or agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.*

(c) To carry out this Act, the Commission may enter into such contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Contracts and other arrangements may be entered into under this subsection with or without consideration or bond.

(d) The provisions of the Federal Advisory Committee Act shall not apply to the Commission.

COMMISSION STAFF

SEC. 8. (a) The Chairperson and Vice Chairperson of the Commission shall appoint an executive director. The employment of such executive director shall be subject to confirmation by the Commission.

(b) The Commission may appoint and terminate the executive director selected under subsection (a) and such other personnel as it considers appropriate to assist in the performance of its duties under this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such executive director and other personnel without regard to the provisions of chapter 51 and subchapter 111 of chapter 53 of such title relating to classification and General Schedule pay [rates.] rates, except that the rate of pay for such executive director and other personnel may not exceed the rate payable for GS-18 of the General Schedule under section 5332 of such title.

(c) Service of an individual as a member of the Commission or employment of an individual by the Commission on a part-time or full-time basis and with or without compensation shall not be considered as service or employment bringing such individual within

the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment of receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(d) Subject to such rules as may be prescribed by the Commission, the Chairman of the Commission may procure temporary and intermittent services under section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily rate payable for GS-18 of the General Schedule under section 5332 of such title.

SUNSHINE PROVISION

SEC. 9. The Commission shall establish procedures to ensure its proceedings are open to the public to the maximum extent practicable.

TERMINATION OF THE COMMISSION

[SEC. 9.] *Sec. 10. Ninety days after the Commission submits its recommendations as required by section 5(b)(3) the Commission shall terminate.*

AUTHORIZATION OF APPROPRIATIONS

[SEC. 10.] *Sec. 11. There are authorized to be appropriated to the Commission [such sums as may be necessary to carry out this Act] \$1,000,000. Amounts appropriated under this section shall remain available until the day on which the Commission terminates under section 10.*

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

INTERFERENCE TO THE BROADCASTS OF VOICE OF AMERICA AND RFE/RL, INCORPORATED

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of House Concurrent Resolution 391, dealing with the Voice of America, now being held at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 391) calling on the Governments of the Soviet

Union, Poland, and Czechoslovakia to cease activities causing harmful interference to the broadcasts of the Voice of America and RFE/RL, Incorporated.

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

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SIMON. Mr. President, on August 12, 1986, Senators HATCH, DIXON, LAXALT, RIEGLE, HATFIELD, and I submitted Senate Concurrent Resolution 160, expressing the sense of Congress that the jamming of radio broadcasting is contrary to the best interests of the people of the world and should be terminated, and urging the President to try to negotiate an end to this practice with the Soviet Union. Our resolution has 21 cosponsors.

Most of those who cosponsored our concurrent resolution also signed a letter to Mr. Charles Z. Wick, Director of the United States Information Agency, urging him to use his good offices to increase awareness of Soviet jamming and the ill will it creates internationally. This letter was sent to coincide with the sixth anniversary of the resumption of Soviet jamming of the Voice of America on August 20, 1986.

The House of Representatives passed a slightly different version, House Concurrent Resolution 391, which calls on Poland and Czechoslovakia, in addition to the U.S.S.R., to cease jamming Western radio broadcasts, with special reference to the Voice of America, Radio Free Europe, and Radio Liberty. I am pleased to join with my colleagues today in bringing up House Concurrent Resolution 391 for Senate consideration, because I believe that this measure will go a long way to expressing Senate dissatisfaction with Soviet and East European jamming practices.

These harmful activities set back East-West dialog and lead us away from understanding each other's concerns. We are not trying to propagandize. Our radios inform. They get out the news where none exists. They present a variety of Western views on issues of concern to the people of the Soviet Bloc. I hope that General Secretary Mikhail Gorbachev realizes just how counterproductive his jamming practices are, and that an agreement can be concluded soon on removing this barrier between the people of East and West.

The PRESIDING OFFICER. Is there further debate on the concurrent resolution?

If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 391) was agreed to.

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

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

The motion to lay on the table was agreed to.

GOVERNMENT SECURITIES ACT OF 1986

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2032.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 2032) entitled "An Act to amend the Securities Exchange Act of 1934 to provide improved protection for investors in the government securities market, and for other purposes", with the following amendment:

In lieu of the matter inserted by the foregoing amendment, insert:

SECTION 1. SHORT TITLE AND FINDINGS.

(a) *SHORT TITLE.*—This Act may be cited as the "Government Securities Act of 1986".

(b) *FINDINGS.*—The Congress finds that transactions in government securities are affected with a public interest which makes it necessary—

(1) to provide for the integrity, stability, and efficiency of such transactions and of matters and practices related thereto;

(2) to impose adequate regulation of government securities brokers and government securities dealers generally; and

(3) to require appropriate financial responsibility, recordkeeping, reporting, and related regulatory requirements;

in order to protect investors and to insure the maintenance of fair, honest, and liquid markets in such securities.

TITLE I—GOVERNMENT SECURITIES BROKERS AND DEALERS

SEC. 101. ESTABLISHMENT OF GOVERNMENT SECURITIES REGULATORY AUTHORITY.

The Securities Exchange Act of 1934 (hereafter in this title referred to as "the Act") is amended by inserting after section 15B (15 U.S.C. 78o-4) the following new section:

"GOVERNMENT SECURITIES BROKERS AND DEALERS

"Sec. 15C. (a)(1)(A) It shall be unlawful for any government securities broker or government securities dealer (other than a registered broker or dealer or a financial institution) to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer is registered in accordance with paragraph (2) of this subsection.

"(B)(i) It shall be unlawful for any government securities broker or government securities dealer that is a registered broker or dealer or a financial institution to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security unless such government securities broker or government securities dealer has filed with the appropriate regulatory agency written notice that it is a government securities broker or government securities dealer. When a government securities

broker or government securities dealer ceases to act as such it shall file with the appropriate regulatory agency a written notice that it is no longer acting as a government securities broker or government securities dealer.

"(ii) Such notices shall be in such form and contain such information concerning a government securities broker or government securities dealer that is a financial institution and any persons associated with such government securities broker or government securities dealer as the Board of Governors of the Federal Reserve System shall, by rule, after consultation with each appropriate regulatory agency (including the Commission), prescribe as necessary or appropriate in the public interest or for the protection of investors. Such notices shall be in such form and contain such information concerning a government securities broker or government securities dealer that is a registered broker or dealer and any persons associated with such government securities broker or government securities dealer as the Commission shall, by rule, prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(iii) Each appropriate regulatory agency (other than the Commission) shall make available to the Commission the notices which have been filed with it under this subparagraph, and the Commission shall maintain and make available to the public such notices and the notices it receives under this subparagraph.

"(2) A government securities broker or a government securities dealer subject to the registration requirement of paragraph (1)(A) of this subsection may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such government securities broker or government securities dealer and any persons associated with such government securities broker or government securities dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within 45 days of the date of filing of such application (or within such longer period as to which the applicant consents), the Commission shall—

"(i) by order grant registration, or

"(ii) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within 120 days of the date of the filing of the application for registration. At the conclusion of such proceedings, the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the applicant consents.

The Commission shall grant the registration of a government securities broker or a government securities dealer if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (c) of this section.

"(3) Any provision of this title (other than section 5 or paragraph (1) of this subsection) which prohibits any act, practice, or

course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any government securities broker or government securities dealer registered or having filed notice under paragraph (1) of this subsection or any person acting on behalf of such government securities broker or government securities dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(4) The Secretary of the Treasury (hereinafter in this section referred to as the 'Secretary'), by rule or order, upon the Secretary's own motion or upon application, may conditionally or unconditionally exempt any government securities broker or government securities dealer, or class of government securities brokers or government securities dealers, from any provision of subsection (a), (b), or (d) of this section or the rules thereunder, if the Secretary finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this title.

"(b)(1) The Secretary shall propose and adopt rules to effect the purposes of this title with respect to transactions in government securities effected by government securities brokers and government securities dealers as follows:

"(A) Such rules shall provide safeguards with respect to the financial responsibility and related practices of government securities brokers and government securities dealers including, but not limited to, capital adequacy standards, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the transfer and control of government securities subject to repurchase agreements and in similar transactions.

"(B) Such rules shall require every government securities broker and government securities dealer to make reports to and furnish copies of records to the appropriate regulatory agency, and to file with the appropriate regulatory agency, annually or more frequently, a balance sheet and income statement certified by an independent public accountant, prepared on a calendar or fiscal year basis, and such other financial statements (which shall, as the Secretary specifies, be certified) and information concerning its financial condition as required by such rules.

"(C) Such rules shall require records to be made and kept by government securities brokers and government securities dealers and shall specify the periods for which such records shall be preserved.

"(2) Rules promulgated and orders issued under this section shall—

"(A) be designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, liquidity, and efficiency of the market for government securities, investors, and the public interest; and

"(B) not be designed to permit unfair discrimination between customers, issuers, government securities brokers, or government securities dealers, or to impose any burden on competition not necessary or appropriate in furtherance of the purposes of this title.

"(3) In promulgating rules and issuing orders under this section, the Secretary—

"(A) may appropriately classify government securities brokers and government securities dealers (taking into account relevant matters, including types of business done, nature of securities other than govern-

ment securities purchased or sold, and character of business organization) and persons associated with government securities brokers and government securities dealers;

"(B) may determine, to the extent consistent with paragraph (2) of this subsection and with the public interest, the protection of investors, and the purposes of this title, not to apply, in whole or in part, certain rules under this section, or to apply greater, lesser, or different standards, to certain classes of government securities brokers, government securities dealers, or persons associated with government securities brokers or government securities dealers;

"(C) shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers; and

"(D) shall consult with and consider the views of the Commission and the Board of Governors of the Federal Reserve System, except where the Secretary determines that an emergency exists requiring expeditious or summary action and publishes its reasons for such determination.

"(4) If the Commission or the Board of Governors of the Federal Reserve System comments in writing on a proposed rule of the Secretary that has been published for comment, the Secretary shall respond in writing to such written comment before approving the proposed rule.

"(5) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security in contravention of any rule under this section.

"(c)(1) With respect to any government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section—

"(A) The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such government securities broker or government securities dealer, if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such government securities broker or government securities dealer, or any person associated with such government securities broker or government securities dealer (whether prior or subsequent to becoming so associated), has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) Pending final determination whether registration of any government securities broker or government securities dealer shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest or for the protection of investors. Any registered government securities broker or registered government securities dealer may, upon such terms and conditions as the Com-

mission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered government securities broker or registered government securities dealer is no longer in existence or has ceased to do business as a government securities broker or government securities dealer, the Commission, by order, shall cancel the registration of such government securities broker or government securities dealer.

"(C) The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, or seeking to become associated, with a government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section or suspend for a period not exceeding 12 months or bar any such person from being associated with such a government securities broker or government securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(2)(A) With respect to any government securities broker or government securities dealer which is not registered or required to register under subsection (a)(1)(A) of this section, the appropriate regulatory agency for such government securities broker or government securities dealer may, in the manner and for the reasons specified in paragraph (1)(A) of this subsection, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or bar from acting as a government securities broker or government securities dealer any such government securities broker or government securities dealer, and may sanction any person associated with such government securities broker or government securities dealer in the manner and for the reasons specified in paragraph (1)(C) of this subsection.

"(B) In addition, where applicable, such appropriate regulatory agency may, in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), or section 407 of the National Housing Act (12 U.S.C. 1730), enforce compliance by such government securities broker or government securities dealer or any person associated with such government securities broker or government securities dealer with the provisions of this section and the rules thereunder.

"(C) For purposes of subparagraph (B) of this paragraph, any violation of any such provision shall constitute adequate basis for the issuance of any order under section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, or section 407(e) or 407(f) of the National Housing Act, and the customers of any such government securities broker or government securities dealer shall be deemed, respectively, 'depositors' as that term is used in section 8(c) of the Federal Deposit Insurance Act, 'savings account

holders' as that term is used in section 5(d)(3) of the Home Owners' Loan Act of 1933, or 'insured members' as that term is used in section 407(f) of the National Housing Act.

"(D) Nothing in this paragraph shall be construed to affect in any way the powers of such appropriate regulatory agency to proceed against such government securities broker or government securities dealer under any other provision of law.

"(E) Each appropriate regulatory agency (other than the Commission) shall promptly notify the Commission after it has imposed any sanction under this paragraph on a government securities broker or government securities dealer, or a person associated with a government securities broker or government securities dealer, and the Commission shall maintain, and make available to the public, a record of such sanctions and any sanctions imposed by it under this subsection.

"(3) It shall be unlawful for any person as to whom an order entered pursuant to paragraph (1) or (2) of this subsection suspending or barring him from being associated with a government securities broker or government securities dealer is in effect willfully to become, or to be, associated with a government securities broker or government securities dealer without the consent of the appropriate regulatory agency, and it shall be unlawful for any government securities broker or government securities dealer to permit such a person to become, or remain, a person associated with it without the consent of the appropriate regulatory agency, if such government securities broker or government securities dealer knew, or, in the exercise of reasonable care should have known, of such order.

"(d)(1) All records of a government securities broker or government securities dealer are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the appropriate regulatory agency for such government securities broker or government securities dealer as such appropriate regulatory agency deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(2) Information received by any appropriate regulatory agency or the Secretary from or with respect to any government securities broker or government securities dealer or with respect to any person associated therewith may be made available by the Secretary or the recipient agency to the Commission, the Secretary, any appropriate regulatory agency, and any self-regulatory organization.

"(e)(1) It shall be unlawful for any government securities broker or government securities dealer registered or required to register with the Commission under subsection (a)(1)(A) to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security, unless such government securities broker or government securities dealer is a member of a national securities exchange registered under section 6 of this title or a securities association registered under section 15A of this title.

"(2) The Commission, after consultation with the Secretary, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraph (1) of this subsection any government securities broker or government securities

dealer or class of government securities brokers or government securities dealers specified in such rule or order.

"(f)(1) Nothing in this section except paragraph (2) of this subsection shall be construed to impair or limit the authority under any other provision of law of the Commission, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, the Secretary of Housing and Urban Development, and the Government National Mortgage Association.

"(2) Notwithstanding any other provision of this title, the Commission shall not have any authority to make investigations of, require the filing of a statement by, or take any other action under this title against a government securities broker or government securities dealer, or any person associated with a government securities broker or government securities dealer, for any violation or threatened violation of the provisions of this section or the rules or regulations thereunder, unless the Commission is the appropriate regulatory agency for such government securities broker or government securities dealer. Nothing in the preceding sentence shall be construed to limit the authority of the Commission with respect to violations or threatened violations of any provision of this title other than this section, or the rules or regulations under any such other provision.

"(g)(1) The authority of the Secretary to issue orders and to propose and adopt rules under this section shall terminate on October 1, 1991.

"(2) All orders and rules—

"(A) which have been issued or adopted by the Secretary, and

"(B) which are in effect on the date specified in paragraph (1),

shall continue in effect according to their terms."

SEC. 102. CONFORMING AMENDMENTS.

(a) DEFINITION OF EXEMPTED SECURITY.—Paragraph (12) of section 3(a) of the Act (15 U.S.C. 78c(a)(12)) is amended to read as follows:

"(12)(A) The term 'exempted security' or 'exempted securities' includes—

"(i) government securities, as defined in paragraph (42) of this subsection;

"(ii) municipal securities, as defined in paragraph (29) of this subsection;

"(iii) any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian;

"(iv) any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with a qualified plan as defined in subparagraph (C) of this paragraph; and

"(v) such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by

their terms do not apply to an 'exempted security' or to 'exempted securities'.

"(B)(i) Notwithstanding subparagraph (A)(i) of this paragraph, government securities shall not be deemed to be 'exempted securities' for the purposes of section 17A of this title.

"(ii) Notwithstanding subparagraph (A)(ii) of this paragraph, municipal securities shall not be deemed to be 'exempted securities' for the purposes of sections 15, 15A (other than subsection (g)(3)), and 17A of this title.

"(C) For purposes of subparagraph (A)(iv) of this paragraph, the term 'qualified plan' means (i) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (ii) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, or (iii) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (i), (ii), or (iii) of this subparagraph which (I) covers employees some or all of whom are employees within the meaning of section 401(c) of such Code, or (II) is a plan funded by an annuity contract described in section 403(b) of such Code."

(b) DEFINITION OF APPROPRIATE REGULATORY AGENCY.—Section 3(a)(34) of the Act is amended—

(1) by inserting after paragraph (F) thereof the following new paragraph:

"(G) When used with respect to a government securities broker or government securities dealer, or person associated with a government securities broker or government securities dealer:

"(i) the Comptroller of the Currency, in the case of a national bank, a bank in the District of Columbia examined by the Comptroller of the Currency, or a Federal branch or Federal agency of a foreign bank (as such terms are used in the International Banking Act of 1978);

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, a State branch or a State agency of a foreign bank, or a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank);

"(iv) the Federal Home Loan Bank Board, in the case of a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association;

"(v) the Federal Savings and Loan Insurance Corporation, in the case of an institution insured by the Federal Savings and Loan Insurance Corporation (other than a Federal savings and loan association, Federal savings bank, or District of Columbia savings and loan association);

"(vi) the Commission, in the case of all other government securities brokers and government securities dealers." and

(2) by inserting ", and the term 'District of Columbia savings and loan association' means any association subject to examination and supervision by the Federal Home Loan Bank Board under section 8 of the Home Owners' Loan Act of 1933" before the period ending the last sentence thereof.

(c) DEFINITION OF STATUTORY DISQUALIFICATION.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (B)—

(A) by inserting "or other appropriate regulatory agency" after "Commission"; and

(B) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(2) in subparagraph (C)—

(A) by striking out "or municipal securities dealer" and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(B) by inserting ", an appropriate regulatory agency," after "Commission".

(d) ADDITIONAL DEFINITIONS.—Section 3(a) of such Act (15 U.S.C. 78c(a)) is further amended by adding at the end thereof the following new paragraphs:

"(42) The term 'government securities' means—

"(A) securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States;

"(B) securities which are issued or guaranteed by corporations in which the United States has a direct or indirect interest and which are designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors;

"(C) securities issued or guaranteed as to principal or interest by any corporation the securities of which are designated, by statute specifically naming such corporation, to constitute exempt securities within the meaning of the laws administered by the Commission; or

"(D) for purposes of sections 15C and 17A, any put, call, straddle, option, or privilege on a security described in subparagraph (A), (B), or (C) other than a put, call, straddle, option, or privilege—

"(i) that is traded on one or more national securities exchanges; or

"(ii) for which quotations are disseminated through an automated quotation system operated by a registered securities association.

"(43) The term 'government securities broker' means any person regularly engaged in the business of effecting transactions in government securities for the account of others, but does not include—

"(A) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection; or

"(B) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(44) The term 'government securities dealer' means any person engaged in the business of buying and selling government securities for his own account, through a broker or otherwise, but does not include—

"(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business;

"(B) any corporation the securities of which are government securities under subparagraph (B) or (C) of paragraph (42) of this subsection;

"(C) any bank, unless the bank is engaged in the business of buying and selling government securities for its own account other than in a fiduciary capacity, through a broker or otherwise; or

"(D) any person registered with the Commodity Futures Trading Commission, any contract market designated by the Commodity Futures Trading Commission, such contract market's affiliated clearing organization, or any floor trader on such contract market, solely because such person effects transactions in government securities that the Commission, after consultation with the Commodity Futures Trading Commission, has determined by rule or order to be incidental to such person's futures-related business.

"(45) The term 'person associated with a government securities broker or government securities dealer' means any partner, officer, director, or branch manager of such government securities broker or government securities dealer (or any person occupying a similar status or performing similar functions), and any other employee of such government securities broker or government securities dealer who is engaged in the management, direction, supervision, or performance of any activities relating to government securities, and any person directly or indirectly controlling, controlled by, or under common control with such government securities broker or government securities dealer.

"(46) The term 'financial institution' means (A) a bank (as such term is defined in paragraph (6) of this subsection), (B) a foreign bank, and (C) an insured institution (as such term is defined in section 401 of the National Housing Act).

"(48) The term 'registered broker or dealer' means a broker or dealer registered or required to register pursuant to section 15 or 15B of this title, except that in paragraph (3) of this subsection and sections 6 and 15A the term means such a broker or dealer and a government securities broker or government securities dealer registered or required to register pursuant to section 15C(a)(1)(A) of this title."

(e) ENFORCEMENT AND DISCIPLINE.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended—

(1) in paragraph (4)(A), by inserting "or with any other appropriate regulatory agency" after "Commission" the first time it appears therein;

(2) in paragraph (4)(B), by inserting in clause (ii) thereof "government securities broker, government securities dealer," after "municipal securities dealer";

(3) in paragraph (4)(C), by striking out "or municipal securities dealer," and inserting in lieu thereof "municipal securities dealer, government securities broker, or government securities dealer"; and

(4) in paragraph (8)—

(A) by striking out "any broker or dealer required to register pursuant to this title" and inserting in lieu thereof "any registered broker or dealer"; and

(B) by striking out "an exempted security".

(f) NET CAPITAL.—Section 15(c)(3) of such Act (15 U.S.C. 78c(c)(3)) is amended—

(1) by inserting "(other than a government securities broker or government securities dealer, except a registered broker or dealer)" after "dealer"; and

(2) by inserting "(except a government security)" after "exempted security".

(g) REGISTERED SECURITIES ASSOCIATIONS.—(1) Section 15A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(f)) is amended to read as follows:

"(f)(1) Except as provided in paragraph (2) of this subsection, nothing in this section shall be construed to apply with respect to any transaction by a registered broker or dealer in any exempted security.

"(2) A registered securities association may adopt and implement rules applicable to members of such association (A) to enforce compliance by registered brokers and dealers with applicable provisions of this title and the rules and regulations thereunder, (B) to provide that its members and persons associated with its members shall be appropriately disciplined, in accordance with subsections (b)(7), (b)(8), and (h) of this section, for violation of applicable provisions of this title and the rules and regulations thereunder, (C) to provide for reasonable inspection and examination of the books and records of registered brokers and dealers, (D) to provide for the matters described in paragraphs (b)(3), (b)(4), and (b)(5) of this section, (E) to implement the provisions of subsection (g) of this section, and (F) to prohibit fraudulent, misleading, deceptive, and false advertising.

"(3) Nothing in subsection (b)(6) or (b)(11) of this section shall be construed to permit a registered securities association to make rules concerning any transaction by a registered broker or dealer in a municipal security."

(2) Section 15A(g) of such Act (15 U.S.C. 78o-3(g)) is amended—

(A) by inserting after paragraph (3)(C) the following:

"(D) Nothing in subparagraph (A), (B), or (C) of this paragraph shall be construed to permit a registered securities association to deny membership to or condition the membership of, or bar any person from becoming associated with or condition the association of any person with, a broker or dealer that engages exclusively in transactions in exempted securities."

(B) by redesignating paragraph (4) as paragraph (5); and

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

"(4)(A) A registered securities association may deny membership to, or condition the membership of, a government securities broker or government securities dealer if such government securities broker or government securities dealer (i) does not meet standards of financial responsibility under rules adopted pursuant to section 15C(b)(1)(A) of this title, or (ii) has engaged and there is a reasonable likelihood that it will again engage in any conduct or practice which would subject such government securities broker or government securities dealer to sanctions under section 15C(c) of this title. A registered securities association may establish procedures including examination of the books and records of government securities brokers and government securities dealers to verify compliance with the provisions of this title and the rules thereunder.

"(B) A registered securities association may bar any person from becoming associated with a member or condition the association of a person with a member (i) if such person has engaged in any conduct or practice and there is a reasonable likelihood that such person will again engage in any conduct or practice which would subject such person to sanctions under section 15C(c) of this title, or (ii) if such person does not agree to supply such association with such information with respect to its relationship and dealings with the member as may be specified in the rules of the association and to permit examination of its books and records to verify the accuracy thereof."

(h) FILING OF AND ACCESS TO DOCUMENTS.—Section 17(c) of the Act (15 U.S.C. 78q(c)) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission or the appropriate regulatory agency may specify that documents required to be filed pursuant to this subsection with the Commission or such agency, respectively, may be retained by the originating clearing agency, transfer agent, or municipal securities dealer, or filed with another appropriate regulatory agency. The Commission or the appropriate regulatory agency (as the case may be) making such a specification shall continue to have access to the document on request."

(i) LOST AND STOLEN SECURITIES.—Section 17(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)) is amended—

(1) in paragraph (1) by inserting "government securities broker, government securities dealer," after "municipal securities dealer,";

(2) in paragraph (1)(A), by inserting "and, in the case of government securities, to the Secretary of the Treasury" after "Commission" the second time it appears; and

(3) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding the following new subparagraph:

"(B) In order to carry out the authority under paragraph (1) of this subsection, the Commission or its designee and the Secretary of the Treasury shall enter into an agreement whereby the Commission or its designee will receive, store, and disseminate information in the possession, and which comes into the possession, of the Department of the Treasury in regard to missing, lost, counterfeit, or stolen securities."

(j) BURDEN ON COMPETITION; PUBLIC RULE-MAKING REQUIREMENTS.—Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended—

(1) by inserting "and the Secretary of the Treasury" after "Commission" each place it appears in paragraph (2);

(2) by inserting "or the Secretary's" after "Commission's" in paragraph (2);

(3) by inserting "and the Secretary" after "Commission" the first, second, and fourth places it appears in paragraph (3); and

(4) by inserting "or the Secretary" after "Commission" the third place it appears in paragraph (3).

(k) JUDICIAL REVIEW OF ORDERS AND RULES.—Section 25(d)(1) of the Act (15 U.S.C. 78y(d)(1)) is amended by inserting before the period at the end thereof the following: "and the Secretary of the Treasury insofar as he is acting pursuant to section 15C of this title".

(l) INVESTMENT COMPANIES: DISQUALIFICATIONS.—Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by striking out paragraphs (1) and (2) of subsection (a) and inserting in lieu thereof the following:

"(1) any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or";

(2) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(2); and

(3) by inserting "or of the Commodity Exchange Act," after "this title," in subsection (b)(3).

(m) INVESTMENT ADVISERS: DISQUALIFICATIONS.—Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended—

(1) by striking out "or fiduciary" in subsection (e)(2)(B) and inserting in lieu thereof "government securities broker, government securities dealer, fiduciary, or entity or person required to be registered under the Commodity Exchange Act";

(2) by striking out paragraph (3) of subsection (e) and inserting in lieu thereof the following:

"(3) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security."; and

(3) by inserting "the Commodity Exchange Act," after "this title," in paragraph (4) of subsection (e).

SEC. 103. STUDIES AND RECOMMENDATIONS WITH RESPECT TO EXTENSION OF TREASURY AUTHORITY.

(a) TASK FORCE RECOMMENDATION.—The Secretary of the Treasury, together with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall evaluate the effectiveness of the rules promulgated pursuant to section 15C of the Securities Exchange Act of 1934

in effecting the purposes of such Act, and shall submit to the Congress, not later than October 1, 1990, their recommendation with respect to the extension of the Secretary's authority under such section and such other recommendations as they may consider appropriate.

(b) COMPTROLLER GENERAL STUDY AND RECOMMENDATIONS.—The Comptroller General shall conduct a study of the regulation of government securities brokers and government securities dealers pursuant to section 15C of the Securities Exchange Act of 1934 and the effectiveness of the amendments made by this Act in protecting investors and in effecting the purposes described in section 15C(b)(2), and shall submit to the Congress, not later than March 31, 1990, his recommendations with respect to the extension of the Secretary's authority under such section and such other recommendations as he may consider appropriate.

SEC. 104. STUDY OF TRADING SYSTEM FOR GOVERNMENT SECURITIES.

(a) REQUIREMENTS FOR STUDY.—The Comptroller General, in coordination and consultation with the Board of Governors of the Federal Reserve, the Secretary of the Treasury, and the Commission, shall study the nature of the current trading system in the secondary market for government securities, including—

(1) the extent and form of availability of bids and asks for government securities transactions on a real time basis;

(2) the extent and form of the availability of government securities brokers' services in the secondary market; and

(3) whether quotations for government securities and the services of government securities brokers are available on terms which are consistent with the public interest, the protection of investors, and the purposes of this title.

(b) PUBLIC HEARINGS.—In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(c) REPORT AND RECOMMENDATIONS.—The report of the Comptroller General shall be submitted to the Congress no later than 6 months after the date of enactment of this Act.

SEC. 105. SECURITIES AND EXCHANGE COMMISSION LEGISLATION STUDY.

(a) GENERAL REQUIREMENTS.—The Securities and Exchange Commission is authorized and directed to make a study of the use of the exemption contained in section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) for securities guaranteed by banks, and of the use of insurance policies to guarantee securities. Such study shall include an analysis of—

(1) the impact of the guarantee provision of such section 3(a)(2) on investor protection and the public interest;

(2) the impact of the guarantee provision of such section 3(a)(2) on competition between banks and insurance companies and between domestic and foreign guarantors;

(3) whether, and under what circumstances, debt securities guaranteed by insurance policies should be exempt from registration under the Securities Act of 1933;

(4) an analysis of the impact of such an exemption on investor protection and the public interest; and

(5) such other issues as the Commission deems relevant.

(b) **CONSULTATION.**—In conducting the study required by subsection (a), the Commission shall consult with and solicit comment from the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and other Federal bank regulatory agencies.

(c) **REPORT.**—The Securities and Exchange Commission shall, on or before 6 months after the date of enactment of this Act, submit a report to the Congress containing—

- (1) the results of its study under this section;
- (2) the actions it proposes to take on the basis of its study; and
- (3) recommendations for legislation.

TITLE II—DEPOSITORY INSTITUTIONS

SEC. 201. DEPOSITORY INSTITUTIONS.

(a) **AMENDMENT TO CHAPTER 31 OF TITLE 31, UNITED STATES CODE.**—Section 3121 of title 31, United States Code, is amended by adding at the end thereof the following:

"(h)(1) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations issued under this chapter, and obligations otherwise issued or guaranteed as to principal or interest by the United States. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(2) Violation of a regulation prescribed under paragraph (1) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration Board.

"(3) Nothing in this subsection shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(4) The Secretary shall, prior to adopting regulations under this subsection, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this subsection, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this subsection.

"(5) As used in this subsection—

"(A) 'depository institution' has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

"(B) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

"(C) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(D) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934."

(b) **AMENDMENTS TO CHAPTER 91 OF TITLE 31, UNITED STATES CODE.**—Chapter 91 of title 31, United States Code, is amended—

(1) by adding at the end thereof the following:

"§ 9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers

"(a) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations that are government securities described in subparagraph (B) or (C) of section 3(a)(42) of the Securities Exchange Act of 1934. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

"(b) Violation of a regulation prescribed under subsection (a) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration Board.

"(c) Nothing in this section shall be construed to affect in any way the powers of such agencies under any other provision of law.

"(d) The Secretary shall, prior to adopting regulations under this section, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this section, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this section.

"(e) As used in this subsection—

"(1) 'depository institution' has the meaning stated in clauses (i) through (vi) of subparagraph 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

"(2) 'government securities broker' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

"(3) 'government securities dealer' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

"(4) 'appropriate regulatory agency' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934."; and

(2) by adding at the end of the chapter analysis the following:

"9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers."

TITLE III—TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 301. TRANSITIONAL AND SAVINGS PROVISIONS.

(a) **EFFECT ON PENDING ADMINISTRATIVE PROCEEDINGS.**—The provisions of this Act shall not affect any proceedings pending on the effective date of this Act.

(b) **EFFECT ON PENDING JUDICIAL PROCEEDINGS.**—The provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(c) **DISCRETION OF THE FEDERAL RESERVE BANK OF NEW YORK.**—Nothing in this Act shall be construed to limit or impair the discretion or authority of the Federal Reserve Bank of New York to require reports or establish terms and conditions in connection with the Bank's relationship with any government securities broker or government securities dealer, including a primary dealer.

(d) **JURISDICTION OF THE COMMODITY FUTURES TRADING COMMISSION.**—Nothing in this Act affects the jurisdiction of the Commodity Futures Trading Commission as set forth in the Commodity Exchange Act over trading of commodity futures contracts and options on such contracts involving government securities.

TITLE IV—EFFECTIVE DATES

SEC. 401. GENERAL EFFECTIVE DATES.

Except as provided in section 402, this Act and the amendments made by this Act shall take effect 270 days after the date of enactment of this Act.

SEC. 402. EFFECTIVE DATE AND REQUIREMENTS FOR REGULATIONS.

Notwithstanding section 401, the Secretary of the Treasury and each appropriate regulatory agency shall, within 120 days after the date of enactment of this Act, publish for notice and public comment such regulations as are initially required to implement this Act, which regulations shall become effective as temporary regulations 210 days after the date of enactment of this Act and as final regulations not later than 270 days after the date of enactment of this Act.

SEC. 403. REGISTRATION DATE.

No person may continue to act as a government securities broker or government securities dealer after 270 days after the date of enactment of this Act unless such person has been registered or has provided notice to the Commission or the appropriate regulatory agency as required by the amendment made by section 101 of this Act.

● **Mr. GARN.** Mr. President, for several years, savings institutions have been attempting to resolve a serious problem that is interfering with their ability to take full advantage of certain new powers they have been granted. Specifically, they have been impeded in their efforts to issue signature guarantees because of the unwillingness of stock transfer agents to accept signature guarantees from thrifts. There is no basis for this refusal, which continues notwithstanding advice from the SEC's Division of Market Regulation that discrimination among signature guarantors solely by reference to the

type of financial institutions issuing the guarantee appears to be inconsistent with State and Federal law. Although the SEC has attempted to resolve this situation on a voluntary basis, insufficient progress has been made.

Accordingly, the committee expects the SEC to move promptly to issue regulations to remedy this situation. These regulations should require that transfer agents apply the same reasonable standards to all institutions, including securities exchanges, banks, savings institutions, credit unions and similar institutions, in evaluating the acceptability of their signature guarantees. Regulatory agencies such as the SEC should exercise their regulatory authority to prevent the disparate treatment of thrift institutions with regard to signature guarantees.

Because savings institutions historically have been overwhelmingly mutual in form, their involvement with the SEC over the years has been minimal. This situation has been changing, however, as more and more thrifts have converted to stock charters in order to improve their capital positions, and as the industry has become more active in the capital markets generally. Although the Federal Home Loan Bank Board has primary responsibility for the securities regulation of thrifts, that agency basically follows SEC rules and procedures, and the SEC has direct securities jurisdiction over savings and loan holding companies. Nevertheless, the level of familiarity between the SEC and thrift institutions could be increased.

Given the well-known financial problems of the savings institution industry, and significance of this industry for the Government and the public, it is extremely important that the SEC be cognizant of the impact of its actions on thrift institutions. While such institutions can participate in the public comment process associated with SEC rulemaking proceedings, we believe the need for increasing the degree of industry-agency understanding is sufficiently great to warrant creation by the SEC of a Savings Institutions Advisory Committee, and it is our expectation that the agency will act very promptly to establish one.

The Committee would consist of knowledgeable industry representatives who would meet with the SEC Chairman and Commissioners, as well as key SEC staff, on a regular basis to discuss matters of joint interest and importance, and should be large enough to assure diversity of membership—there should be at least two members from each of the twelve Federal Home Loan Bank districts.

It should be noted that the Federal Reserve Board for several years has had a body of this kind in place—the Thrift Industry Advisory Committee—and it has been very successful as a

device for enhancing the quality of industry-agency communication.●

● Mr. D'AMATO. I would like to engage now in a brief colloquy with Senator GARN to establish legislative history on a point that has been of concern to me for some time. Specifically, I would like to establish that it is the sense of the Senate that it is extremely important given the problems besetting the thrift industry and that industry's increasing involvement with the SEC, that the SEC take steps to create a Savings Institutions Advisory Committee.

● Mr. GARN. I agree that such committee would do much in raising the level of familiarity between the SEC and the thrift industry, to the benefit of both as well as of the general public. The Federal Reserve Board established a body of this sort several years ago, the Thrift Industry Advisory Committee, which has been very successful as a device for improving the quality of industry-agency communications. Senator D'AMATO, could you give us some idea of how the committee you envision would operate?

● Mr. D'AMATO. Certainly, the committee would consist of knowledgeable thrift industry representatives who would meet with the SEC Chairman and Commissioners, as well as key SEC staff, on a regular basis to discuss matters of joint interest and importance. The committee should be large enough to assure diversity of membership, with at least two members from each of the 12 Federal Home Loan Bank districts.

● Mr. GARN. The idea of a committee is an excellent one. The Senate anticipates that the SEC should move very promptly to establish the Savings Institutions Advisory Committee in accordance with your description.

● Mr. D'AMATO. I would like at this time to engage in a colloquy with Senator GARN to establish legislative history on a point of considerable concern to me. Specifically, I would like to ask the Senator whether in his view adequate progress has been made in resolving the problem created by the unwillingness of stock transfer agents to accept savings institutions' signature guarantees.

● Mr. GARN. The answer is no. Despite the efforts of the SEC to achieve a voluntary end to this disparate treatment, very little improvement has occurred. There is simply no basis for the refusal of stock transfer agents to accept thrifts' signature guarantees, and I believe the time has come for the SEC to solve the problem by regulation.

● Mr. D'AMATO. I agree with the Senator. The SEC should use its authority to issue regulations that will assure that transfer agents apply the same reasonable standards to all institutions, including securities exchanges, banks, savings institutions,

credit unions, and similar institutions, in evaluating the acceptability of their signature guarantees.

● Mr. GARN. The Senator is correct. This completely reflects the sense of the Senate on this issue, in my opinion. Regulatory agencies such as the SEC should use their regulatory authority to remedy the current inequities that exist with regard to the acceptability of signature guarantees.●

● Mr. D'AMATO. Mr. President, I rise to urge my colleagues to support the Government Securities Act of 1986. Passage of this legislation is the culmination of a process that began over a year ago. Each provision of the bill has been carefully crafted because this legislation will have a profound effect on the manner in which the Department of the Treasury finances and manages the Federal debt. The bill that we enact today will ensure that the market in U.S. Government securities, the largest securities market in the world, will remain the safest, the most efficient, stable, and liquid securities market in the world. Maintaining investor confidence and the integrity of the market in these securities is of paramount importance to the effective, low-cost financing of the national debt.

The importance of this legislation cannot be underestimated. Given the depth and breadth of the Government securities market, the Government Securities Act of 1986 is perhaps the most important Securities legislation since the enactment of the Securities Act of 1933—Securities Act—and the Securities Exchange Act of 1934—Exchange Act. The Government Securities Act of 1986 would provide, through an amendment to the Exchange Act, a comprehensive and coordinated pattern for the regulation of brokers, dealers, and financial institutions trading Government securities. The lack of Federal regulation of the conduct of Government securities professionals and the trading market for Government securities has encouraged the proliferation of fraudulent practices resulting in substantial losses to investors. Such a result presents a serious threat to the integrity of the capital-raising system upon which the U.S. Government relies to finance the Federal debt and to conduct monetary policy.

The market in U.S. Government securities is expanding, increasingly active, in recent years increasing volatile and, ironically, the least regulated securities market in this country. The expansion and volatility of the market has been driven by the amount of Federal debt to be financed, both new debt resulting from Government deficits and old debt that must be refinanced. The absence of a coordinated regulatory structure for this market generally, and specifically for unregis-

tered brokers and dealers, was cited in testimony before the Securities Subcommittee as a major factor in the recent failures of Government securities dealers. This legislation was necessitated by the failures of several unregistered Government securities dealers with losses to investors in excess of \$1 billion.

Between July 1975 and April 1985, several failures of unregistered Government securities dealers have occurred. The failures include Financial Corp. of Kansas City, MO, 1975; Winters Government Securities, 1977; Drysdale Government Securities, 1982; Lombard-Wall, 1982; Comark, 1982; Lion Capital Group, Inc., 1984; and most recently E.S.M. Government Securities, Inc. and Beville, Bresler & Schulman Asset Management Corp., 1985. All of the dealer failures occurred in firms outside of the Federal regulatory structure.

After extensive hearings that addressed the appropriate form of regulation of the Government securities markets, two legislative proposals—S. 936 and S. 1416—were introduced in the Senate. After these hearings and many hours of exhaustive study, debate, and analysis of these proposals by my colleagues, committee staff and representatives of the Federal regulatory agencies and Government securities industry, substantial amendments were made to S. 1416 by the time it was considered by the Senate Committee on Banking, Housing, and Urban Affairs.

As a result of the deliberations on this issue, the committee determined that legislation regulating the Government securities market must accomplish three purposes: First, the legislation should contain certain safeguards to maintain a fair and orderly market in Government securities; second, the regulation of the Government securities market should not adversely affect the liquidity and efficiency of the market; and third, the legislation should, where possible, rely upon existing regulation, since many Government securities brokers and dealers are already subject to some of Federal regulation. The legislation which we consider today is specifically designed to satisfy these requirements and to protect the public interest in the Government securities market. Because the legislation addresses identified weaknesses in the Government securities market, it would not result in excessive regulation that would impair the efficient operation of the market, increase the costs of financing the Federal debt or compromise the execution of domestic monetary policy.

On August 13, 1986, S. 1416—containing the committee amendment—was unanimously reported from the Banking Committee. The substance of S. 1416 was offered and accepted by the Senate as an amendment to H.R.

2032. Therefore, the language of S. 1416 as reported by the Senate Banking Committee was offered and passed as an amendment which struck the language of H.R. 2032 as passed by the House on September 17, 1986. H.R. 2032, containing the Senate amendment subsequently passed the Senate on September 16, 1986. The legislation that we consider this morning is, with a few modifications, almost identical to the bill that was passed by the Senate on September 16, 1986. These few modifications to H.R. 2032 as passed by the Senate are reflected in an amendment which was passed by the House under House Resolution 547 on October 6, 1986. House Resolution 546 provided for the concurrence of the House to amendments of the Senate to H.R. 2032 with an amendment.

Without providing an exhaustive explanation of the House amendment before the Senate, I think an explanation of some of the most important provisions of H.R. 2032, in its present form, is required.

In its present form the legislation adds a new section to the Exchange Act, section 15C, and provides for various conforming amendments to the Exchange Act, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. The legislation requires currently unregulated Government securities brokers and dealers to register with the Commission and other Government securities brokers and dealers, specifically registered brokers and dealers and financial institutions, to file a notice with their appropriate regulatory agencies.

In addition, the bill grants specific rulemaking authority to the Secretary of the Treasury to adopt rules regarding: financial responsibility including capital adequacy, custody and use of customers' securities, and the transfer and control of Government securities in repurchase transactions; financial statements; and recordkeeping exemptions from registration. The enforcement of these rules would be the responsibility of the Commission as to currently registered brokers and dealers and those Government securities brokers and dealers required to register with the Commission under the bill. The enforcement of the rules promulgated by the Secretary would be the responsibility of other appropriate regulatory agencies as to banks and other institutions specified in the bill.

Government securities would continue to be treated as exempted securities for purposes of the Exchange Act except for section 17A of the Exchange Act. Therefore, a registered securities association would have no new authority with respect to Government securities brokers, Government securities dealers, or Government securities transactions except as specifically

authorized in the bill or as already exists under current law.

The legislation invests the Secretary with the rulemaking authority due to the expertise of the Treasury in these markets and to ensure that the rules will accomplish the purposes of the bill. I am confident that the Secretary possesses the exquisite expertise and the commitment to pursue fully and faithfully the rulemaking authority granted in this legislation.

Since rulemaking authority is vested in the Secretary, the establishment of a new self-regulatory organization as required by the original House bill becomes unnecessary. Moreover, the legislation affords significant advantages over granting rulemaking authority to an existing self-regulatory organization such as the Municipal Securities Rulemaking Board [MSRB]. The creation of a new self-regulatory organization would fail to take advantage of existing regulatory structures and would be unnecessarily duplicative and expensive. To grant rulemaking authority to the MSRB, or a self-regulatory organization created specifically to regulate the Government securities market, would be unwarranted.

The legislation would grant to the Secretary specific rulemaking authority in the areas of financial responsibility and related practices, financial statements, recordkeeping, and exemptions from registration. Rulemaking authority in additional areas does not appear to be necessary to address the weaknesses that have been identified in the Government securities market. The Secretary, in exercising rulemaking authority under the bill, will account for the differences between types of transactions engaged in by brokers or dealers participating solely in the markets for securities of Government agencies and Government-sponsored corporations and transactions of brokers or dealers participating in the general market in Government securities.

In adopting rules under section 15C, the Secretary must consider the adequacy of rules already applicable to Government securities brokers and Government securities dealers. The provisions of section 15C(a)(4) together with section 15C(b)(3) authorize the Secretary to exempt Government securities brokers or dealers from the rules under section 15C in areas where such brokers or dealers already are adequately regulated. As a result, the Secretary should be able to avoid applying duplicative and unnecessarily costly requirements to brokers and dealers registered under section 15 of the Exchange Act and financial institutions, which are already subject to Federal regulations in areas covered by section 15C(b)(1). This exemptive authority is intended to avoid, to the maximum extent consistent with

achieving the objectives of the bill, subjecting registered broker-dealers and financial institutions to conflicting or unnecessary regulation in the areas of financial responsibility or recordkeeping.

To preserve flexibility and to guard against the negative effects on the efficiency and liquidity of the government securities markets, the Secretary would also be empowered to exempt any Government securities broker or dealer or class of Government securities broker or dealer from registration or any rules or regulations that the Secretary promulgates pursuant to this legislation.

The business relationship the Federal Reserve Bank of New York has with primary dealers—and those seeking to become primary dealers—is protected by this legislation.

Although no formal conference was convened to reconcile the differences between H.R. 2032 as passed by the House and H.R. 2032 containing the Senate amendment—which passed the Senate on September 16, 1986—staffs from both bodies conducted extensive negotiations and ultimately reconciled the differences between the two bills. No formal conference was required due to the acceptance of most of the Senate amendments to H.R. 2032. I thank my colleagues in the Senate and the House, especially Congressman DINGELL, for their efforts to resolve their differences in such an expeditious and considerate manner.

Since no formal conference met, thereby obviating the need for a conference report, an explanation of those few House amendments made in to the Government Securities Act, as passed by the Senate, is required. The statement of the chairman and ranking minority member of the Banking Committee and the chairman and ranking minority member of the Securities Subcommittee which appears at the end of my remarks identifies those few provisions of the Government Securities Act, as passed by the Senate, which were amended by the House in accordance with House Resolution 547. As detailed in the statement, these amended provisions affect: First, the duration of the Secretary's rulemaking authority; second, the scope of the rulemaking authority; third, the registration requirements for primary dealers; fourth, the registration requirements for clearing agencies; and fifth, inclusion of a study regarding the blind broker trading system that was contained in H.R. 2032 as passed by the House on September 17, 1986. For those provisions unique to the Senate bill that were not modified by the House amendment in accordance with House Resolution 547, the Senate report—Report 99-426—which accompanied S. 1416 explains those provisions of the Government Securities

Act as passed by the Senate on September 16, 1986.

While the statement that appears at the conclusion of my remarks is intended to provide guidance regarding the House amendment to the bill approved by the Senate on September 16, 1986, I would like to explain the significance of a few of these amendments to the bill as reported by the Senate. Briefly, I would like to address five points.

First, the provision in the legislation addressing the registration of clearing agencies is not designed to single out one specific company that would be required to register under section 17A of the Exchange Act. In providing for the applicability of the registration and other requirements of section 17A of the Securities Exchange Act to clearing agencies for Government securities, the Commission has broad authority under section 17A—as well as under section 23—to take into account the distinctions between membership clearing agencies and proprietary clearing agencies. In the report accompanying S. 249, the Securities Act Amendments of 1975, the legislation which first provided for the regulation of clearing agencies, the committee stated—at pages 124-125—that:

The rules of the clearing agency must assure fair representation of its shareholders (or members) and participants in the decision making process of the clearing agency. (17A(b)(3)(c)) The reference to shareholders or members makes it clear that the bill establishes no norm as to whether clearing agencies should or should not be operated for profit. The bill makes no attempt to set up particular standards of representation or participation. Rather, it provides that the Commission must assure itself that the rules of the clearing agency regarding the manner in which decisions are made give fair voice to participants as well as to shareholders or members.

In light of the foregoing, the Commission, under the expanded scope of section 17A, should recognize distinctions between proprietary and membership clearing agencies, and exercise its discretionary authority to interpret and adapt the requirements of section 17A, where appropriate, to proprietary clearing agencies for Government securities.

Second, new section 15C(b)(2) of the Securities Exchange Act of 1934, as added by the bill, provides certain guidelines regarding the nature of the rules to be proposed and adopted by the Secretary under section 15C(b)(1). These guidelines are not intended, however, either to expand or to limit the scope of the Secretary's rulemaking authority under the bill.

Third, the new definition of "registered broker or dealer" added by the bill would encompass those intrastate brokers and dealers—within the definitions in existing sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934—who are required to register

under section 15B but not under section 15 of that act, and is not intended to cover banks or separately identifiable departments or divisions of banks that do not fall within the definition of broker or dealer.

Fourth, this bill and the existing legal structure, as well as the successful working relationships between the Treasury, the Federal Reserve Board and the Government securities industry, are adequate to deal with such issues as when-issued trading and margin and other issues—such as operational capability—not expressly referred to in the areas of rulemaking set out in the bill.

Finally, one provision of H.R. 2032 as passed by the Senate on September 16, 1986, section 208, has been deleted from the legislation presently pending before the U.S. Senate. Section 208, which was the subject of much discussion subsequent to its passage by the Senate, would have provided that debt securities guaranteed by an insurance policy of the highest rating would have been exempt from the registration requirements of the Securities Act of 1933. This provision was not intended to exempt such securities from any other provisions of the securities laws.

Section 208 arose from the competitive inequities created by the ability of banks, under section 3(a)(2) of the Securities Act of 1933, to issue letters of credit assuring payment to investors of interest and principal of corporate debt instruments. Because a bank letter of credit protects security holders from default by the bond's issuer, the Securities Act of 1933 exempts those bonds from registration. However, securities covered by insurance policies do not receive the same treatment. Securities guaranteed by an insurance policy would not qualify for an exemption from registration under section 3(a)(2) of the Securities Act of 1933 since the promise of indemnification comes from an insurance company and not a bank. The Securities Act's exemptive provisions do not apply to securities backed by insurance policies and, therefore, issuers have to register those securities with the SEC.

Since the Comptroller of the Currency has determined that guarantees provided by bank letters of credit and insurance policies are functional equivalents, there is much merit to the argument that securities covered by insurance policies be treated in the same manner as securities guaranteed by bank letters of credit. Like bank letters of credit, insurance policies would offer similar protections to purchasers of corporate debt by insuring payments of interest and principal. However, the Securities Act's distinction between bank and insurance company guarantees makes it virtually im-

possible for insurance companies to provide cost-effective coverage to issuers and raises important competitive issues.

Section 208 was deleted from the legislation because it was a legislative proposal that required further analysis and refinement. Such a detailed examination was not possible during the waning days of the 99th Congress. Although the concept embodied in section 208 was worthwhile, time limitations prevented the formulation of legislative language that would permit securities guaranteed by an insurance policy of the highest rating to be treated in the same manner, with regard to the registration requirements of the Securities Act of 1933, as securities guaranteed by a bank letter of credit.

While the language of section 208 may have been imprecise, it caused the Congress and the SEC to focus upon the competitive inequities that presently exist under the Securities Act of 1933 between securities guaranteed by insurance policies and securities guaranteed by a bank letter of credit. Realizing the need for more study of this proposal, as chairman of the Securities Subcommittee, I asked the SEC to make recommendations on legislative proposals which would improve upon section 208 and would solve the competitive inequities created by the Securities Act while maintaining investor protection. The SEC should be commended for its expeditious response to the subcommittee's inquiry. Therefore, I would like to place into the RECORD the SEC's response to the subcommittee's inquiry to acknowledge the Commission's efforts.

Further, section 105 of the bill pending before us directs the SEC to conduct a study of section 3(a)(2) of the Securities Act of 1933 which exempts from registration securities that are guaranteed by banks. The scope and purpose of this study are articulated in section 105 of the bill. It is incumbent upon the Banking Committee, and specifically the Securities Subcommittee, to hold hearings to determine whether the current statutory scheme is adequate or whether section 3(a)(2) requires amendment to enhance competition among the providers of financial services in a manner consistent with the protection of investors and the public.

The statement describing the differences between H.R. 2032 as amended by the Senate on September 16, 1986, and the concurrence of the House, with an amendment to the Senate amendments to H.R. 2032 provided by House Resolution 547, which I referred to earlier in my remarks is provided below. Again, I urge my colleagues to support this legislation because it would provide comprehensive regulation of Government securities brokers and Government securities

dealers and would not impair the efficiency or liquidity of the market in Government securities.

The material follows:

H.R. 2032, THE GOVERNMENT SECURITIES ACT OF 1986

On September 17, 1985, the House passed H.R. 2032, the Government Securities Act of 1985, and, on September 16, 1986, the Senate passed the bill with an amendment. On October 6, 1986, the House passed House Resolution 574 providing for the concurrence of the House to amendments of the Senate to the bill (H.R. 2032) with an amendment. In lieu of a conference report, this floor statement represents the views of the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs, and the chairman and ranking minority member of the Subcommittee on Securities and is intended to serve as the legislative history, along with S. Rpt. 99-426 (September 3, 1986) and CONGRESSIONAL RECORD (September 16, 1986) at S12699-S12706 and H. Rpt. 99-258 (September 9, 1985) and CONGRESSIONAL RECORD (September 17, 1985) at H7479-H7490.

ANALYSIS OF MAJOR PROVISIONS

The Rulemaker.—The amendment grants specific rulemaking authority to the Secretary of the Treasury (Secretary) and provides that the authority of the Secretary to issue orders and to propose and adopt rules shall terminate on October 1, 1991. All orders and rules which have been issued or adopted by the Secretary and which are in effect on the sunset date shall continue in effect according to their terms.

It is our intent and belief that, should Congress fail to renew or transfer this authority by October 1, 1991, the Secretary has the authority to respond to emergency situations and make technical corrections beyond October 1, 1991, pursuant to the Secretary's authority to interpret such rules. The government securities market is vital to the financing of the national debt and the implementation of monetary policy. For this reason, we believe that responsible regulation of this market will be a continuing necessity.

In this regard, the amendment requires certain studies and recommendations with respect to extension of the rulemaking authority of the Department of Treasury (Treasury). The Comptroller General is authorized and directed to conduct a study of the regulation of government securities brokers and government securities dealers and the effectiveness of the amendments made by the legislation, and submit a report, not later than March 31, 1990, with recommendations with respect to, among other things, the extension of the Secretary's authority.

The Secretary, together with the Securities and Exchange Commission (SEC) and the Board of Governors of the Federal Reserve System (Federal Reserve Board) are charged to evaluate the effectiveness of the rules promulgated and submit to Congress, not later than October 1, 1990, their recommendation with respect to, among other things, the extension of the Secretary's authority. Although the Committee expects the Task Force recommendation required by section 103 to reflect a consensus, the Committee understands that such unanimity, while desirable, is not always attainable. Therefore, the recommendation, if appropriate, will contain any divergent viewpoints of the Task Force participants.

These studies and recommendations, along with effective oversight and hearings

over the intervening five years, will form the basis for a fair and timely evaluation of the extension or transfer of the Secretary's authority in order to provide the government securities markets with certainty and continuity.

The Rules.—The amendment maintains the core rulemaking areas agreed to by the House and Senate versions of the bill. These include: financial responsibility, record-keeping and financial statement rules, including the requirement to file annually or more frequently a balance sheet and income statement certified by an independent public accountant. The amendment drops specific reference to rulemaking authority relating to when-issued trading in government securities since the Secretary currently possesses that authority under 31 USC subsection 3121. Furthermore, we believe that our concerns about operational capability and margin can be addressed through capital adequacy requirements and early warning rules.

The amendment incorporates the House positive and negative standards and prohibitions, along with two Senate requirements, for Treasury rulemaking, including authority to classify, a requirement to consult with the SEC and the Federal Reserve Board, and a requirement that the rules not be designed to permit unfair discrimination between customers, issuers, government securities brokers or government securities dealers, or to impose any unnecessary or inappropriate burden on competition. Further, the rules, as specified under the rulemaking authority under 15C(b)(2), will be designed to prevent fraudulent and manipulative acts and practices.

In order to avoid duplicative rulemaking, the amendment also requires the Secretary to consider the sufficiency and appropriateness of existing laws and rules of appropriate regulatory agencies which, to varying degrees, exercise some existing authority over the entities affected by this legislation. For example, the SEC has promulgated extensive net capital and other related rules with respect to currently registered brokers and dealers that will probably be sufficient for government securities brokers and government securities dealers that are currently registered with the SEC.

Registration.—The amendment requires unregulated government securities brokers and government securities dealers to register with the SEC. The amendment requires currently registered brokers and dealers and financial institutions to file a notice with their appropriate regulatory agencies. The Federal Reserve Board shall, after consultation with the appropriate regulatory agencies, prescribe a common notice form for financial institutions in order to ensure the necessary and appropriate consistency in form and content. The amendment does not create an exemption for the so-called primary dealers. Although the Secretary does have authority to exempt and to develop appropriate classifications of registrants, primary dealer status alone should not be a sufficient basis for such a classification.

Clearing Agencies.—The amendment includes the House provision to require clearing agencies, as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, to register with the SEC pursuant to Section 17A of the Securities Exchange Act of 1934. Under this amendment, for example, the MBS Clearing Corporation, the proposed Federal National Mortgage Association clearing corporation and the subsidiary established by Security Pacific Corporation to

provide clearing functions with respect to government securities options would be required to register with the SEC pursuant to Section 17A. We believe that this treatment is consistent with the general purpose of H.R. 2032 to ensure that adequate public safeguards exist for transactions in government securities.

Studies.—The amendment retains the House provision for a study of the current blind broker trading system in the secondary market for government securities and a report to the Congress by the Comptroller General. It is essential that Congress have sufficient information available to it to facilitate an evaluation of whether quotations for such securities and the services of government securities brokers are available on terms which are consistent with the Exchange Act and the public policy goals of H.R. 2032.

The amendment also includes a requirement that the SEC study the use of the exemption contained in section 3(a)(2) of the Securities Act of 1933 for securities guaranteed by banks, and the use of insurance policies to guarantee securities in competition with banks. We are concerned about broad application of the principle of national treatment under the International Banking Act and recent administrative interpretations which raise competitive and investor protection questions as regards the applicability of the federal securities laws to foreign and domestic banks and domestic financial guarantee insurance companies. We anticipate that at least one public hearing shall be held during the course of conducting the study and that the views of the Department of State and insurance and banking industry representatives will be solicited. It is our intent that there be Congressional hearings as soon as practicable after receipt of the SEC's report.

U.S. SECURITIES AND
EXCHANGE COMMISSION.

Washington, DC, October 6, 1986.

HON. ALFONSO M. D'AMATO,
Chairman, Securities Subcommittee, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN D'AMATO: With reference to Section 208 of the Government Securities Act of 1986, this letter summarizes four alternative approaches, including revised language concerning the proposed amendment that you provided on October 1st.

Section 208 and the October 1 proposed amendment address the competitive disparities between bank and insurance company guarantees. On October 2, the Commission carefully reviewed the October 1 proposed amendment and various alternatives. The Commission recognized that repeal of the bank exemption from registration under Section 3(a)(2) of the Securities Act would effectively resolve the competitive disparity issue.

If Congress does not repeal the bank exemption, the Commission can revisit the question of whether bank letters of credit should continue to be treated as "guarantees" for purposes of the Section 3(a)(2) exemptions (i.e., whether securities backed by bank letters of credit should be exempt from the Securities Act). The competitive disparity might be alleviated administratively by the Commission reinterpreting the word "guaranteed" as it appears in Section 3(a)(2) to exclude bank letters of credit.

If, however, Congress decides to enact legislation that would exempt securities guaranteed by insurance companies, Congress could consider: (a) authorizing the Commis-

sion to exempt by rule from the registration requirements securities guaranteed by insurance; or (b) enacting the enclosed revision of the October 1 proposed amendment.

COMPETITIVE DISPARITY BETWEEN BANKS AND
INSURANCE COMPANIES

Under Section 3(a)(2) of the Securities Act of 1933, any security guaranteed by a bank is exempt from registration. Section 3(a)(8) exempts insurance policies issued by state-regulated insurers, but not securities guaranteed by insurance policies. As a result, while an issuer may choose to enhance the credit rating of its securities through either bank or insurance guarantees, bank guarantees also exempt the securities from Securities Act registration. Insurance guarantees do not.

Vice President Bush's Task Group on Regulation of Financial Services included the heads of all the bank and other federal agencies that regulate financial services. The Task Group unanimously recommended consolidating within the SEC the securities registration and reporting requirements of banks and thrifts. This recommendation is expected to be formally transmitted to Congress in the near future. The Commission supports this recommendation.

ALTERNATIVES

The competitive disparities between banks and other guarantors of securities might be addressed in four ways.

First, Congress could repeal the bank exemption under Section 3(a)(2) of the Securities Act.

Second, without legislation, the Commission could address the disparities through regulatory action. The Commission has interpreted the Section 3(a)(2) exemption to include securities backed by bank letters of credit. However, federal banking law, and the banking laws of many states, preclude banks from guaranteeing securities of other parties. The Commission, in consultation with the bank regulatory authorities and through the rulemaking process, can reconsider whether bank letters of credit should be treated as guarantees for Section 3(a)(2) exemptive purposes.

Third, the competitive disparity can be addressed legislatively by granting the Commission rulemaking authority to exempt securities guaranteed by insurance companies from the registration requirements of the Securities Act. This would provide flexibility by permitting the Commission to adapt exemptions to new financial instruments as the markets evolve. A draft of this legislative approach is set forth under Tab A.

Fourth, Congress could create an insurance guarantee exemption. This is the approach reflected in Section 208 and in the October 1 proposed amendment. Both of these formulations raise Securities Act questions which the Commission has attempted to resolve in the revised language set forth under Tab B. The revised language amplifies and also makes explicit implicit provisions of the October 1 proposed amendment. It makes it clear that the guaranteed security is subject to the antifraud provisions of the securities laws; that it must be a debt instrument rated in the highest category by at least two nationally recognized statistical ratings organizations, pursuant to such rules and regulations as the Commission may adopt in the public interest or for the protection of investors; that there must be public information available concerning the issuer and the guarantor; and that the guarantor is among those responsible for the accuracy of the offering documents.

The Commission has approved sending this letter. One Commissioner also requests that a potential revision to part (i) of the alternative set forth at Tab B be forwarded. That revision (enclosed at Tab C) would subject the insurer, but not the issuer, to certain disclosure and filing requirements.

The views expressed herein do not necessarily reflect those of the Administration. [See Section 111 of Pub. L. No. 93-495, 88 Stat. 1500 (Oct. 28, 1974).] A copy of this correspondence is being sent to the Office of Management and Budget. The Commission will promptly provide any views received from OMB.

The Commission's staff and I will be pleased to answer any questions and lend any assistance you desire.

Sincerely,

JOHN SHAD.

LEGISLATIVE ALTERNATIVE NO. 1—SEC
RULEMAKING

SEC. 208. (a) Section 3 of the Securities Act of 1933 [15 U.S.C. 77c] is amended by adding after paragraph (c) the following paragraph:

"(d) The Commission may, having due regard for the public interest and the protection of investors, by its rules and regulations, and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section, any note, bond, debenture, evidence of indebtedness, or collateral trust certificate, or any guarantee of any of the foregoing, which is guaranteed as to the payment of interest, principal, and premium, if any, and any other amounts when due, pursuant to an insurance policy described in Section 3(a)(8) of this title. In any action under Section 12(2) of this title, both the corporation issuing the insurance policy and the issuer of the guaranteed security shall be included among those persons deemed to have sold the guaranteed security."

(b) Section 304(a)(4) of the Trust Indenture Act of 1939 [15 U.S.C. 77ddd(a)(d)] is amended by adding after Subsection (B) the following paragraph:

"(C) any security exempted from the provisions of the Securities Act of 1933, as amended, pursuant to Subsection 3(d)."

LEGISLATIVE ALTERNATIVE NO. 2—STATUTORY
EXEMPTION

SEC. 208. (a) Section 3(a) of the Securities Act of 1933 [15 U.S.C. 77c(a)] is amended by striking the period at the end of paragraph (11), inserting "; and" in lieu thereof, and adding the following thereafter:

"(12)(A) Any note, bond, debenture, evidence of indebtedness, or collateral trust certificate, or any guarantee of any of the foregoing, which is guaranteed as to the payment of interest, principal, and premium, if any, and any other amounts when due, pursuant to an insurance policy described in Section 3(a)(8) of this title; provided that:

(i) both the issuer of such guaranteed security and the corporation issuing such insurance policy, for at least the twelve months immediately preceding the first date upon which such guaranteed security is bona fide offered to the public, have timely filed all reports (including at least one annual report) that would be required by Section 13(a) or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78m(a), 78o(d)], and

(ii) the guaranteed security is rated at the time of the first bona fide sale of such security in the highest rating category by at

least two nationally recognized statistical rating organizations, pursuant to such rules and regulations as the Commission may adopt in the public interest or for the protection of investors.

(B) In any action under Section 12(2) of this title, both the corporation issuing the insurance policy described in Clause (A) of this paragraph (12) and the issuer of the guaranteed security shall be included among those persons deemed to have sold the guaranteed security.

(b) Section 304(a)(4)(A) of the Trust Indenture Act of 1939 [15 U.S.C. 77ddd(a)(4)(A)] is amended by deleting "or (11)" and inserting in lieu thereof "(11), or (12)".

ALTERNATIVE LANGUAGE FOR PROPOSED SECTION 3(a)(12)(A)(i)

(i) the corporation issuing such insurance policy has filed with the Commission such information as would be required to register a security under section 12 of this title and, since the filing of such information, such information as would be required pursuant to section 13 of this title in respect of a security registered pursuant to section 12 of this title.

● Mr. RIEGLE. Mr. President, the Government Securities Act of 1986 is much needed legislation which I support.

The health and integrity of the market for the obligations of the United States, its agencies, and related entities is important for the protection of the savings of our citizens, and an important element in the ability of the Government to finance its debt at the least possible cost of them as taxpayers.

The failures of several Government securities dealers, which have resulted in losses of hundreds of millions of dollars to investors since 1977, have raised questions about the need for some form of oversight, and this legislation addresses that need.

Failures, or near failures since 1977 include Winters Government Securities, Inc. (1977), Hibbard & O'Connor Government Securities, Inc. (1982), Drysdale Government Securities, Inc. (1982), Comark, Inc. (1982), Lombard-Wall, Inc. (1982), Lion Capital Group, Inc. (1984), RTD Securities, Inc. (1984), ESM Government Securities, Inc. (1985), Bevil Bresler Schulman Asset Management Corp. (1985), and Parr Securities Corp. (1985).

These failures occurred for a variety of reasons including the fraudulent use of customer securities and margin payments, improper use of accrued interest, the transfer of large losses from affiliates, as well as normal trading reverses.

A repurchase agreement is an agreement to sell securities with a commitment to repurchase the same securities from the buyer at a future date. Buyers in these transactions generally view them as investments carrying little risk. In particular, the buyer in a repurchase agreement transfers cash to a seller and receives collateral—or has securities held on its behalf—

"collateral," and the seller agrees to repurchase the securities for the cash plus interest at a future date.

In several of the failures since 1977, repurchase customers found upon the failure to the firm in question that the securities subject to repurchase had been in other transactions, or that the value of securities subject to repurchase had declined. In addition, repurchase customers that had provided excess margin lost the difference in value between the securities provided as margin for these transactions and the cash received. Among the more prominent of these failures were Drysdale, Lion, ESM, and Bevil Bresler.

The legislation which we are currently considering establishes a responsible foundation of regulation by requiring the registration of all Government securities brokers and dealers; financial responsibility, record-keeping, and audit rules; and regulations directly affecting market safety such as collateralization of repurchase agreements. This measure also provides for parity of treatment between primary dealers and other Government securities dealers.

During the course of the legislative process it was agreed that the treasury should be the appropriate rulemaker, acting in close consultation with the Federal Reserve, and that the Securities and Exchange Commission and bank regulators should be the enforcement agencies. In this regard, the Secretary of the Treasury together with the Chairman of the Federal Reserve Board and the Chairman of the Securities and Exchange Commission are in accord with the responsibilities of their respective department and agencies.

More specifically, this legislation provides that the Secretary of the Treasury is invested with the authority to promulgate rules that are designed to prevent fraud on the part of Government securities brokers and dealers.

In pertinent part, the Secretary's rulemaking authority includes rules that:

(1) "Provide safeguards with respect to the financial responsibility and related practices of Government securities brokers and Government securities dealers including, but not limited to, capital adequacy standards, the acceptance of custody and use of customers' securities, the carrying and use of customers' deposits or credit balances, and the transfer and control of Government securities subject to repurchase agreements and in similar transactions."

(2) "Require every Government securities broker and Government securities dealer to make reports to and furnish copies of records to the appropriate regulatory agency, and to file with the appropriate regulatory agency, annually or more frequently, a balance sheet and income statement certified by an independent public accountant, prepared on a calendar or fiscal year basis, and such other financial statements (which shall, as the secretary specifies, be

certified) and information concerning its financial condition as required by such rules."

(3) "Require records to be made and kept by Government securities brokers and Government securities dealers and shall specify the periods for which such records shall be preserved."

A great deal of careful consideration on the part of a number of Government agencies as well as interested parties has gone into the drafting of this legislation. The regulatory apparatus that has been established is designed to be streamlined and limited in nature to address the problems that have been identified. I am aware of no opposition to this measure, and the fact that consensus has been achieved is no small tribute to the drafters and principal authors.

In conclusion, I want to acknowledge the chairman of the Senate Securities Subcommittee, as well as the Chairman of the House Committee on Energy and Commerce and the Chairman of the House Subcommittee on Telecommunications, Consumer Protection and Finance for their work on this bill. Senator D'AMATO and congressmen DINGELL and WIRTH are to be particularly commended for their efforts on this legislation. Their respective counsel, Tom Lykos, Consuela Washington and Marti Cochran are also to be highly commended for their work on the Government Securities Act of 1986.

I believe that the Senate should enact this legislation without further delay.

● Mr. HART. Mr. President, we are considering legislation of great importance to Americans who have invested in Government securities. With prompt Senate approval, we can provide overdue protections for small investors whose faith in our financial system was badly shaken less than 2 years ago.

This bill was written in response to a crisis which shook our financial system. An \$18 trillion market in Government securities was destabilized when unsupervised dealers were found to be engaged in fraudulent and unsafe activities. A number of unsupervised dealers went bankrupt. Consumers lost their savings. Two banks in Colorado were threatened with significant losses. The entire banking system of Ohio was closed down. Confidence in our financial system was shaken internationally.

How did this occur? While broker-dealers in corporate and municipal securities must register with the SEC, and bank dealers are supervised by bank regulators, dealers who trade in Government securities operate totally outside the U.S. system of financial regulation. This is troubling because transactions by Government securities dealers now exceed \$75 billion per day. Without supervision, frauds of the kind the system experienced can harm

virtually every bank and savings institution in this country—nearly all invest in these securities.

The legislation we're debating today will close this gap in financial supervision. It requires Government securities dealers to register with the SEC. It provides enforcement powers to the SEC and the bank regulators. The Secretary of the Treasury will write rules relating to capital, financial responsibility, custody, and use of customers' securities, financial statements, and other matters. It is a prudent approach that will restore confidence to this market.

I commend Senators CRANSTON, PROXMIRE, RIEGLE, and D'AMATO for bringing this compromise legislation before the Senate.

But I am also proud to support this legislation because it was crafted by the chairman of the House Subcommittee on Finance, a fellow Coloradan, Congressman TIM WIRTH. Congressman WIRTH has been a leader in the House on behalf of a sound and competitive financial marketplace. He has worked tirelessly and with great effectiveness to see that this gap in our system of financial supervision is filled.

On this issue, as with so many others, Congressman WIRTH understands that consumers and the integrity of the financial system can be protected without burdensome regulation. Colorado investors, and investors across this country, owe Congressman WIRTH a debt of gratitude for his work on this legislation. ●

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

GREAT BASIN NATIONAL PARK, NEVADA

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2506.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2506) entitled "An Act to establish a Great Basin National Park in the State of Nevada, and for other purposes", do pass with the following amendments:

(1) Page 2, line 5, strike out [fourty-four], and insert: *seventy-six*

(2) Page 2, line 6, strike out [generally].

(3) Page 2, line 8, strike out [20,016, and dated April 1986.], and insert 20,017, and dated October 1986.

Mr. HECHT. Mr. President, I am very pleased that the Senate is about to send to the President this legislation to create the Great Basin National Park in Nevada.

When the Senate passed S. 2506 a few weeks ago, I was confident that we had done an excellent job designing a park that took in the most impressive features of the Snake Range, while still protecting the mainstays of the local economy: mining and ranching. Another very important provision in the Senate-passed bill involved language protecting water rights in Nevada. Finally, the boundaries of the bill excluded private land from the 44,000-acre park. Everyone who has a national park in their State understands the complex, chronic, and emotionally charged problems that almost always occur when private land is put inside a national park.

One of the main reasons I introduced a modest 44,000-acre bill was simply because I expected the Senate would have to give some ground on the grazing issue, and a bill affecting a small number of acres would also limit any damage that would result from the House weakening our Senate language on grazing.

I was pleased to see that the House's only change to the Senate bill was in the acreage involved. I was also pleasantly surprised to see that even with the larger acreage, the House was willing to keep private land outside of the park, and accept the Senate language with regard to water rights and grazing.

With the Senate language left intact, I feel comfortable agreeing to the House amendment to my bill, which expands the Senate bill to 76,800 acres.

After I had a chance to review the House amendment, I spoke with Interior Secretary Hodel, and George Dunlop, the Assistant Secretary of Agriculture for Natural Resources and Environment. On the basis of these conversations, I am satisfied that the administration will support the amended Senate bill.

I must compliment Congressman VUCANOVICH on her defense of the Senate language, and Congressman VENTO for his willingness to be cooperative and for his efforts to help Congressman VUCANOVICH pass this bill through the House with an amendment that we in the Senate could accept.

Mr. President, this legislation will add a new crown jewel to our Nation's National Parks System. It will give Nevada its first national park. It will protect forever a beautiful piece of our Nation, and it will also protect the rights and way of life of the good citizens of White Pine County, NV.

Mr. President, I urge the Senate to act on this legislation, and bring to a close in a fair and gratifying manner the 60 years of debate and conflict that has revolved around the creation of this park.

Thank you, Mr. President.

Mr. DOLE. I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

NATIONAL SEEK AND COLLEGE DISCOVERY DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of House Joint Resolution 735, "National SEEK and College Discovery Day" just received from the House.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (H.J. Res. 735) to designate December 11, 1986, as "National SEEK and College Discovery Day".

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MOYNIHAN. Mr. President, the importance of education to our Nation's youth cannot be overstated. It is vital to our future as a nation to offer educational opportunities to every student who wishes to pursue them from kindergarten through college.

That is why I rise today to draw attention to the passage of House Joint Resolution 735, designating December 11, 1986, as "National SEEK and College Discovery Day." I introduced the companion measure to this resolution in the Senate on September 24, 1986, in order that the Nation might come to know of some very special educational programs being conducted at the City University of New York.

The City University of New York will always have a special place in my life. I attended CUNY for 1 year before entering the Navy and though I could not afford an expensive private college at the time, I was able to experience a full and rich college education through the City University system.

CUNY is also partly responsible for my being a U.S. Senator. I decided to run for the Senate the day the City University system was forced to shut down because it couldn't meet its payroll. Catastrophes such as these had to be avoided and if anyone was willing to work on the Federal level to preserve CUNY, I was and still am, 10 years later, in order that as many stu-

dents have the same opportunity for a quality college education that I had.

This quality education is indeed still offered today and enhanced by such programs as SEEK, Search for Elevation, Education and Knowledge, and College Discovery. Both these programs provide specialized remedial instruction and tutorial services to nearly 14,000 disadvantaged students a year.

By passing this resolution today, we encourage colleges all across the country to follow the example of the City University of New York and employ innovative methods of meeting the extra needs of our Nation's disadvantaged students. I congratulate my colleagues on passing this important resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 735) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

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

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

The motion to lay on the table was agreed to.

TRANSFER OF REAL PROPERTY TO CITY OF MESQUITE, NV

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 3352, dealing with Mesquite, NV, just received from the House.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. There is no objection on this side.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3352) to transfer certain real property to the City of Mesquite, Nevada.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3352) was ordered to a third reading, was read the third time, and passed.

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.

CONVEYANCE OF CERTAIN LAND

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 565.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 565) entitled "An Act to direct the Secretary of Agriculture to convey, without consideration to the Town of Payson, Arizona, approximately 30.96 acres of Forest Service lands", do pass with the following amendments:

Page 4, strike out lines 11 through 15, inclusive, and insert:

SEC. 4(a) Notwithstanding any other provision of law or regulation, the Secretary of the Interior, acting through the Bureau of Land Management, is authorized and directed to transfer title to certain land in Arizona in accordance with the terms of the Memorandum of Agreement Regarding the Disposal of Federal Lands at Lake Havasu City among the U.S. Department of the Interior, Bureau of Land Management, the Arizona State Land Department, the Arizona State Parks Board and Lake Havasu City, dated November 25, 1985. The transfer of title to land along the shoreline of Lake Havasu shall be to elevation 450 feet above sea level: *Provided*, That the United States shall reserve unto itself the right to maintain the shoreline and to flood up to elevation 455 feet above sea level.

(b) The Secretary of the Interior is hereby authorized and directed to process an application by the County of Santa Cruz, Arizona, pursuant to the Recreation and Public Purposes Act for the following described lands: *Provided*, That, the processing shall be in accordance with the Memorandum of Understanding among the U.S. Forest Service, the Bureau of Land Management and Santa Cruz County, dated September 17, 1986: S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 5, and Lots 10 and 11, Section 6, T. 24 S., R. 14 E., G&SM. Executive Order No. 1398, dated August 15, 1911, which temporarily withdrew the above described land for use by the U.S. Forest Service for administrative purposes, is hereby revoked in its entirety, effective on the date of patent of the above described lands pursuant to the Recreation and Public Purposes Act to the County of Santa Cruz, Arizona.

Amend the title so as to read: "An Act to provide for the transfer of certain lands in the State of Arizona, and for other purposes."

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendments with a further amendment which I send to the desk on behalf of Senator McCLURE and Senator DECONCINI.

AMENDMENT NO. 3270

Mr. DOLE. Mr. President, I send to the desk an amendment on behalf of Senator McCLURE and Senator DECONCINI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. McCLURE and Mr. DECONCINI, proposes an amendment numbered 3270.

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

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

The amendment is as follows:

At the end of the House amendment insert the following new section 5 as follows:

SEC. 5. Section 205 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715(c)) is amended—

(1) in the first sentence of subsection (c) by striking out "Lands and interests" and inserting in lieu thereof "Except as provided in subsection (e), lands and interests"; and

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

"(e) Lands acquired by the Secretary pursuant to this section or section 206 in exchange for lands which were vested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the vested or reconveyed lands exchanged for the lands acquired by the Secretary."

At the end of the bill, add the following new section:

SEC. . Notwithstanding any other provision of law, the Secretary of the Interior, if he determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to:

(2) revoke the withdrawal under the First Form by Order of the Secretary of the Interior dated December 14, 1904, and as interpreted by Order of Interpretation of the Secretary of the Interior dated May 19, 1964, insofar as said withdrawal applies to section 31 (lots 1, 2, 3, W $\frac{1}{2}$ E $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$) T. 5 N., R. 7 E., Gila and Salt River Meridian, Arizona.

Add a new section to S. 565 as follows and number accordingly:

"SEC. . Notwithstanding any provision of law or order based thereon, the Secretary of the Interior, at the request of the Secretary of Agriculture, is authorized to take such actions (including but not limited to the revocation of withdrawals and the issuance of patents) as may be necessary to facilitate and consummate a land exchange in Idaho known as the Mesa Falls Exchange, as described in a Land Exchange Notice by the Department of Agriculture published in the Post-Register newspaper published in Idaho Falls, Idaho on November 12, 1985 (p. B-5), if the Secretary of Agriculture decides to proceed with such exchange."

Mr. DECONCINI. Mr. President, I have offered an amendment to S. 565, a bill to convey approximately 31 acres of Forest Service land to the town of Payson, AZ. The Payson legislation passed the Senate on August 9, 1986 and was sent to the House, where it passed with amendment. Two amendments were added in the House by Congressman UDALL to allow two very important land exchanges involving Bureau of Land Management lands in the State of Arizona to be finalized. Those amendments, which I heartily

endorse, authorize the Secretary of the Interior to revoke two land classification withdrawals in Arizona. The land exchanges are being held up because of a court injunction in the National Wildlife Federation versus Burford lawsuit, which challenged certain withdrawal revocations. The Secretary of the Interior has been temporarily enjoined from revoking certain withdrawals and land classifications and the injunction is now being applied to all withdrawals and classifications. In the case of the Arizona exchanges which are included in the Payson bill, the National Wildlife Federation and the Department of the Interior have been contacted and have no objection to the exchanges. One exchange involving Bureau of Land Management lands in the Lake Havasu Area, known as Pittsburg Point, would allow the Federal Government to virtually repay the State of Arizona for lands that were taken from the State as a result of the construction of the Central Arizona Project. The State land department of Arizona has worked long and hard on this exchange and feels it is urgent that the exchange be completed without further delay. The other exchange involved some Bureau of Land Management lands in Santa Cruz County, AZ that the county wishes to acquire to provide space for the construction of a greatly needed county courthouse and public park. The BLM supports this exchange and it has been endorsed by the National Wildlife Federation.

In order to take care of one remaining exchange in Arizona that is important to wildlife habitat and at the same time, reduce the large number of checkerboard forest lands, I am sponsoring an amendment which will authorize the Secretary of the Interior to revoke a reclamation withdrawal so an exchange of private and Forest Service lands in Maricopa County, AZ can be completed. This exchange has the support of the National Wildlife Federation, Congressman UDALL, and many others in the State of Arizona.

I know of no objections to this amendment, Mr. President, and I ask that the Senate approve this amendment to S. 565. I further request that the Senate adopt S. 565 as amended.

● Mr. SYMMS. Mr. President, I rise to strongly support the passage of S. 565. The purpose of this bill is simply to effect changes in ownership between the Federal agencies and private or local government entities. These changes should not be controversial. They give force of law to agreements already reached between the interested parties.

My amendment to S. 565 allows the Forest Service to complete a land exchange with Sunlight Development Co. This exchange is in the best interests of the United States, the development company and several individuals

who own structures on Forest Service land under special use permits. When the exchange is completed these uneasy tenants will have title to the land they occupy, the Forest Service will have control of a particularly scenic and vulnerable stretch of Henry's Fork of the Snake River and the Sunlight will be fairly compensated for property no longer available for the purpose for which it was acquired. This exchange should have been accomplished very quickly administratively. However, due to legal action in which the Forest Service is only indirectly involved it appears that legislation is necessary.

This is an almost unique transaction where all parties benefit. I want to express my appreciation to my distinguished colleague Senator McCLURE who has used his influence, as chairman of the Energy Committee, to move this bill forward rapidly. Mr. President, this is good legislation and I urge its passage. ●

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 3270) was agreed to.

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

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

The motion to lay on the table was agreed to.

□ 1850

CONSENT OF CONGRESS TO THE ARKANSAS-MISSISSIPPI GREAT RIVER BRIDGE CONSTRUCTION COMPACT

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1082.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 1082) entitled "An Act granting the consent of Congress to the Arkansas-Mississippi Great River Bridge Construction Compact", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. CONSENT OF CONGRESS TO COMPACT.

The Congress consents to the Arkansas-Mississippi Great River Bridge Construction Compact, which was entered into between the States of Arkansas and Mississippi and was approved by law in the State of Arkansas on February 7, 1985, and in the State of Mississippi on March 19, 1985. The compact is substantially as follows:

"ARKANSAS MISSISSIPPI GREAT RIVER BRIDGE CONSTRUCTION COMPACT

"ARTICLE I

"The purpose of this compact is to promote the construction of a highway bridge or a combined highway-railroad bridge connecting the States of Mississippi and Arkansas at, near or between Rosedale, Mississippi, and McGehee and Dumas, Arkansas, and to establish a joint interstate authority to assist in these efforts.

"ARTICLE II

"This compact shall become effective immediately as to the States ratifying it whenever the States of Arkansas and Mississippi have ratified it and Congress has given consent thereto.

"ARTICLE III

"(a) The states which are parties to this compact (hereinafter referred to as 'Party States') do hereby establish and create a joint agency which shall be known as the Arkansas-Mississippi Great River Bridge Authority (hereinafter referred to as 'The Authority'). The membership of The Authority shall consist of five (5) members from the State of Mississippi, to be selected in such manner as may be provided by laws enacted by the Legislature of the State of Mississippi, and five (5) members from the State of Arkansas, to be selected in such manner as may be provided by laws enacted by the Arkansas General Assembly. The terms of the members of such Authority from each of the Party States, the method of appointing successor members, and the method of filling vacancies on The Authority, shall be determined by the laws of Mississippi and Arkansas.

"(b) The members of The Authority shall not be compensated for services on the Authority, but each member shall be entitled to actual and reasonable expenses incurred in attending meetings or incurred otherwise in the performance of his/her duties as a member of The Authority.

"(c) The members of The Authority shall meet upon the call of the chairman and hold such other meetings as its business may require. Special meetings of The Authority may be called by the chairman or upon written request of a majority of the members of The Authority from each of the Party States. The Authority shall choose annually a chairman and vice chairman from its members, and the chairmanship shall rotate each year among the Party States, in order of their acceptance of this compact.

"(d) The Secretary of The Authority (hereinafter provided for) shall notify each member in writing of all meetings of The Authority in such a manner and under such rules and regulations as The Authority may prescribe.

"(e) The Authority shall adopt rules and regulations for the transaction of its business; and the secretary shall keep a record of all its business and shall furnish a copy thereof to each member of The Authority.

"(f) It shall be the duty of The Authority, in general, to promote, encourage, and coordinate the efforts of the Party States to secure the development of the Arkansas-Mississippi Great River Bridge at, near or between Rosedale, Mississippi, and McGehee-Dumas, Arkansas. Toward this end, The Authority shall have power to:

"(i) Hold hearings;

"(ii) Conduct studies and surveys of all problems, benefits, and other matters asso-

ciated with the construction of the Arkansas-Mississippi Great River Bridge, and to make reports thereon:

"(iii) Acquire by gift, grant or otherwise, from local, federal, or private sources, such money or property as may be provided for the proper performance of their function, and to hold and dispose of the same and to expend such monies as is necessary to defray the cost of establishing and operating The Authority;

"(iv) Cooperate with other public or private groups, whether local, state, regional, or national, having an interest in the bridge construction;

"(v) Formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States;

"(vi) Negotiate with one or more railroads in the State of Mississippi and the State of Arkansas and with the appropriate Federal authorities for the construction of the Arkansas-Mississippi Great River Bridge as a combined highway-railroad bridge. If necessary, The Authority may enter into a contract with one or more railroads and/or the appropriate agencies of the United States to borrow funds for the construction of the railroad portion of the bridge, to be reimbursed, including all costs of principal, interest and other costs in connection with such indebtedness, by revenues derived from rental fees, grants, or other charges, with such indebtedness to be secured solely by a pledge of such revenues; and

"(vii) Exercise such other powers as may be appropriate to enable it to accomplish its functions and duties in connection with the construction of the Arkansas-Mississippi Great River Bridge as a highway bridge or a combined highway-railroad bridge, and to carry out the purposes of this compact.

ARTICLE IV

"The Authority shall appoint a secretary, who shall be a person familiar with the nature, procedures, and significance of the bridge construction and the informational, educational, and publicity methods of stimulating general interest in such developments, and who shall be the compact administrator. The term of office of the secretary shall be at the pleasure of The Authority and such officer shall receive such compensation as The Authority shall prescribe from monies provided to The Authority under Article III(f)(iii). The secretary shall maintain custody of The Authority's books, records, and papers, which shall be kept by the secretary at the office of The Authority, and shall perform all functions and duties and exercise all powers and authorities which may be delegated to the secretary of The Authority.

"ARTICLE V

"Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any Party State, or to repeal or prevent legislation, or to authorize or permit curtailment or diminution of any other bridge project, or to affect any existing or future cooperative arrangement or relationship between any federal agency and a Party State.

"ARTICLE VI

"This compact shall continue in force and remain binding upon each Party State until the Legislature or Governor of each or either state takes action to withdraw therefrom; provided that such withdrawal shall not become effective until six (6) months after the date of the action taken by the

Legislature or Governor. Notice of such action shall be given to the other Party State by the secretary of state of the Party State which takes such action."

SEC. 2. FEDERAL JURISDICTION RETAINED.

Nothing in the compact approved by section 1 shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States.

SEC. 3. RESERVATION.

The right to alter, amend, or repeal this Act is expressly reserved.

Mr. BUMPERS. Mr. President, I rise today in support of S. 1082, as amended by the House, a bill to authorize the States of Arkansas and Mississippi to create an interstate compact for the purpose of building a highway-railroad bridge across the Mississippi River. I would like to commend my friends and colleagues, Senators PRYOR, STENNIS, and COCHRAN, as well as our Representatives from Arkansas and Mississippi in the House, for their efforts in connection with this important legislation which will provide for a vital link between our great States.

The Arkansas-Mississippi Great River Bridge Authority to be established under the compact will coordinate and promote the efforts of the two States to construct an auto and train bridge between Rosedale, MS, and a point near McGehee, AR. The new bridge will be a positive and essential ingredient in ongoing efforts to attract new industry to our region of the country.

Mr. President, the people in Arkansas and Mississippi have worked long and hard on this project, focused on revitalizing the economies in our State, and I ask the Senate today to give its stamp of approval to this compact so that these State officials and local citizens can move forward with their construction plans. I would note that this body has previously given its unanimous approval to this piece of legislation and we need now only agree to a minor, technical amendment made by the House to correct an error in the compact language.

In addition, Mr. President, I am pleased to be able to point out that this legislation will not require the Federal Government to spend one dime. It will instead create an authority that will coordinate local, State, and Federal agencies in planning for a bridge that will be a commercial boon to southeast Arkansas and western Mississippi.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I move the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

GEORGIA WILDERNESS ACT OF 1986

Mr. DOLE. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of H.R. 5496, the Georgia Wilderness Act, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to the discharge of the measure from the Agriculture Committee, and there is also no objection to proceeding to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5496) to designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on third reading and passage.

The bill (H.R. 5496) was ordered to be read a third time, was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

SALUTE TO SCHOOL VOLUNTEERS DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 407, Salute to School Volunteers Day, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to discharging the Committee on the Judiciary from further consideration of the joint resolution and no objection to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 407) designating November 12, 1986, as Salute to School Volunteers Day.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

S.J. Res. 407

Whereas the success of America's schools stems from the competence and dedication of their instructional staffs, combined with the commitment of students, parents, and other community members;

Whereas citizen volunteers are a vital component of an effective educational experience, assisting professional educators to deliver quality instructional services;

Whereas many States and communities have demonstrated that citizen volunteers in the classroom enhance, extend, and enrich student learning as they contribute to the work of dedicated professional educators;

Whereas numerous communities encourage groups, such as business and civil groups, to create mutually beneficial working partnerships with their schools, thus offering positive support from the community which, in turn, both encourages staff and benefits the students;

Whereas the Congress recognizes that four million unpaid citizen volunteers in thousands of classrooms coast to coast contribute daily to the enhancement of the quality of instruction in our schools and thus, to the development of an educated citizenry; and

Whereas the magnitude, quality, and selflessness of these contributions of America's citizen school volunteers merit the highest appreciation and gratitude: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12, 1986, is designated as "Salute to School Volunteers Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

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

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

The motion to lay on the table was agreed to.

NATIONAL CHINA-BURMA-INDIA VETERANS ASSOCIATION DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 359, to designate National China-Burma-India Veterans Association Day, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to the committee discharge and no objection to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 359) to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 359) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. Res. 359

Whereas all veterans are to be recognized, honored, and thanked for making sacrifices in order to make the United States a free and peaceful Nation;

Whereas the China-Burma-India Veterans Association is composed of men and women who most admirably served in the China-Burma-India theatre of operations during World War II, and the members of such Association deserve the right to preserve the recollections, comradeships, and experiences of Americans who have served in the Orient;

Whereas all Americans should become better acquainted with the situations and problems of the Far East; and

Whereas members of the China-Burma-India Veterans Association deserve the right to pay tribute to and preserve the memory of fellow veterans who died in defense of the United States and to maintain a proper standard of dignity and honor among all veterans of World War II: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 17, 1987, is designated as "National China-Burma-India Veterans Association Day" and the President is authorized and requested to issue a proclamation calling upon Americans to observe such day with appropriate activities.

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

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

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR— H.R. 4731

Mr. DOLE. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 4731, the Recreational Boating Safety Act, and I ask that it be placed on the calendar.

Mr. BYRD. Mr. President, there is no objection to the request of the distinguished majority leader.

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

AUTHORIZING THE SECRETARY OF AGRICULTURE TO ISSUE CERTAIN PERMANENT EASEMENTS FOR WATER CONVEYANCE SYSTEMS

Mr. DOLE. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 2921, the "ditch right-of-way" bill, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to the committee discharge and there is likewise no objection to the immediate consideration of the bill.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2921) to authorize the Secretary of Agriculture to issue permanent easements for water conveyance systems, in order to resolve title claims arising under Acts repealed by the Federal Land Policy and Management Act of 1976, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. WALLOP. Mr. President, as discharged, this Act, H.R. 2921, would authorize the Secretary of Agriculture to issue permanent easements for certain water conveyance systems upon request of the owners, who are solely agricultural and livestock watering users, in order to resolve title claims, which claims arise under acts repealed by the Federal Land Policy and Management Act of 1976 [FLPMA]. The bill is intended to provide an optional method of confirming the status of certain irrigation systems which were constructed on Federal lands prior to the enactment of FLPMA, and to transfer administration of pre-FLPMA rights-of-way across National Forest System lands from the Department of Interior to the Department of Agriculture.

There exist on Federal lands ditches, canals, reservoirs, and other systems for the conveyance of water to the ultimate consumers. Many of those systems have existed under claim of right for long periods of years prior to the passage of the Federal Land Policy and Management Act of 1976. The committee has been acquainted with cases where despite this long established usage under claim of right, there is inadequate documentation or nonexistent of the right. In some cases it is difficult to demonstrate that the owners and users of these water conveyance systems had fulfilled the record keeping requirements of the General Land Office and successor agencies so as to establish clearly the right to continued, peaceable enjoyment of these rights-of-way. When the

matter first came to the attention of our committee, we urged the agricultural interests and the Department of Agriculture to work together to develop a mutually agreeable statutory solution to the problem. The bill before us is the result of that effort.

In testimony before our committee, however, other concerned Federal lands users pointed out that the bill is so narrowly drawn that it is sure to create problems for the very intended beneficiaries of the legislation. For example, many ditches and ditch rights-of-way are owned in common by cotenants in the ditch, or by the shareholders in mutual ditch and reservoir companies, or other entities, public and private in nature, formed for the delivery of water to consumers off the Federal lands. The water rights carried in such ditches are generally, under the appropriation doctrine prevailing in the public lands States of the West, marketable without constraint from the other cotenants or shareholders in the ditch system. It will lead to absurd results if a permanent easement obtained under H.R. 2921 and valid only so long as the use of the water is "solely agricultural" were then terminated because one, or several, of the common owners exercised their right to alienate their property interest in water rights to non-agricultural users. Amendments were proposed to cure this problem, and to assure that a change in the end use of water would not destroy the benefits of the legislation. Such a change in end water use places no greater burden on the actual usage of Federal lands.

A further concern expressed to the committee has to do with the consequences of the transfer of administrative jurisdiction over existing rights-of-way from the Department of Interior to the Department of Agriculture. Owners of these rights-of-way question whether the Department of Agriculture may use its new administrative powers to seek forfeiture of rights-of-way granted under the Act of March 3, 1891, (26 Stat. 1095, as amended by the Act of May 11, 1898, 30 Stat. 404), where the end use of waters carried on such rights-of-way are no longer used for the main purpose of irrigation, but instead have, through the operation of the free market system, undergone conversion to municipal and related beneficial uses pursuant to State law.

A further area of concern devolving from the proposed transfer of jurisdiction over existing rights-of-way to the Department of Agriculture was stated to be the deviation in the administration of pre-FLPMA rights-of-way under the long-settled principles, decisions, policies and regulations developed by the Department of Interior. Particular concern was advanced that those established principles continue to apply.

Amendments were proposed to lay to rest these concerns. One specific amendment would have deleted this transfer of jurisdiction from the bill until such time as all of the effects of the transfer can be studied and discussed fully before the Congress. These proposed amendments would also maintain existing conditions, policies and procedures of the Department of Interior in order to maintain rights of grantees.

The committee inquired of the Department of Agriculture for its views on these points. The response is appended to this report. In it, we were again requested to refrain from amendments to the bill. With respect to the narrowness of the "solely agricultural" standard by which eligibility for the new category of rights-of-way has been defined, the Department has assured the committee that it will devote a good faith effort, in cooperation with concerned water users, to develop amendments for consideration by the Congress in a subsequent session to cure the problems flowing from the narrowness of the eligibility standard. This broadening will enable market forces to allow a multiplicity of uses of the water rights associated with rights-of-way on Federal lands.

With respect to the prospect of a departmental construction of the act of March 3, 1891, as amended by the Act of May 11, 1898, whereby the holders of grants thereunder would face loss of their rights-of-way by reason of a change in the end use of the water carried to purposes other than primarily agricultural irrigation, the committee has been assured that no such construction of the statute is advanced by the Department. Re-permitting with its attendant substantial costs and uncertainties for such existing conveyance systems is not intended by the Department or by Congress. Accordingly, no amendments to preclude such a construction are required. With respect to the potential disruption on pending administrative matters, the Department of Agriculture has assured the committee that it will continue to employ the applicable rules, policies, and regulations of the Department of the Interior. Holders of existing rights-of-way shall continue to have the full use of the estate granted in accordance with the terms of the grant and applicable law. These include the right to cure defects discovered during administration, whether they be minor or require an application to amend the granted rights-of-way. No administrative action will preclude the full enjoyment of the granted rights-of-way nor alter the nature of the interest granted. No requirement for re-permitting is intended by the Department.

With these representations of the Department in mind, we determined to accede to the request to refrain from

amendments, to discharge the bill without amendment, and to defer amendments until we have considered further the suggested areas of amendment to H.R. 2921 described in the letter from the Department and the testimony before the committee. In so doing, we rely on the Department's representation that until Congress has had a full opportunity to consider proposed amendments, no action to divest users who would qualify for the benefits of H.R. 2921 but for their inability to qualify as "solely agricultural" will be undertaken by the Department. We fully expect the Department of Agriculture to take care to avoid any action that will diminish or reduce the rights conferred under a right-of-way granted prior to October 21, 1976, including any deviation or amendments required subsequent to the original grant.

We expect the Department to work with holders of rights-of-way to preserve the full extent of rights vested prior to FLPMA, and to develop any necessary amendments to the act securing holder these benefits.

Mr. President, I ask unanimous consent that a letter received from the Department of Agriculture dated October 1, 1986, be printed at this point in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 1, 1986.
HON. MALCOLM WALLOP,
Chairman, Subcommittee on Public Lands,
Reserved Water, and Resources Conservation,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: At the September 23, 1986, hearings on H.R. 2921 before the Senate Subcommittee on Public Lands, the Colorado Water Congress testified to the need for amendments to the bill. You asked for the Department of Agriculture's views on these suggested amendments.

In our view, the concerns expressed relate to three somewhat different issues. The first concern expressed was that the limitation in H.R. 2921 to "solely agricultural or livestock watering purposes" unnecessarily constricted the benefits of the legislation. The legislation has the purpose of recognizing the rights of a certain class of ditch owners who cannot document a right of way issued prior to October 21, 1976. It was pointed out that many ditches on the Federal lands have a multiplicity of owners, any one of whom under State law may change the ultimate use of his share of the water right carried in the ditch to other than agricultural irrigation purposes. Many such changes have occurred over the past 90 years and many are occurring today. Thus it was observed that intended beneficiaries of this bill may lose any entitlement under it from the operation of State sanctioned market systems in water rights by or among co-users of ditches.

The Department understands the desire of the Subcommittee to avoid amendments now, considering the lack of time remaining

in the session. We acknowledge that further amendments, carefully drawn and considered, would be appropriate to cure these situations. The end use of water off the Federal lands, as it may change over time, casts no greater burden on the Federal property to carry the water to its place of use. The Department contemplates administrative procedures under H.R. 2921 which obviate much of this concern, particularly a procedure whereby easements allowed by H.R. 2921 may be automatically converted for permits under FLPMA. The Department will work with your committee and other concerned persons to develop and support appropriate administrative action or statutory amendments for the consideration of Congress in a future session. In that way, relief from uncertainty can now be provided for certain irrigators and stockmen without creating unintended implications for other water users. In a succeeding Congress the full, necessary consideration of the scope of the amendments can be achieved. The Department reemphasizes that H.R. 2921 does not create any implication attributable to any pre-existing rights of way, the owners of which may elect not to avail themselves of the benefits of H.R. 2921.

Second, concerns were expressed at the hearing that the Department of Agriculture, under the jurisdictional authority proposed to be transferred to it as part of H.R. 2921, contemplates asserting forfeitures against those holders of rights of way issued pursuant to the Act of March 3, 1891 (26 Stat. 1095) as amended by the Act of May 11, 1898 (30 Stat. 404), whose end use of water off the public lands is no longer for the primary purpose of irrigation.

Third, concerns were expressed that rights of way previously granted by the Act of February 15, 1901 (31 Stat. 790), and the Act of February 1, 1905 (33 Stat. 628), will not be administered by the Department of Agriculture in accordance with the settled procedures and laws that have developed over the past 85 years during which the administration of such rights of way have been subject to the jurisdiction of the Department of the Interior. To resolve these concerns, amendments to H.R. 2921 were suggested which would preclude administrative changes to the detriment of holders of pre-FLPMA rights of way.

For reasons which follow, the Department does not believe that such amendments are now appropriate or required. The construction placed on the Act of 1891, as amended, by the Department for the rights of way it will administer does not prejudice or diminish the rights of grantees thereunder. We do not assert that the end-use of water, which may change from irrigation to municipal or other beneficial uses recognized under State law, in and of itself occasions a forfeiture of such rights of way.

The Department is fully aware of the decision of the United States Court of Appeals in *City and County of Denver v. Bergland*, 695 F.2d 465 (1982). Concern has been expressed that with its acquisition of administrative jurisdiction, the Department will diminish the entitlements of rights of way holders under existing grants. The Department disavows any such intention. The Department will be careful to avoid any action that will reduce the rights conferred under pre-FLPMA grants, and will process pending application for amendment and other pending administrative matters in accordance with the applicable regulations, policies, and procedures of the Department of the Interior.

The Department must of course maintain its authority to assure that holders of rights of way on Federal Lands use those lands in sound ways. However, we do not assert that pre-FLPMA rights of way for water conveyance and storage systems must be subjected to a re-permitting process. The Department recognizes that long-standing uses ought not be diminished by insignificant defects in survey or description made many years ago, or a change in the end use of the water off the Federal lands.

We hope that this letter has adequately clarified the Department of Agriculture's position on concerns that have been raised related to H.R. 2921.

Sincerely,

DOUGLAS W. MACCLEERY,
Deputy Assistant Secretary for
Natural Resources and Environment.

Mr. ARMSTRONG. Mr. President, I rise to lend my support to the passage of H.R. 2921 sponsored by Congressman MIKE STRANG of Colorado. I wish, however, to make certain that the understandings that have been arrived at in discussions with the Department of Agriculture and the Forest Service regarding its administration of ditch rights of way on national forest lands are clear and unequivocal.

I strongly support the basic objectives of H.R. 2921, but share the concerns about the limited scope of the bill and possible unintended effects of its passage that were expressed by the representatives of the Colorado Water Congress at the hearing on September 23, 1986. Subsequent to the hearing, extensive discussions of H.R. 2921 were held between the representatives of the Colorado Water Congress and Mr. Douglas MacCleery, Deputy Assistant Secretary of Agriculture for Natural Resources and Environment, regarding the administration of the bill, should it be enacted. There was also extensive discussion regarding the administration of all other rights of way which would result from the transfer of administrative jurisdiction over existing rights of way from the Department of the Interior to the Department of Agriculture. As a result of those discussions, Mr. MacCleery has written a letter to Senator WALLOP describing the Department's views and policies on the administration of ditch rights of way on national forest lands.

With the receipt of the letter from Deputy Secretary MacCleery and its incorporation into the record by Senator WALLOP, I have been advised by the Colorado Water Congress that most of the major concerns that stem from the passage of this bill have been alleviated. But, because there continue to be serious reservations expressed to my office by municipal and agricultural water users with rights of way on forest lands, I want to make it clear that my support of this bill is contingent upon the good-faith effort by the Department of Agriculture and the Forest Service to carry out the policies and objectives outlined in the MacCleery letter. I regard this legislation

as only one step in the process of resolving these ditch rights of way issue and I accept the representations in the letter that the Forest Service does not claim the power and will not undertake or embark on a policy of re-permitting of pre-FLPMA rights of way.

Passage of this specific legislation to cure a unique problem in no way implies or should be construed as an intent by Congress to restrict or preclude further oversight amendments to address other problems. Congress has no intention to provide by implication or exclusion any directive to the Department of Agriculture or other Federal agencies that applies in an adverse way to any other water use, easement, access, or permit on or utilizing lands of the United States.

Key commitments by the Department expressed in Deputy Secretary MacCleery's letter are, and I quote: " * * * we do not assert that pre-FLPMA rights of way for water conveyance and storage must be subjected to a re-permitting process. The Department recognizes that longstanding uses ought not be diminished by insignificant defects in survey or description made many years ago, or a change in the end use of the water off Federal lands." In addition, the Department has committed to assist to, and I quote from the letter, " * * * develop and support appropriate amendment for the consideration of Congress * * *" to cure situations not covered by H.R. 2921.

I fully recognize, as does the Department and other water experts who have studied the rights of way problem, that much remains to be done before a long term, stable resolution or the rights of way problem can be achieved. Most important, we cannot allow the administration of ditch rights of way on public lands to diminish or damage longstanding water rights that form the basis of the economies of Western States.

It is absolutely essential to the water systems of the West that all pre-FLPMA ditch rights of way be fully protected, either by confirmation of the continued validity of these pre-existing rights of way, or by issuing new permits in perpetuity. It is also essential that no cost be attached to the permitting for agricultural uses. Many of these agricultural ditches are as old as the Forest Service, and the economies of agricultural use of water cannot sustain the extra burdens of fees for ditch rights of way. At the same time, it is well recognized that water users have the obligation to maintain these rights of way in a manner that will protect adjoining forest lands from damage.

In conclusion, I want to express my appreciation to Senator WALLOP for his efforts to resolve this very complex and difficult problem. His understand-

ing of water and the history of its development in the West give him unique qualifications to deal with the issues we now confront. I appreciate the leadership the distinguished Senator from Wyoming provides in water issues so crucial to the West. I look forward to working closely with him to develop future legislation that may be required to finally resolve the ditch right of way issue.

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

The bill (H.R. 2921) was ordered to a third reading, was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished minority leader if he is in a position to confirm the following executive calendar nominations: Calendar No. 1065, Paul A. Russo; Calendar No. 1103, Robert B. Barker.

Mr. BYRD. Mr. President, both of those calendar numbers have been approved on this side by all Members and we are ready to proceed.

Mr. DOLE. I thank the minority leader.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now go into executive session to consider the nominations just identified and that the nominations be considered en bloc and confirmed en bloc.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations are considered en bloc and confirmed en bloc.

Mr. DOLE. I move to reconsider the vote by which the nominations were considered and confirmed en bloc.

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

The motion to lay on the table was agreed to.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Paul A. Russo, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of Dominica, Ambassador Extraordi-

nary and Plenipotentiary of the United States of America to Saint Lucia, Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Vincent and the Grenadines, Ambassador Extraordinary and Plenipotentiary of the United States of America to Antigua and Barbuda, and Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Christopher and Nevis.

DEPARTMENT OF DEFENSE

Robert B. Barker, of California, to be Chairman of the Military Liaison Committee to the Department of Energy.

PAUL RUSSO, AMBASSADOR TO BARBADOS

Mr. DOLE. Mr. President, I am pleased that the Senate has confirmed Paul A. Russo as the new U.S. Ambassador to Barbados. He has solid governmental experience at the highest levels, having completed outstanding work for President Reagan in the White House as Special Assistant for Political Affairs and as a Deputy Undersecretary at the Department of Labor, to name but two of Mr. Russo's recent responsibilities.

The Senator from Kansas has known the new Ambassador for a number of years and can attest to his hard work ethic and integrity. Barbados and its nearby island nations play a key role in the Caribbean for the United States in both their economic and strategic importance, and I am confident he will serve his country well.

Mr. Russo is a graduate of Ohio State University who has compiled a superb career in politics and Government. He will continue to do the same good work in his new assignment in the Barbados.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I move that the Senate resume legislative business.

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

WILD AND SCENIC RIVERS ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 2826, amending the Wild and Scenic Rivers Act, and that the Senate turn to its immediate consideration.

Mr. BYRD. Mr. President, I shall have to object at this time. I hope the matter can be cleared before the end of the session and we shall make every endeavor to do that.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I thank the distinguished minority leader.

Mr. President, does the Senator from Alaska seek recognition?

Mr. MURKOWSKI. I thank the majority leader.

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate turn to the immediate consideration of H.R. 4162, Calendar Item No. 1083.

Mr. BYRD. Mr. President, I regret that I have to object on behalf of several Senators.

The PRESIDING OFFICER. The objection is heard.

Mr. MURKOWSKI. Mr. President, I wonder if the minority leader has any idea or if he feels that this might be cleared prior to the end of the session?

Mr. BYRD. I understand that there is a substitute for the measure. It has been printed in the RECORD and is being studied by various Senators. Perhaps it can be cleared before the end of the session.

Mr. MURKOWSKI. I thank my friend, the minority leader. I do wish to assure him for the record that I shall make every attempt, as will my senior colleague, Mr. STEVENS, I am sure, to meet with any Senators on the minority side who object to the proposed bill. I shall try to answer any questions that they may have.

I do thank the minority leader for his consideration on this matter at this time.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. STEVENS. Mr. President, I wonder if it is in order that somehow or other, we be given a list of bills that are going to be cleared for the consent calendar for the balance of the session?

The PRESIDING OFFICER. The Chair has no such list.

Mr. STEVENS. I am in a conference committee. It is a continuing conference committee now that I think will be continued right up until the end of the session. It is awfully difficult to be here at the same time that bills are coming and going. I know it is an extreme burden on the staff, but I think that in view of the timing of the winding down of this session, it is fair that we have some information concerning the bills other Members are seeking to clear.

I note with some respect that there are a series of measures that pertain to our State that are not being cleared. It happens, in my judgment, that they are being objected to by the same Senators. Since we are in this unanimous consent mode, I felt that perhaps we might be able to obtain information concerning matters that

other Senators may be seeking unanimous consent on so I might be present to lodge an objection when it is appropriate.

Is there some way we can ask for advance notice of items that are cleared? I note that we no longer have the rule that matters appear on the calendar for 1 day, which pertained in all prior Congresses where I was involved in management on the floor. It is not easy to follow these matters under the current procedures.

The PRESIDING OFFICER. The Chair has no such list and does not have access to such list. He regretfully states that he cannot be of assistance to the Senator from Alaska.

□ 1900

Mr. MURKOWSKI. I wonder if the Senator from Alaska will yield on this question—and I defer to the minority leader—if it is a policy or procedure to have available the information relative to the number of Senators who might have a hold or, as I understand it, the information available currently on H.R. 4162 does not give the name of the individual Senator and the difficulty is the inability to respond to that Senator. I wonder if I could direct this to the President for a ruling, a question specifically as to whether or not if we cannot get the name of the individual Senator with the hold, whether we can get an indication if there is more than one. I will ask that of the Chair.

The PRESIDING OFFICER. The Chair would tell the junior Senator from Alaska that there is no procedural status, and the Chair is not able to provide the Senator from Alaska with such information and respectfully suggests that the junior Senator from Alaska address the question to the minority leader inasmuch as he has indicated the objection.

Mr. MURKOWSKI. I thank the Chair.

I assume there is not much more that the minority leader could impart as far as information as to whether there might be more than one hold or not on this matter?

Mr. BYRD. Yes. Mr. President, as I indicated earlier, there is an objection on the part of several Senators, or various Senators, I do not remember the word that I used, but there is more than one objection.

Mr. MURKOWSKI. I thank the minority leader, and I assume the procedure then is to informally do the best you can.

Mr. BYRD. Yes, I think that is correct. I am sure that the staff on the distinguished Senator's side of the aisle will continue to work with staff on this side of the aisle and will attempt to clear the item.

Mr. MURKOWSKI. Let me reassure the minority leader of our willingness to work with those who have questions on this legislation. I appreciate the

Senator's courtesy and I thank the Chair.

Mr. BYRD. I thank the Senator.

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.

SENATOR MATHIAS DEPARTS

Mr. PELL. Mr. President, it is with a real sense of impending loss that I note the retirement from this body of the distinguished, unique, and able senior Senator from Maryland, Mr. MATHIAS.

"MAC" MATHIAS is one of those rare people in public life who has never let the trappings of office overwhelm his true nature. His grace and good humor are constant qualities that he brings to every occasion, thereby making even the most daunting task seem easier.

For me, he has become a true friend and wise counsel, as well as an ally in many a good cause.

It has been my special good fortune to have him as a colleague on the Committee on Foreign Relations where his perception and sense of fairness have contributed greatly to the balance of the committee.

I particularly commend him for his work on the South African sanctions bill, where his leadership was critical in ensuring that the committee take a strong stand in opposition to apartheid.

As chairman of the Subcommittee on International Economic Policy, Senator MATHIAS was among the first to sound the alarm about the threat to international stability posed by the burgeoning debt of underdeveloped countries.

He also has taken a keen interest in our relationship with our NATO allies. For many years, he served as chairman of the Senate delegation to the North Atlantic Assembly, and he is currently finishing up a year of service as the Assembly president. His expert knowledge, diplomatic skill, and personal grace have greatly strengthened the United States-European interparliamentary relationship in support of NATO.

On the Committee on Rules and Administration, where he succeeded me as chairman, Senator MATHIAS has presided with notable equanimity and fortitude over the often-vexing problems involving internal management of the Senate.

Telephone procurement, Capitol security, computer services, campaign finance regulation, oversight of the Smithsonian Institution and the Library of Congress and a host of other matters have received calm and patient consideration under the chair-

manship of the Senator from Maryland.

By all odds, the most historic achievement of Chairman MATHIAS' tenure at the helm of the Rules Committee is the smooth, and I might say beneficial, transition of the Senate to the television age.

I must admit that I myself came only late and with reluctance to support TV coverage of Senate proceedings. But Senator MATHIAS was perhaps more farsighted than some of the rest of us in recognizing some time ago not only that the Senate owed it to itself and to the Nation to adapt to the times, but that the institution would not suffer from doing so. I believe our experience to date has amply confirmed his judgment.

"MAC" MATHIAS will be remembered fondly for many things but perhaps most of all for his sense of scholarship and erudition. To the wonderment of us all, he is never at a loss for an appropriate literary allusion to sum up an occasion.

In the words of one of his most frequent sources of inspiration, Dr. Samuel Johnson, he is indeed "a Lord among wits."

Notwithstanding Dr. Johnson's abiding prejudice against Scotland, CHARLES McCURDY MATHIAS, JR., is probably just the man Dr. Johnson had in mind when he said:

"Much may be made of a Scotsman if he be caught young."

The Senator from Maryland was indeed caught young. He started public life as an assistant State attorney general at the tender age of 31 and has been at it ever since. He first entered elective office in 1958 and has been reelected time and again, proving that Maryland respects his independent style and political courage. He has served his State with great distinction and while many of us are sad to see him leave the Senate, everyone would agree that he richly deserves a respite.

I only hope that he maintains his contacts and friendship with all of us he leaves behind in the Senate.

I yield the floor.

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

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

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 8 p.m.

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

RELIEF OF THE MERCHANTS NATIONAL BANK OF MOBILE, AL

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 593.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 593) entitled "an Act for the relief of the Merchants National Bank of Mobile, Alabama", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$809,609, to the Merchants National Bank of Mobile, Alabama, for compensation for losses sustained during the period January 1, 1976, through December 31, 1978, concerning the issuance and cancellation of a Government loan guarantee and the subsequent issuance of a second loan guarantee on reduced terms, resulting from actions and misrepresentations of the Defense Logistics Agency of the Department of Defense and its fiscal agent, the Federal Reserve Bank of Atlanta.

SEC. 2. (a) The payment made pursuant to the first section of this Act shall constitute full settlement of the legal and equitable claims by the Merchants National Bank of Mobile, Alabama, against the United States, covered by this Act.

(b) No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this subsection is a misdemeanor punishable by a fine not to exceed \$1,000.

Mr. DENTON. Mr. President, I rise in support of the amended version of S. 593, a bill for the relief of the Merchants National Bank of Mobile, introduced by Senator HOWELL HEFLIN and myself on March 6, 1985. Passage of the bill would conclude a congressional reference proceeding that began in the U.S. Senate more than 6 years ago. On October 31, 1985, the original bill was considered by the Judiciary Committee and was unanimously reported to the full Senate for consideration. On December 6, 1985, the Senate approved the original bill by voice vote. Today, the House approved an amended version of the bill.

The bill complements the legislation that was introduced by Senator HEFLIN in the 96th Congress (S. 2052), and referred in November 1979 by Senate Resolution 291 to the Chief Commissioner of the U.S. Claims Court.

The reference sought the court's consideration of whether the Merchants National Bank of Mobile [the

bank] was legally or equitably entitled to compensation for losses sustained in connection with a defective Federal loan guarantee issued by the Department of Defense. After a lengthy trail before a hearing officer, and argument before a review panel, the U.S. Claims Court, through its chief judge, has advised the Senate that the bank has an equitable claim for \$809,609, and that payment of the amount would not constitute a gratuity.

The losses sustained by the bank relate to loans made to a Government contractor in Mobile, AL, which was attempting to perform two contracts, awarded by the Defense Logistics Agency in 1976, to assemble combat rations for the military. In the early stages of the contracts, lengthy delays and mishandling of materiel by the Government, generated substantial unforseen costs to the contractor. To assist the contract in securing financing for the costs, the Agency approved a loan guarantee to the bank pursuant to the Defense Production Act V-Loan Guarantee Program.

When the bank had advanced virtually the entire guaranteed sum—almost \$2 million—the Agency abruptly cancelled the guarantee because it discovered that no funds had been appropriated to support the guarantee agreement. Nevertheless, stressing the importance of the combat rations contracts to the defense effort, the Agency pledged its full assistance to Merchants Bank and the contractor to encourage them to proceed with the contracts. The Agency even drafted legislation to allow the issuance of a suitable replacement guarantee. Based upon these assurances, the bank agreed to continue supporting the Government's contractor.

Soon thereafter, appropriate language was included in the 1978 DOD Appropriations Act to make available \$5 million for the express purpose of authorizing new loan guarantee agreements. At this point, the bank applied for a new v-loan guarantee consistent with the assurances it had received from the Defense Logistics Agency. Notwithstanding the availability of suitable loan guarantee authority and the assurances that the Agency would do everything possible to restore the guarantees upon which the bank had relied, the Agency refused the application. Instead, it offered a guarantee substantially less favorable than the first, and only after requiring the bank to extend an additional half-million dollars in unguaranteed credit to the Government's contractor.

Meanwhile, the Agency acknowledged that its handling of the contracts had substantially increased the cost of performance. Consequently, it enlarged the credit requirements of the contractor. Because the second loan guarantee was wholly insufficient to support these credit requirements,

and since the Bank could not prudently extend further credit in light of its already substantial unguaranteed exposure, the contractor was forced to close its doors and file for bankruptcy in 1978. Both before and after the bankruptcy petition was filed, the bank expressed its willingness several times to join with the Agency in cooperative financing arrangements that would save the company. The Agency refused to entertain these suggestions, and in April 1978 the contractor was adjudged bankrupt.

In extending credit for the performance of the Government contracts, the bank understandably relied upon representations and assurances of the Defense Logistics Agency. When the first guarantee was suddenly cancelled, the bank again relied upon the assurances of senior Agency officials that, pending enactment of new guarantee authority, a replacement loan guarantee would be established in an amount sufficient to protect the bank. When the Agency ultimately refused to stand by those assurances, the resultant credit limitations left the contractor facing bankruptcy and caused the bank to suffer losses of nearly \$1.7 million.

Because the bank's losses were primarily the result of its reliance upon a guarantee that exceeded the authority of the responsible Government officers, it was apparent that a successful legal cause of action for the recovery of these losses was extremely unlikely. Where Government officials act beyond the scope of their authority, the obstacles to maintain a legal cause of action to recover from the United States are virtually insurmountable. For that reason, S. 2052 was introduced in the 96th Congress and was referred by Senate resolution to the court of claims for consideration.

After a lengthy trial, which filled 2,000 transcript pages, Judge Spector, a senior judge of the claims court, on April 30, 1984, issued an exhaustive 65-page report in which he recommended that Congress authorize payment to Merchants Bank of \$809,609 in full settlement of all its legal or equitable claims against the United States. The report concluded that the Government was responsible for a series of wrongful acts, including several unfulfilled assurances upon which the bank had relied in extending credit to the contractor. Judge Spector also found that the bank's cooperation with the Government and its contractor was in part motivated by the Agency's insistence that continued production under the contract was urgently required to support national defense needs.

Government counsel took exception to many of the findings, and a three-judge review panel of the claims court considered yet another round of briefs and oral argument from the parties.

The resulting 22-page report of December 6, 1984, confirmed Judge Spector's conclusions and recommended that the chief judge transmit to the Senate its conclusion that Merchants Bank has an equitable claim against the Government for \$809,609. Copies of the decisions of both Judge Spector and the review panel were referred to the Secretary of the Senate by the chief judge of the claims court on December 19, 1984.

The bill would give effect to the conclusions rendered after careful adjudication by the claims court. It does not compensate the bank for all of the losses it has suffered in supporting this Government contractor. Indeed, the bank has never sought total compensation from the United States for its losses, nor does it seek to recover the painful costs generated by some 5 years of watching this congressional reference proceeding take its long and careful course.

The bill would confirm the efficacy of some of the longstanding traditions of a congressional reference, traditions founded in part upon a simple recognition that there should be an avenue by which the Government can be held accountable for its mistakes and excesses. Accountability is particularly important when, as in this case, losses are suffered expressly because of the trust and reliance that was placed quite naturally in a Government agency responsible for the national defense.

Mr. President, the House version of the bill contains language which makes clear that no part of the amount appropriated in the bill in excess of 10 percent thereof could be paid or delivered to any agent or attorney of the bank on account of services rendered in connection with the claim. The purpose of this language is to prohibit any agent or attorney of the bank from receiving funds due from the bank on a contingent fee or success fee basis as a result of its representation of the bank; the language makes clear that payments by the bank to any agents or attorneys on a contingent basis in excess of 10 percent of \$809,609 are unlawful. The section is not intended to apply to traditional hourly arrangements made by the bank for attorneys in connection with representation of the bank in handling this congressional reference claim through the detailed process set out in title 28, United States Code, sections 1492, 2509. This additional language is acceptable to Senator HEFLIN and myself.

Mr. President, the bill involves a unique, unprecedented set of facts, and will provide compensation only to the Merchants National Bank of Mobile for its own proven losses.

I urge my colleagues to again support equitable compensation for the Merchants National Bank of Mobile

by concurring with the House amendment and passing the bill.

Thank you, Mr. President.

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

NAVY RABBI JOINS ICELAND TEAM

Mr. PELL. Mr. President, as the President departs for the summit meeting in Iceland with Soviet leader Gorbachev, the Nation's Jewish community prepares to observe one of the most important dates on the Jewish religious calendar, the high holiday of Yom Kippur.

For this reason the President has asked Rabbi Arnold Resnicoff, a Navy chaplain stationed at the Naval Chaplains School in Newport, RI, to fly to Iceland with President Reagan and conduct Yom Kippur services for the President's staff.

This is not the first time that Rabbi Resnicoff has been a part of momentous events. In 1983, the rabbi cared for the injured and dying in the aftermath of the terrorist bombing of the Marine barracks in Beirut, Lebanon. The President took note of Rabbi Resnicoff's actions in Beirut and asked him to prepare a report on the terrorist attack and subsequent rescue effort.

Mr. President, the Providence Journal recently reported on Rabbi Resnicoff's participation in the Iceland summit and I ask unanimous consent that the text of the article, entitled "Navy Rabbi To Join Iceland Team," be printed in full in the RECORD.

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

NAVY RABBI TO JOIN ICELAND TEAM

NEWPORT.—Rabbi Menachem Resnicoff and his family immigrated to America nearly a century ago, in flight from the persecution that haunted Jews in their native Russia.

Today, his grandson will complete the journey that his grandfather began more than 80 years ago, Rabbi Arnold Resnicoff, a Navy chaplain, will fly to Iceland to lead Yom Kippur services for President Reagan's summit staff.

"I'm only sorry that my father is not alive to see this, that one generation after they escaped to America, one of our family will lead a service at a meeting with Russia," Rabbi Resnicoff said from his office at the Naval Chaplains School in Newport.

"My grandfather used to thank God that there was a country like America. It was that feeling he bequeathed to me."

ONLY CHAPLAIN AT SUMMIT

Rabbi Resnicoff isn't sure why he was chosen to be the only chaplain at the pre-summit between Mr. Reagan and Soviet leader Mikhail Gorbachev that begins Friday. All he knows is that the White House asked the Armed Forces Chaplain Board to select a rabbi, and the Navy's chief of chaplains picked him.

Perhaps someone in the administration remembered the Navy chaplain who cared for the dying and wounded in the aftermath of the 1983 terrorist bombing of a Marine barracks in Beirut, Lebanon.

Mr. Reagan asked Rabbi Resnicoff to write an account of the attack and the rescue effort that followed. The President later read the report during a national convention headed by the Rev. Jerry Falwell.

"My first feeling was one of pride in America," Rabbi Resnicoff said of his trip to Iceland. "(It's) the thought that someone in Reagan's staff felt comfortable bringing in religion as a matter of course, that this was an important time of the year."

The summit falls during the high holy days of the Jewish religion. Yom Kippur—the day of atonement—is the holiest day in the Jewish year, capping a period of reflection, study and prayer.

Rabbi Resnicoff believes there is a certain lovely irony to the timing of these two "events."

"Jews believe they can learn from the past," he explained. "We're telling ourselves as individuals, as a people and as a nation that we should learn from past actions and break out of unhealthy cycles."

Someone recently asked Rabbi Resnicoff what he would say if he met the Soviet leader.

"What would I say to Gorbachev if I could stand in front of him in the uniform of a U.S. Navy officer with the Ten Commandments—the symbol of a Jewish chaplain—on my sleeve? I would not have to say another word. My uniform says it all."

Rabbi Resnicoff joined the Navy because of his father's love of America. But it was his experience in the Navy that led him to become a rabbi. It was in Vietnam's Mekong Delta that he began to lead services for fellow Jews.

He said he returned to the Navy after completing his rabbinical studies for two reasons. "Loyalty. If it hadn't been for the Navy, I wouldn't have become a rabbi. And second, almost never did I see a rabbi in the Navy."

The rabbi isn't sure what he will say in his sermon on Sunday, the beginning of Yom Kippur. He said he might draw on the historic message of Yom Kippur—the notion that people can learn from their mistakes.

The idea I got from my father is you can make things better or worse. Just as individuals can make a difference, so can nations. A nation is not an evil thing. It can either be a force for good or for suffering.

"I believe it's my responsibility not only to be a good individual but to be a good citizen."

What hopes does Rabbi Resnicoff have for the first meeting of the two superpower leaders?

"It may be impossible, but if Russia could understand that America does not negotiate based only on what's good for us (and that) we really care about individual liberties and

human rights, that would be a step forward."

The only thing Rabbi Resnicoff regrets is not being able to spend Yom Kippur with his wife and daughter. But after 10 years in the Navy, the rabbi has grown accustomed to missing holidays with his family.

If his father were alive today, Rabbi Resnicoff thinks he would be thrilled with the honor bestowed on his son.

"For my father, I know there would be tears on his cheeks. He'd say that he's only sorry that his father wasn't alive to see this."

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on October 8, 1986, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 748. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes;

H.J. Res. 749. Joint resolution waiving the printing on parchment of certain enrolled bills and joint resolutions during the remainder of the 2d session of the 99th Congress; and

H.J. Res. 750. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:55 a.m., a message from the House of Representatives, announced that the Speaker pro tempore [Mr. FOLEY] had signed the following enrolled bill:

H.R. 2005. An act to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. THURMOND].

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 2:29 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 and joint resolution:

H.R. 3526. An act to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona;

H.R. 4021. An act to extend and improve the Rehabilitation Act of 1973;

H.R. 4952. An act to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes; and

H.J. Res. 678. Joint resolution to designate October 1986 as "Crack/Cocaine Awareness Month."

The enrolled bills and joint resolution were signed by the President pro tempore [Mr. THURMOND].

At 5:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 2129) to facilitate the ability of organizations to establish risk retention groups, to facilitate the ability of such organizations to purchase liability insurance on a group basis, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4350) to amend the Wild and Scenic Rivers Act, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message further announced that pursuant to section 301 of Public Law 99-371, the Speaker appoints as members of the Commission on Education of the Deaf, the following from private life on the part of the House: Ms. Patricia A. Hughes of Seattle, WA, Mr. David J. Nelson of Washington, DC, Mr. William Page Johnson of Jacksonville, IL, and Ms. Nanette Fabray of Pacific Palisades, CA.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5445. An act to amend chapter 96 of title 18, United States Code.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 404. A concurrent resolution expressing the sense of the Congress that the Soviet Union should immediately provide for the emigration of Naum Meiman and Inna Kitrosskaya-Meiman and for the resolution of all divided family and emigration cases; and

H. Con. Res. 406. A concurrent resolution expressing support for President Reagan in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland, and for other purposes.

MEASURES REFERRED

The following bills, previously received from the House of Representatives, were read the first and second times by unanimous consent, and referred to indicated:

H.R. 103. An act to require the Secretary of the Interior to permit trapping in the Ozark National Scenic Riverways Area; to the Committee on Energy and Natural Resources.

H.R. 235. An act to authorize the establishment of the Jimmy Carter National Historic Site in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5445. An act to amend chapter 96 of title 18, United States Code; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 404. Concurrent resolution expressing the sense of the Congress that the Soviet Union should immediately provide for the emigration of Naum Meiman and Inna Kitrosskaya-Meiman and for the resolution of all divided family and emigration cases; to the Committee on Foreign Relations.

H. Con. Res. 406. Concurrent resolution expressing support for President Reagan in his October 11-12 meeting with General Secretary Gorbachev in Reykjavik, Iceland, and for other purposes; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill, which was placed on the calendar:

H.R. 4731. An act to amend chapter 131 of title 46, United States Code, relating to the Federal recreational boating safety programs, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED DURING RECESS

Under the authority of the order of the Senate of January 3, 1986, the following enrolled bills and joint resolutions were signed on October 8, 1986, during the recess of the Senate, by the President pro tempore [Mr. THURMOND]:

H.R. 3773. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Bureau of Standards;

H.R. 4718. An act to amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes;

H.R. 5362. An act to extend the authority of the Supreme Court Police to provide protective services for Justices and Court personnel;

H.R. 5548. An act to amend the Export-Import Bank Act of 1945;

H.J. Res. 635. Joint resolution to designate the school year of September 1986 through May 1987 as "National Year of the Teacher" and January 28, 1987, as "National Teacher Appreciation Day";

H.J. Res. 748. Joint resolution making further continuing appropriations for fiscal year 1987, and for other purposes;

H.J. Res. 749. Joint resolution waiving the printing on parchment of certain enrolled bills and joint resolutions during the remainder of the second session of the Ninety-ninth Congress; and

H.J. Res. 750. Joint resolution making further continuing appropriations for fiscal year 1987, 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-3820. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Commodity Credit Corporation's Financial Statements for 1985 and 1984"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3821. A communication from the Assistant Secretary of Agriculture (Science and Education), transmitting, pursuant to law, the Renewable Resources Extension Program Five Year Plan for 1986-1990; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3822. A communication from the Secretary of Transportation, transmitting, pursuant to law, a recommendation with respect to a supplemental appropriation for the Pollution Fund administered by the U.S. Coast Guard; to the Committee on Appropriations.

EC-3823. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the reappropriation of the appropriation for Radio Free Europe/Radio Liberty, Inc.; to the Committee on Appropriations.

EC-3824. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, a report on certain properties to be transferred to the Republic of Panama in accordance with the Panama Canal Treaty and related agreements; to the Committee on Armed Services.

EC-3825. A communication from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting, pursuant to law, a report on the conversion of the refuse collection function at Elmendorf Air Force Base, Alaska to performance by contract; to the Committee on Armed Services.

EC-3826. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of the intention of the Defense Logistics Agency to exercise the provision of law concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-3827. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of the intention of the Defense Logistics Agency to exercise a provision of law concerning the examination of records by the Comptroller General; to the Committee on Armed Services.

EC-3828. A communication from the General Counsel of the Department of Commerce, transmitting, pursuant to law, the comments of the Department of S. 991, the Marine Fisheries Program Authorization Act of 1985; the Committee on Commerce, Science, and Transportation.

EC-3829. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize occupancy of substandard family housing units by members of the Coast Guard on the same basis as members of the other Armed Forces; to the Committee on Commerce, Science, and Transportation.

EC-3830. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Public Law 99-396 exception to the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes; to the Committee on Energy and Natural Resources.

EC-3831. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report under the Mining and Minerals Policy Act of 1970 for calendar year 1985; to the Committee on Energy and Natural Resources.

EC-3832. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, a report entitled "The National Historic Preservation Act of 1966: An Assessment of Its Implementation Over Twenty Years"; to the Committee on Energy and Natural Resources.

EC-3833. A communication from the Acting Secretary of State, transmitting, pursuant to law, a report on the situation in El Salvador; to the Committee on Foreign Relations.

EC-3834. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 3, 1986; to the Committee on Foreign Relations.

EC-3835. A communication from the Deputy Assistant Secretary for Health Operations and Director, Office of Management, Department of Health and Human Services, transmitting, pursuant to law, an annual report on the PHS Commissioned Corps Retirement System for fiscal year, 1985; to the Committee on Governmental Affairs.

EC-3836. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, an annual report of the Securities and Exchange Commission on the Government in the Sunshine Act, for calendar year 1985; to the Committee on Governmental Affairs.

EC-3837. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, an annual report of personal property furnished to non-federal recipients for fiscal year 1985; to the Committee on Governmental Affairs.

EC-3838. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a plan for the use and distribution of the Rincon Band of Mission Indians judgement funds; to the Select Committee on Indian Affairs.

EC-3839. A communication from the Chief Justice of the United States, transmitting, pursuant to law, reports of the Proceedings of the Judicial Conference of the United States, held in Washington, D.C. on March 12 and 13, 1986, and the Special Session held on June 30, 1986; to the Committee on the Judiciary.

EC-3840. A communication from the Treasurer of the Jewish War Veterans, USA National Memorial, Inc., transmitting, pursuant to law, an annual audit report for fiscal year ended March, 31, 1986; to the Committee on the Judiciary.

EC-3841. A communication from the Treasurer of the Navy Wives Clubs of America, transmitting, pursuant to law, the annual audit report for the year ended August 31, 1986; to the Committee on the Judiciary.

EC-3842. A communication from the Director of the National Science Foundation, transmitting to law, a report on the research facilities needs of U.S. universities; to the Committee on Labor and Human Resources.

EC-3843. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Carl D. Perkins Scholarship Program; to the Committee on Labor and Human Resources.

EC-3844. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for debt collection; to the Committee on Labor and Human Resources.

EC-3845. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Railway Labor Act; to the Committee on Labor and Human Resources.

EC-3846. A communication from the Acting Administrator of the Small Business Administration, transmitting, pursuant to law, the interim report on the 504 Development Company Pilot Program; to the Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

Special Report entitled "Child Pornography and Pedophilia" (Rept. No. 99-537).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 893: A bill to create the Florida Panther National Wildlife Refuge in the State of Florida (Rept. No. 99-538).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

H.J. Res. 67: A Joint resolution calling for a wildlife sanctuary for humpback whales in the West Indies.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Peter C. Myers, of Missouri, to be a Member of the Board of Directors of the Commodity Credit Corporation.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER (for himself and Mr. BUMPERS):

S. 2914. A bill to extend through fiscal year 1988 SBA Pilot Programs under section 8 of the Small Business Act; considered and passed.

By Mr. RIEGLE:

S. 2915. A bill to deny most-favored-nation treatment to imports from Yugoslavia; to the Committee on Finance.

By Mr. BOSCHWITZ:

S. 2916. A bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself, Mr. DOLE, Mr. KASTEN, Mr. LAXALT, Mr. NICKLES, Mr. DENTON, Mr. HEINZ, Mr. McCLURE, Mr. THURMOND, Mr. WEICKER, Mr. WILSON, Mr. MOYNIHAN, Mr. PROXMIER, Mr. GLENN, Mr. NUNN, Mr. ZORINSKY, Mr. DeCONCINI, Mr. CHILES, Mr. METZENBAUM, Mr. GORE, Mr. HOLLINGS, Mr. DIXON, Mr. LEVIN, Mr. PRYOR, and Mr. STENNIS):

S.J. Res. 426. Joint resolution to designate the week of October 19 through 25, 1986, as "National CPR Awareness Week"; 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. McCONNELL (for himself, Mr. COHEN, Mr. BOREN, Mr. LUGAR, Mr. KENNEDY, Mr. DURENBERGER, Mr. LEAHY, Mr. BRADLEY, Mr. MURKOWSKI, and Mr. ROTH):

S. Res. 503. Resolution relative to Dr. Abby Nkomo, chairman of the Atteridgeville/Saulsville Civic Association; considered and agreed to.

By Mr. WALLOP (for himself and Mr. SIMPSON):

S. Res. 504. Resolution relating to United States-Japan ash trade; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. KENNEDY, Mrs. HAWKINS, Mr. MOYNIHAN, Mr. SIMON, Mr. STAFFORD, Mr. MELCHER, Mr. JOHNSTON, Mr. BOREN, Mr. MATSUNAGA, and Mr. SARBANES):

S. Con. Res. 167. Concurrent resolution to express the sense of Congress regarding efficient and compassionate management of the Social Security Disability Insurance (SSDI) Program; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE:

S. 2915. A bill to deny most-favored-nation treatment to imports from Yugoslavia; to the Committee on Finance.

STATUS OF IMPORTS FROM YUGOSLAVIA

Mr. RIEGLE. Mr. President, I am today offering a bill that deals with a problem that has arisen where an American citizen has been tried by a court in Yugoslavia and sentenced to a 7-year prison term for activities that this American citizen carried out in the United States—activities of a proper political sort. Expressing his views here in the United States is the reason he has been jailed, tried, and now convicted to a 7-year term in Yugoslavia.

The man in question, Pjeter Ivezaj, is a U.S. citizen from Sterling Heights,

MI. I am greatly distressed by this development, as are others in my State. Certainly his family is greatly distressed, as are others who have followed this case, because of what is obviously improper conduct by the Government of Yugoslavia.

This afternoon, my colleague in the House of Representatives from Michigan, Congressman WILLIAM BROOMFIELD, who is the senior Michigan Republican in the House and ranking Republican on the Foreign Affairs Committee, filed a bill that is exactly the same as the one I will now file, containing the cosponsorship of the 18 House Members in both parties from the State of Michigan, as well as several dozen other colleagues in the House of Representatives.

What the bill would do is, if passed, suspend the most-favored-nation trading status with Yugoslavia until such time as this illegal detainment of an American citizen comes to an end and this, and any other similarly incarcerated individual, is released.

This is a very serious matter. I say to the officials of Yugoslavia that this is unacceptable behavior and conduct toward citizens of this country and toward our country, and I, for one, feel strongly that unless this matter is resolved quickly and properly, we ought not to be seeing Yugoslavian goods of any sort coming into the United States, because this is just unacceptable and intolerable conduct between our Nations.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the bill and two articles from the Detroit News and the Detroit Free Press relating to this matter.

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

S. 2915

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

SEC. 1. DENIAL OF NONDISCRIMINATORY TREATMENT.

Nondiscriminatory treatment (Most-Favored Nation treatment) shall be denied to any product of Yugoslavia that is entered, or withdrawn from warehouse for consumption, in the customs territory of the United States on or after the 10th day after the date of enactment of this Act unless prior to that 10th day, the President determines and reports to the Congress that the Government of Yugoslavia has released all citizens of the United States who the President finds have been imprisoned or otherwise detained in the custody of government authorities in Yugoslavia without adequate justification and that the Government of Yugoslavia has ceased to implement any policy or program which results in such unjustified imprisonment or detainment of United States citizens.

SEC. 2. DURATION OF DENIAL.

In the event that the denial of nondiscriminatory treatment (Most-Favored-Nation treatment) to any product of Yugoslavia required under section 1 of this Act takes effect, such denial shall continue in

effect until such time as the President determines and reports to the Congress that the Government of Yugoslavia has released all citizens of the United States who the President finds have been imprisoned or otherwise detained in the custody of government authorities in Yugoslavia without adequate justification and that the Government of Yugoslavia has ceased to implement any policy or program which results in such unjustified imprisonment or detainment of United States citizens.

YUGOSLAVIA CONVICT AMERICAN

DETROIT AREA MAN GETS 7-YEAR TERM

(By Roddy Ray)

Pjeter Ivezaj, a U.S. citizen from Sterling Heights, was sentenced Wednesday to seven years in prison by a panel of judges in Yugoslavia for participating in peaceful anti-Yugoslav activities in this country.

The sentence prompted outrage in Washington and at the Ivezaj family's home. His lawyer in Yugoslavia entered an immediate appeal.

"Please help us," his father, Leka, a 56-year-old Chrysler Corp. worker, said through an interpreter. The family had declined previously to be interviewed for publication, fearing their statements would adversely affect the outcome of Ivezaj's trial.

"I was told that I should button my lips, so to say," said his brother Frano, 28. "I've buttoned my lips enough. Now I intend to take this matter to the court of world opinion. If U.S. citizenship has any value, which I believe it does, now is the time for the U.S. government to make a move."

Ivezaj, 30, of Albanian descent, was arrested in August after flying to Yugoslavia with his wife and daughter to visit relatives, family members said. He has been a naturalized U.S. citizen for 10 years and has worked as a bilingual technician with the Detroit Public Schools.

A statement released Wednesday by the U.S. Embassy in Belgrade said the charges apparently stemmed from his "alleged membership in an alleged Albanian-American student organization and participation in an 'Anti-Yugoslav' demonstration" in Washington in 1981.

"The U.S. Government will continue to press vigorously for Mr. Ivezaj's release. We have informed senior Yugoslav officials of our outrage that an American citizen could be arrested and tried for . . . exercising his constitutional rights in the United States. We have also informed Yugoslav government officials that actions such as these can only harm bilateral relations between Yugoslavia and the United States," the statement said.

In Washington, U.S. Rep. William Broomfield of Birmingham, the ranking Republican on the House Foreign Affairs Committee, joined with four other congressmen in drafting a letter asking Secretary of State George Shultz to revoke Yugoslavia's favored-nation trade status.

Sen. Carl Levin, D-Mich., asked the Senate Foreign Relations Committee to investigate Ivezaj's "deplorable case."

Broomfield, whose district includes Sterling Heights, and Levin said U.S. diplomatic officials expressed optimism that Ivezaj's sentence would be overturned.

Ivezaj's trial began Friday and ended Monday. The news of his sentence apparently hit hardest at home, when the family took the 8:45 a.m. telephone call from his wife, Juliana, in Titograd, Yugoslavia. Juliana Ivezaj, who is pregnant, attended the trial with other family members, including

Ivezaj's mother, Pashka, 55. Juliana Ivezaj told relatives in the United States that her husband was forbidden to face her or other supporters in the Titograd courtroom.

"Everything had gone through my mind about what might have happened," said Frano Ivezaj, as he sat among about a dozen family members and reporters at the well-kept, single-story brick ranch home. "I thought he would be found not guilty. Or I thought he would be sentenced to 50 days, which he already has served. And the third possibility, I didn't want to think about it, that he would be found guilty."

In a gesture of typical Albanian hospitality, the family poured cognac for visitors.

Associated Press quoted unnamed sources in Yugoslavia as saying the five-judge panel at the Titograd district court charged Ivezaj with participating in demonstrations "in Detroit, Chicago and Washington" that were "directed against the Yugoslav constitutional system and were aimed at toppling the socialist government."

Tanjug, the official Yugoslav news agency, quoted Judge Sreten Ivanovic as saying the trial proved Ivezaj had been a member of an Albanian-American student organization in Detroit since 1978, AP reported. The judge said the group includes political emigres from Albania and Yugoslavia and promotes anti-Yugoslav activity, it reported.

Frano Ivezaj said his brother had attended a meeting of such a group about 10 years ago, but "he thought it was a social organization, and he quit when he found out they were political." He said Ivezaj had attended the Washington demonstration but no other.

Said Nua Ivezaj, 22, a cousin: "We just want Pjeter back."

[From the Detroit News, Oct. 9, 1986]

YUGOSLAVS CONVICT IVEZAJ

(By Diane Katz and Lou Fintor)

WASHINGTON.—A seven-year prison sentence imposed on a suburban Detroit man by a Yugoslav court has prompted threats from lawmakers to sever U.S. relations with the European nation.

After learning that Pjeter Ivezaj, 30, of Sterling Heights, was convicted Wednesday of crimes against the state, congressmen vowed to rescind trade agreements and expel Yugoslav diplomats unless he is released.

Ivezaj, a naturalized U.S. citizen, had been accused of participating in an anti-Yugoslav demonstration in Washington in 1981.

But U.S. Ambassador John Scanlan, during telephone calls from Yugoslavia to Michigan Rep. William Broomfield, R-Birmingham, and Sen. Carl Levin, D-Mich., expressed optimism that Ivezaj could be freed soon.

"The ambassador is very optimistic that the case will be satisfactorily resolved, and in a matter of days," Levin said during a speech Wednesday on the Senate floor. "That optimism is based upon discussions our ambassador has had with Yugoslav officials at the highest levels."

Ivezaj, a language technician for the Detroit public schools and computer science student at Wayne State University, was convicted by a five-judge panel in Titograd on two charges of violating Article 136 of the Yugoslav criminal code. That statute prohibits membership in anti-government groups and hostile acts against the state.

The verdict followed two days of testimony during which Ivezaj, represented by a Yugoslav lawyer, affirmed his innocence.

When the court pronounced sentence, Ivezaj burst into tears, observers told his family in Metro Detroit.

According to Yugoslav authorities, Ivezaj, who is Albanian, had joined an outlawed Albanian-American student group in Detroit and participated in an anti-government demonstration at the Yugoslav Embassy.

Although Ivezaj holds U.S. citizenship, Yugoslav officials still consider him a citizen of their country. Ivezaj remains in custody in a jail outside Titograd. But under Yugoslav law, he will not begin serving his sentence until an appeal is heard. That procedure is under way, authorities said.

During a briefing Wednesday for the House Foreign Affairs Subcommittee on Human Rights, lawmakers threatened to cancel export-import loans to Yugoslavia, rescind trade agreements and expel Yugoslav diplomats from the United Nations in New York and their embassy here unless Ivezaj is released.

"The American people are fed up with the Yugoslavs' disregard for the most basic rights of American citizens at the same time our government is helping bail out the Yugoslav economy," Broomfield said.

Broomfield, along with Michigan Rep. Dennis Hertel, D-Harper Woods, and several members of the House Foreign Affairs Committee, sent letters Wednesday to President Reagan and Secretary of State George Shultz, urging them to support trade sanctions. The letters also recommend that a travel advisory be issued to warn Americans about the risk of arrest and detention in Yugoslavia.

Also angered by Ivezaj's plight, Rep. Philip Crane, R-Ill., called Yugoslav agents "creeps and slimebags" for their surveillance here of U.S. citizens who then are prosecuted in Yugoslavia.

Ekrem Bardha of West Bloomfield, chairman of the Albanian-American Republican Clubs of America, appealed to lawmakers at the briefing to press for Ivezaj's release.

"Can the United States, the leader of the free world, permit a foreign Communist country to dictate to American citizens which of their constitutional rights they can or cannot exercise?" Bardha asked.

And Michigan's two senators, Levin and fellow Democrat Donald Riegler, requested a review of U.S. relations with Yugoslavia in a letter to Sen. Richard Lugar, R-Ind. Lugar is chairman of the Foreign Relations Committee.

The State Department and U.S. Embassy officials in Belgrade, the Yugoslav capital, also condemned the court action and warned that the case could harm diplomatic relations between the two countries.

By Mr. BOSCHWITZ:

S. 2916. A bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential, and for other purposes; to the Committee on Finance.

CAPITAL GAINS TAX DIFFERENTIAL

Mr. BOSCHWITZ. Mr. President, I will introduce a bill this evening with respect to capital gains. I was a very enthusiastic supporter, Mr. President, of the tax bill that passed here in the Senate and passed by such an overwhelming majority and if I have one exception with it, and really I have several, but one major exception, it is the treatment of capital gains.

Capital gains, which in my State of Minnesota prior to the new tax law, had a maximum rate of 22.8 percent, now under this new tax law has a maximum rate of 39 and 40 percent and as a result there is great penalty put on capital and the accumulation of capital and the investment of capital, and it makes it much more difficult, of course, for small businesses, large businesses, to invest or to get capital to either to begin or to expand their facilities.

Of course, the reason that has occurred, Mr. President, was that although rates were higher under the old tax law there was an exclusion. Under the old tax law there was a 60 percent exclusion so that if you made a \$1,000 gain only \$400 of it was taxed, 60 percent was excluded, and the \$400 that was left was taxed at 50 percent or 20 percent of the entire gain.

Now, without the exclusion, 28 percent applies to the entire gain and also the State tax applies to the entire gain as well because many of the States follow the Federal rule.

The bill that I will be introducing will change that by once again bringing the exclusion into play. There would be two holding periods, Mr. President, rather than the one holding period of the old law.

One holding period would be for 1 year and then there would be a 40-percent exclusion. This would bring the overall rate down to about where it was or slightly above where it was when both the State and the Federal rates are included.

Then, in the event that a taxpayer were to hold the asset for more than 3 years, there would be a 60 percent exclusion. This would bring the tax rates down very, very substantially to about 16 percent of the whole as opposed to about 23 percent under the old law.

The capital gains rates, Mr. President, in other nations are either nonexistent or they are certainly lower than the capital gains rates of the United States. In fact, they are lower than they used to be and certainly enormously lower than they presently are under the new law.

Also, Mr. President, under the new law of higher capital gains rates, nearly 40 percent as I said in our State, there is no assurance that more revenue will inure to the benefit of the Federal Government. As a matter of fact, there is a good deal of evidence to suggest that if you raise the capital gains rates in the manner that we are now doing that the revenue to the Federal Government would go down.

Studies that have been done by Martin Feldstein and his associates at Harvard University would suggest that at a rate of 16 percent the Federal Government will collect the most money and if there is a 3-year holding period with a 60-percent exclusion

under present rates it would indeed amount to approximately 16 percent.

Mr. President, I ask unanimous consent to have printed in the RECORD my outline in support of the proposal and a table prepared by the American Council for Capital Formation.

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

OUTLINE IN SUPPORT OF THE BOSCHWITZ TWO-TIERED CAPITAL GAINS PROPOSAL

1. Mr. President, I am an enthusiastic supporter of the "Tax Reform Act of 1986". Nevertheless, I very much disagree with the new law's treatment of capital gains.

2. While tax rates are lowered substantially—the top bracket tax rate is reduced from 50 percent to 28 percent—the tax rate on long-term capital gains increase substantially:

a. The top federal rate on long-term capital gains increases from 20 percent (50 percent top × 40 percent subject to tax) to 33 percent (top marginal rate under the new law). That's a 65 percent increase!

b. But that only tells half the story. We must also look at the combined state and federal tax on long-term capital gains:

(i) Current law: The top combined rate is in Arkansas and North Carolina—\$235 per \$1,000 of gain. In California and New York, tied for third highest, the maximum combined federal/state tax is \$228 per \$1,000 of gain.

(ii) Under a new law, the combined federal/state tax in New York will go as high as \$422 per \$1,000 of gain. That's an 85 percent increase, and will give New York the highest combined rate in the country. There will be four states (and also the District of Columbia) where the combined federal/state tax on \$1,000 of long-term capital gains will exceed \$400. In no state will the maximum combined rate be less than \$330. Again, the maximum under current law is \$235 per \$1,000 of gain.

3. Such increase is unwise.

a. Consider: For the wealthiest taxpayers, the top federal tax rate on long-term gains will go from 20 percent to either 28 percent or 33 percent. At most, a 65 percent increase.

However, for a middle-income family with \$32,000 of taxable income, the top federal tax rate on long-term capital gains will increase from 11.2 percent (28 percent marginal rate × 40 percent subject to tax) to 28 percent. A 150 percent increase!

And that's not the only way middle-income taxpayers will be hurt by an increase in the capital gains tax rate. For many of these taxpayers, their single largest capital gain often comes from the sale of an asset—such as a farm or a business—which they have held for years. In many cases the asset represents a substantial portion of their net worth. An unexpected and very substantial increase in their capital gains rate could be very difficult for these people to bear.

Indeed, in many cases the capital gain being taxed is not real economic gain, but merely "inflationary gain" which does not add to personal wealth. When we remove the capital gains exclusion, the taxpayer will no longer have any cushion against inflationary gain.

b. Such a substantial increase in the capital gains rate will reduce venture capital that leads to new businesses, new jobs, new technology, new R & D.

Certainly new business will continue to be created, but fewer new businesses and projects will be created. Many innovative but risky projects will not go forward. The preference will be to invest in less risky, dividend paying securities as opposed to risky, growth oriented ventures.

In fact, our competitors seem to agree about the importance of preferential treatment for capital gains. According to the American Council for Capital Formation, 11 industrialized countries including Japan, Taiwan, West Germany, Hong Kong, Italy and South Korea impose no taxes on long-term capital gains, and Canada's maximum tax is only 17 percent.

4. Accordingly, I am introducing legislation to provide a two-tiered capital gains exclusion for individuals. In the case of assets held more than one year but less than three years, the exclusion would be 40 percent. As a result, the top combined federal/state tax would be \$254 on \$1,000 of gain. That would be higher than current law (\$235), but certainly not anywhere near \$422 per \$1,000.

For assets held three years or more, the exclusion would be 60 percent. That would mean a top combined rate of \$179 per \$1,000 of gain. Investors would really have an incentive to invest in longer term, higher risk ventures.

5. The available evidence suggests that this bill, standing alone, could be "revenue neutral":

a. Capital gains collections are not only a function of the rate applied, but equally important, of the amount subject to tax. Professor Lawrence Lindsay of Harvard University has estimated that each 1 percent increase in the maximum rate on long-term capital gains above 20 percent results in 5 percent fewer realizations. If true, collections from the wealthy will not increase by raising rates. In fact, the experience demonstrates that reducing the rate on long-term capital gains does not reduce collections. (See attached chart)

b. In fact, the Treasury Department Capital Gains Report (September 1985) concludes: "any effort to raise substantial revenue by increasing capital gains tax rates . . . is likely to be ineffective." Recent work on this issue by Dr. Martin Feldstein and by Professor Lawrence Lindsay of Harvard University also suggests that such an amendment is by itself "revenue neutral".

CAPITAL GAINS TAX INCREASES RESULT IN REDUCED REVENUES—CAPITAL GAINS TAX CUTS RESULT IN INCREASED REVENUES

Year	Maximum capital gains rate (percent)	Capital gains revenues (millions)
1968	25.9	\$5,943
1969	27.5	5,275
1970	32.2	3,161
1971	30.8	4,380
1972	45.5	5,708
1973	45.5	5,366
1974	45.5	4,253
1975	45.5	4,535
1976	49.1	6,621
1977	49.1	8,104
1978	49.1	9,348
1979	28.0	11,669
1980	28.0	12,459
1981	20.0	12,684
1982	20.0	12,900
1983	20.0	17,800

Source: American Council for Capital Formation.

Mr. BOSCHWITZ. So, Mr. President, that is the essence of the bill that I will introduce and I will submit

this evening and ask that it be referred to the appropriate committee, and I ask unanimous consent that the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill of the Senator from Minnesota will be received and appropriately referred.

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

S. 2916

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

SECTION 1. REPEAL OF AMENDMENTS RELATING TO TAXATION OF CAPITAL GAINS.

(a) IN GENERAL.—Subtitles A and B of title III of the Tax Reform Act of 1986 (relating to individual and corporate capital gains treatment) are hereby repealed as of the close of December 31, 1986.

(b) CONFORMING AMENDMENT.—The Internal Revenue Code of 1986 shall be applied and administered as if such subtitles A and B (and the amendments made by such subtitles A and B) had not been enacted.

SEC. 2. REDUCTION IN DEDUCTION FOR CAPITAL GAINS WITH RESPECT TO CAPITAL ASSETS HELD FOR MORE THAN 1 YEAR BUT LESS THAN 3 YEARS.

(a) IN GENERAL.—Section 1202 of the Internal Revenue Code of 1986 (relating to deduction for capital gains) is amended—

(1) by amending subsection (a) to read as follows:

“(a) DEDUCTION ALLOWED.—

“(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

“(A) 60 percent of the lesser of—

“(i) the net capital gain, or

“(ii) the qualified net capital gain, plus

“(B) 40 percent of the excess (if any) of—

“(i) the net capital gain, over

“(ii) the amount of the qualified net capital gain taken into account under subparagraph (A).”, and

(2) by amending subsection (c) to read as follows:

“(c) QUALIFIED NET CAPITAL GAIN.—For purposes of subsection (a), the term ‘qualified net capital gain’ means the amount of net capital gain which would be computed for any taxable year if, in determining net long-term capital gain for such taxable year, only capital assets held by the taxpayer for at least 3 years at the time of the sale or exchange were taken into account.”.

(b) INCREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.—Subsection (e) of section 1001 of the Deficit Reduction Act of 1984 is amended by striking out “1988” and inserting in lieu thereof “1987”.

(c) CONFORMING AMENDMENTS.—

(1) Section 57(a) of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

“(B) CAPITAL GAINS.—

“(A) INDIVIDUALS.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

“(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within

the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) REDUCTION LIMITED TO AMOUNT OF INSOLVENCY.—The amount of the reduction determined under clause (i) shall not exceed the amount by which the taxpayer is insolvent immediately before the transaction (reduced by any portion of such amount previously taken into account under this clause).

"(iii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure, but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5))."

(2) Subparagraph (B) of section 170(e)(1) of such Code (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "40 percent" and inserting in lieu thereof "100 percent minus the percentage described in subparagraph (A) or (B) of section 1202(a)(1), whichever is applicable".

(3) Paragraph (4) of section 691(c) of such Code (relating to deduction for estate tax) is amended by striking out "section 57(a)(9)" and inserting in lieu thereof "section 57(a)(8)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

By Mr. WARNER (for himself, Mr. DOLE, Mr. KASTEN, Mr. LAXALT, Mr. NICKLES, Mr. DENTON, Mr. HEINZ, Mr. McCLURE, Mr. THURMOND, Mr. WEICKER, Mr. WILSON, Mr. MOYNIHAN, Mr. PROXMIRE, Mr. GLENN, Mr. NUNN, Mr. ZORINSKY, Mr. DECONCINI, Mr. CHILES, Mr. METZENBAUM, Mr. GORE, Mr. HOLLINGS, Mr. DIXON, Mr. LEVIN, Mr. PRYOR, and Mr. STENNIS):

S.J. Res. 426. Joint resolution to designate the week of October 19 through October 25, 1986, as "National CPR Awareness Week"; to the Committee on the Judiciary.

NATIONAL CPR AWARENESS WEEK

● Mr. WARNER. Mr. President, today I am joined by 12 of my colleagues in introducing a Senate joint resolution declaring the week of October 25 through 31, 1986, "National CPR Awareness Week." I hope that you will all join in my efforts to encourage CPR training by cosponsoring this resolution.

Heart attacks are the leading cause of death in the United States. As many as 1.5 million people will suffer a heart attack in 1986, and of these victims, almost half will not survive. Cardio-pulmonary resuscitation is a simple first aid procedure which could prevent many heart attack deaths. It is a tragedy that most people do not know how to perform CPR, and are thus helpless to aid heart attack victims whose lives depend on immediately administered first aid. As a tremendously successful life-saving procedure, it is of vital importance to maximize public participation in CPR training.

"National CPR Awareness Week" is an ideal way to increase public recognition of the importance of CPR training. Last year's resolution was successful in bringing attention to the availability of CPR training, and ultimately in saving lives. Please join me in this worthwhile effort by cosponsoring the second annual "National CPR Awareness Week." ●

ADDITIONAL COSPONSORS

S. 1456

At the request of Mr. LAUTENBERG, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of S. 1456, a bill to recognize the Army and Navy Union of the United States of America.

S. 2479

At the request of Mr. TRIBLE, the names of the Senator from Virginia [Mr. WARNER], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2536

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 2536, a bill to provide for block grants to States to pay for the costs of immunosuppressive drugs for organ transplant patients.

S. 2651

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. RIEGLE] was added as a co-

sponsor of S. 2651, a bill to reduce Federal liability for the relocation of certain Navajo Indians through the exchange of certain lands between the Hopi and Navajo Indian Tribes, and for other purposes.

S. 2770

At the request of Mr. GORTON, his name was added as a cosponsor of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the Farm Credit System, and for other purposes.

S. 2808

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 2808, a bill to amend title XI of the Social Security Act to require hospitals participating in the Medicare and Medicaid Programs to establish protocols for organ procurement, to establish standards for organ procurement agencies, and for other purposes.

SENATE JOINT RESOLUTION 112

At the request of Mr. DOLE, his name was withdrawn as a cosponsor of Senate Joint Resolution 112, a joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 407

At the request of Mr. CHILES, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Joint Resolution 407, a joint resolution designating November 12, 1986, as "Salute to School Volunteers Day."

SENATE JOINT RESOLUTION 419

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of Senate Joint Resolution 419, a joint resolution to designate December 11, 1986, as "National SEEK and College Discovery Day."

SENATE CONCURRENT RESOLUTION 164

At the request of Mr. D'AMATO, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Concurrent Resolution 164, a concurrent resolution expressing the sense of the Congress concerning the Soviet Union's continued interference with postal communications between the United States and the Soviet Union.

SENATE CONCURRENT RESOLUTION 167—REGARDING EFFICIENT AND COMPASSIONATE MANAGEMENT OF THE SOCIAL SECURITY DISABILITY INSURANCE [SSDI] PROGRAM

Mr. KERRY (for himself, Mr. KENNEDY, Mrs. HAWKINS, Mr. MOYNIHAN, Mr. SIMON, Mr. STAFFORD, Mr. MELCHER, Mr. JOHNSTON, Mr. BOREN, Mr. MATSUNAGA, and Mr. SARBANES) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 167

Whereas Congress established the Social Security Disability Insurance [SSDI] Program in 1956 to improve the quality of life for disabled Americans;

Whereas the decision of the Social Security Administration to require an increased caseload for SSDI examiners and expand the continuing disability review process caused several hundred thousand recipients to be removed improperly from the SSDI rolls during the period of 1981 through 1983;

Whereas the widespread termination and denial of benefits for eligible disabled Americans during such period created undue hardship for countless deserving individuals;

Whereas more than 60 percent of the recipients who appealed a decision to terminate or deny benefits were ultimately successful in reversing the decision;

Whereas the substantial increase in the number of appealed cases drained millions of dollars from the Social Security Trust Fund;

Whereas Congress passed (with only one dissenting vote) the Social Security Disability Benefits Reform Act of 1984 in order to end the inconsistent and frequently arbitrary manner in which the Social Security Administration was applying disability standards, as well as to restore public faith and confidence in the SSDI program;

Whereas since enactment of such Act, there has been, as intended by Congress, a marked improvement in the SSDI review process and the beginning of a restoration of public confidence in the program; and

Whereas recent budget proposals by the Social Security Administration for the fiscal year 1987 indicate that there will be an increase in the SSDI workload for many states, thus threatening a return to the chaos that existed prior to the 1984 Act: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Social Security Administration should not—

(A) reduce the staff of state Disability Determination Services or increase the workload of SSDI examiners to levels that would prevent adequate case development in accordance with the standards established in the Social Security Disability Benefits Reform Act of 1984, or

(B) initiate any other action that would impair the ability of examiners to determine eligibility for benefits in accordance with the requirements of such Act; and

(2) the Social Security Administration should place higher priority on assisting states in both complying with the 1984 reforms and improving the accuracy with which SSDI eligibility is determined.

● Mr. KERRY. Mr. President, 2 years ago today the Congress passed the Social Security Disability Benefits Reform Act of 1984, an act designed to establish a more fair and equitable Social Security Disability Insurance [SSDI] Program. On this anniversary I stand before you and ask my colleagues the simple questions, have we yet witnessed the implementation of the efficient and equitable National Disability Reform Program that was intended by Congress; has the Social Security Administration [SSA] provided States adequate staff and resources to implement the 1984 reforms; has the SSA provided the States adequate time and guidance necessary to ensure that a balanced and equitable SSDI system is in place?

Mr. President I have asked these questions to Vocational Rehabilitation Administrators and Directors of Disability Determination offices throughout the country, and their response has been "no." No—there is not an efficient National Disability Reform Program in place; no—the Social Security Administration has not provided them with adequate staff and resources to implement the 1984 reforms; and no—sufficient guidance and time has not been offered to the States to provide balanced and equitable services as mandated by the 98th Congress.

Are we close to achieving the kind of SSDI system that Congress envisioned when they passed the Social Security Disability Reforms Act in 1984? I think we all recognize the fact that we are beginning to achieve the goals that Congress intended—the goals of a fair and compassionate National Disability Reform Program.

It is for this reason, Mr. President, that I am today, submitting a concurrent resolution which calls upon the Social Security Administration to work with the States and offer them the necessary assistance to carry out what Congress intended when they passed the 1984 reforms. Mr. President, I raise this issue on the second anniversary because I am deeply concerned with the implementation of the 1984 reforms.

Recently the Social Security Administration informed Disability Determination Service Offices nationwide, that they can expect an increase in the determination caseload—in some cases an increased workload of up to 50 percent. According to the SSA, the reasoning behind this increase is so that the system may become more efficient. This action carries with it disastrous implications. The notion of increasing the workload of examiners at an overwhelming rate in the name of efficiency is vaguely reminiscent of what occurred in 1980 prompting Congress to pass the 1984 SSDI reforms. During that period the Social Security Administration implemented the

housecleaning reforms with such fervor, that the local SSA offices were unprepared: Employees were not properly trained, the offices were not adequately staffed, and the consequences, Mr. President, were truly disastrous. I recall one case where an individual in a full body cast was told he could work; in another case an individual who was completely blind from a recent accident had his disability benefits terminated. In the name of efficiency we did not get a fair and equitable SSDI system but instead we witnessed a Federal program thrown into administrative disarray and chaos which resulted in the denial of benefits of countless deserving disabled Americans.

Let us recall for a moment how during the period from 1981 through 1983 over 450,000 individuals were thrown off of the SSDI rolls. To date over 60 percent of these deserving disabled Americans have had their SSDI benefits reinstated. Today we are just beginning to witness a restored public faith and confidence in the SSDI Program. Because of the new thorough review process the number of cases being appealed has dramatically decreased.

In my own State for example the number of appeals has dropped by roughly two-thirds. In some States the number of appealed cases going to administrative law judges is so low, they are hiring their ALJ's out to neighboring States. This signals to me not only a system that is beginning to work, but a system that is also saving the taxpayer millions of dollars in unnecessary appeals.

I am fearful, Mr. President, that the recent directive by the Social Security Administration to the local SSA offices to increase their productivity threatens a return to the chaos that occurred prior to the enactment of the 1984 reforms. I think it is safe to say that the regulations resulting from the 1984 reforms are commendable. The evidence clearly indicates a step in the right direction toward a fair and equitable system. I have before me a summarized list of 13 excellent new provisions that have evolved from the 1984 reform for State examiners to follow in making disability determinations, and I ask unanimous consent that this list be inserted into the Record at the conclusion of my remarks. These new changes undeniably represent a more thorough review process and a significant improvement in the system as a whole.

However, at a time when we have developed a more labor intensive review process it makes absolutely no sense to me, that in the name of efficiency, we increase the caseload of examiners, particularly adding this burden on top of a national hiring freeze already imposed by the SSA in May. It seems ob-

vious to me that this will make it exceedingly difficult for States to successfully administer fair and equitable SSDI Programs.

Let me give you an example of a tragic incident that occurred this week in my home State of Massachusetts which is the result of the new directive to increase caseloads. A constituent of mine who had been diagnosed with leukemia, was hospitalized near his home for several weeks, more recently he was moved to a Boston hospital for a bone marrow transplant; he was denied disability benefits. It is unconscionable to think that a caseworker determined that this man lying in a hospital bed in Boston is able to work. The caseworker explained his action by stating quite simply that he did not have the time to wait for the medical records, he was behind in his cases and was under pressure to move the case along. How degrading is a system that tells the family of a terminally ill man that he is fully capable of working and not eligible to receive disability benefits? Is this what Congress had in mind when they passed the 1984 reforms? Is this what the Commissioner of SSA had in mind when she directed local offices to increase workloads in the name of efficiency? I would like to believe that it is not.

In closing let me underscore one central point. At a time when new regulations are just beginning to improve the overall review process, it seems especially unjustified to increase workloads while restricting the number of examiners. Mr. President, the resolution that I am introducing today is not designed to point the finger at the SSA and say that their actions are necessarily wrong. The resolution that I am introducing today, is designed to ultimately send a very clear message to the Commissioner of the Social Security Administration and that is—Congress is watching. If regulations and directives are sent to the States which undermine the intentions of Congress when the 1984 reforms were passed, Congress will not allow hundreds of thousands of disabled American citizens to endure the same suffering or degradation which they endured from 1981 through 1983.

I hope that this concurrent resolution will clear both sides of the aisle and pass this evening, thus expressing our disapproval to the Social Security Administration regarding any efforts to undercut the intentions of Congress when they passed the Social Security Disability Benefits Reform Act of 1984.

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

LIST OF CHANGES

1. Consultative Examination (C/E) follow-up protocol requiring examiners and/or

physicians to make follow-up calls to treating sources before a C/E can be scheduled.

2. Comprehensive Medical Improvement Standard requiring comparative analysis and case reconstruction.

3. Implementation of new Medical Listings requiring more specific clinical and laboratory information for certain disability populations.

4. Comprehensive Mental Impairment Listings, Regulations, and Guidelines requiring the completion of a lengthy PRFT by Agency physicians.

5. Requirements for obtaining activities of daily living information in claims alleging mental impairments.

6. Requirements for using Work Evaluations in Mental Impairment and other claims.

7. Elimination of non-severe findings resulting in RFC and vocational factor analysis for all claims (Many States).

8. Implementation of more comprehensive procedures for evaluating substance abuse. In many states, approximately fifty percent of the claimants allege substance abuse which not requires comprehensive follow-up.

9. Proposed requirement for completing rationales by examiners in all cases.

10. Implementation of procedures increasing and improving the documentation requirements.

11. Consideration of the combined affect of multiple non-severe impairments in evaluating disability.

12. Development of complete medical history for at least the past twelve months.

13. Completion of the medical portion of the Case Review by a qualified psychiatrist or psychologist for cases involving mental impairments.●

SENATE RESOLUTION 503— RELATIVE TO DR. ABBY NKOMO

Mr. COHEN (for himself, Mr. BOREN, Mr. LUGAR, Mr. KENNEDY, Mr. DURENBERGER, Mr. LEAHY, Mr. BRADLEY, Mr. MURKOWSKI, and Mr. ROTH) submitted the following resolution; which was considered and agreed to:

S. RES. 503

Whereas, Dr. Abby Nkomo, Chairman of the Atteridgeville/Saulsville Civic Association, Vice Chairman of the Pretoria Council of Churches and an active member of the Methodist Church, has been detained by the South African police for an extended period without charge or trial;

Whereas, Dr. Nkomo has been a vocal advocate of peaceful change in South Africa;

Whereas, Dr. Nkomo has been in solitary confinement since his incarceration on June 12, 1986, and has been denied adequate medical attention including medication for diabetes;

Whereas, Dr. Nkomo has been separated from his family and permitted infrequent visits by his wife during which the couple suffers harassment from prison guards;

Whereas, Dr. Nkomo and his family have been harassed for more than twenty months, including the gasoline bombing of his home and car, the sabotage of the doctor's clinics, and telephone threats on their lives;

Whereas, the police have refused to investigate any of these threats or incidents;

Whereas, the police detained the doctor's daughter Suzan for 47 days and threatened his wife Marjorie with arrest; Now, therefore, be it Resolved, That it is the sense of

the Senate that Dr. Nkomo is representative of the majority of South Africans who seek peaceful change and with whom the South African government should be engaged in dialogue rather than persecution;

That the government of South Africa be encouraged to enter into dialogue with moderate forces within that country so that positive action can be taken to bring an end to apartheid policies;

That Dr. Nkomo has been subjected to an unreasonable and reprehensible deprivation of his civil rights;

That Dr. Nkomo is representative of thousands of similar victims currently detained under the state of emergency regulations;

That Dr. Nkomo's family has been the victim of continual, excessive harassment by the police authorities of South Africa causing severe emotional and financial loss;

That the actions of the South African government toward Dr. Nkomo are condemned as an obstruction to prospects for peaceful change in South Africa;

That the United States Government and its representatives should emphasize to officials of the Republic of South Africa our nation's resolve that all individuals in that country be afforded due process and that their civil liberties be protected.

SENATE RESOLUTION 504— RELATIVE TO UNITED STATES— JAPAN SODA ASH TRADE

Mr. WALLOP (for himself and Mr. SIMPSON) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 504

Whereas, the United States merchandise balance of trade deficit with Japan reached the unprecedented level of \$49.8 billion in 1985, and is expected to reach \$60-65 billion in 1986—accounting for almost one-third of the entire United States deficit with the world;

Whereas, the principles of free trade provide for trade flows between nations on the basis of each nation's comparative advantage;

Whereas, Japan has extensive access to the United States market for products in which Japan has a comparative advantage;

Whereas, United States soda ash exporters lack access to the Japanese market for soda ash in which the United States has a comparative advantage;

Whereas, highly competitive U.S. soda ash exports to Japan have been restricted by anticompetitive practices by Japanese soda ash producers;

Whereas, Japan's Fair Trade Commission found that a secret cartel of Japanese soda ash producers had in fact been illegally restricting imports of U.S. soda ash, but imposed no sanctions against the Japanese producers;

Whereas, U.S. soda ash sales in Japan are stagnating, and there is clear evidence that U.S. soda ash sales are still being restricted by continuing anticompetitive activities of Japanese soda ash producers and their affiliated trading companies;

Whereas, Japanese government antimonopoly laws, antitrust enforcement practices, and antitrust penalties are proving inadequate to prevent such anticompetitive and restrictive Japanese practices;

Whereas, efforts by the U.S. Government to obtain meaningful improvement in market access for competitive United States

soda ash exports, including securing the elimination of anticompetitive or restrictive Japanese practices, have so far proven unsuccessful;

Whereas, the merchandise balance of trade deficit with Japan and the soda ash trade problem with Japan have the potential of undermining the entire range of bilateral relations between the United States and Japan; and

Whereas, action by the United States is appropriate—(1) to enforce United States rights under trade agreements to which Japan is a party, and (2) to obtain the elimination of anticompetitive Japanese practices that restrict U.S. exports of soda ash in the Japanese market; Now therefore be it

Resolved by the Senate, That it is the sense of the Senate that the President should take all appropriate and feasible action within his power to obtain the elimination of such anticompetitive or restrictive foreign practices.

● Mr. WALLOP. Mr. President, before the 99th Congress ends, I want to submit a resolution directed toward Japan's unwillingness to address illegal trade practices that prevent the competitive sale of domestic soda ash in the Japanese market.

The resolution requests that the President act decisively to eliminate anticompetitive foreign practices that restrict competitive United States exports of soda ash to Japan. Of course, if a solution to this problem is not in sight when Congress reconvenes, I will reintroduce a similar resolution seeking Senate support to dismantle barriers that limit American sales of soda ash in the multimillion-dollar Japanese soda ash market.

This case has become symbolic of Japan's unwillingness to implement fair trade practices with the United States. To date, all efforts by U.S. Government officials and the U.S. soda ash industry seeking a solution to this problem have been unsuccessful.

Soda ash is a basic commodity used in glassmaking and other industrial processes. The largest natural deposits in the world are found in my home State of Wyoming. Because of these superb natural deposits, the soda ash industry can produce higher quality soda ash at a far lower cost than any other such industry in the world, including that of Japan. This competitive edge has been enhanced by U.S. producers' investments in energy-efficient production processes.

Our soda ash industry has made substantial efforts to expand its sales in Japan. It has established soda ash warehouse facilities in Japan and currently maintains a \$5 million inventory in Japan—more than the domestic Japanese producers—to assure customers of its long term commitment to the market. U.S. producers have established relationships with Japanese trading companies to market and distribute soda ash, as well as to develop new Japanese customers. In addition, U.S. firms have priced their product competitively, offered discounts and

successfully satisfied their Japanese customer's quality requirements. But despite these efforts, United States soda ash producers have failed to competitively penetrate the Japanese soda ash market.

After making every diligent effort, why has the United States soda ash industry failed to gain fair access to the Japanese market? In 1983, after numerous complaints, the Japan Fair Trade Commission conducted an investigation and found that an illegal cartel of Japanese soda ash producers was restricting imports of United States soda ash. No sanctions or no fines were imposed on the Japanese producers, although shortly after the JFTC discovery, United States sales of soda ash increased. However, sales leveled off again in 1984, and since that time, U.S. sales have shown virtually no growth and currently remain stagnant.

In February 1986, in a white paper released by American Natural Soda Ash Corp. [ANSAC], entitled "Japanese Market Barriers in Soda Ash," U.S. firms reported renewed instances of anticompetitive behavior by Japanese producers. In light of this new evidence, I joined members of the Senate Finance Committee, as well as Senator SIMPSON in dispatching a letter to Prime Minister Nakasone urging corrective action if anticompetitive practices were shown to continue. To date we've received no response. Mr. President, I ask that our letter, dated June 6, 1986, be printed in the RECORD at the conclusion of my remarks.

I became so frustrated with Japan's failure to take any action that I traveled to Japan last summer. I met with Japanese Cabinet members and urged them to open Japan's market. I also hosted Japanese Ambassador Nubuo Matsunaga in my home State of Wyoming where we toured the soda ash mines. I must admit I was hopeful our efforts to negotiate a solution would result in a commitment from the Japanese Government when its representatives met in August with United States trade officials at a bilateral trade meeting in Hawaii. However, the reports emanating from that meeting are deeply disappointing. I understand that Japan agreed to a government-sponsored meeting between United States suppliers and Japanese buyers.

It is my sincere hope, Mr. President, that the Japanese Government will soon take the necessary steps to ensure that United States soda ash producers enjoy full access to the Japanese markets. However, but if all efforts by the U.S. Government to negotiate a solution to this problem fail, strict enforcement of U.S. trade laws to resolve the soda ash problem would be an appropriate response.

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

U.S. SENATE,

Washington, DC, June 6, 1986.

Hon. YASUHIRO NAKASONE,
Prime Minister, Government of Japan,
Tokyo, Japan.

DEAR PRIME MINISTER NAKASONE: We have become increasingly concerned over Japanese unfair trade practices that impede U.S. exports of soda ash, the raw material used in glass manufacture and other industrial processes. Despite past and present government and industry efforts to address the barriers, U.S. exporters continue to have limited access as a result of anticompetitive actions by Japanese soda ash producers and their affiliated trading companies. You have been a strong advocate of fair trade principles. We believe the soda ash case deserves your close attention.

U.S. soda ash production, based on the existence of the world's largest deposits of a natural mineral ore from which soda ash can be manufactured at half the cost of Japanese soda ash, allows the U.S. to be the world's lowest cost producer. American soda ash has been an overwhelming success in other world markets where fair access has been available.

The problem in Japan stems from weak enforcement of Japan's Antimonopoly Act that continues to allow the four Japanese soda ash producers, in concert with consumers and several major trading companies, to protect the Japanese market from import competition.

At the urging of the U.S. Government, the Japan Fair Trade Commission [JFTC] in 1982 began an investigation into allegations of anticompetitive practices of these producers. In March 1983, the JFTC issued a decision finding that an illegal producers cartel was restricting imports of U.S. soda ash. The JFTC ordered this anticompetitive activity to cease but imposed no fines and did not specifically direct the producers to cease pressuring domestic consumers to limit their purchases of imported soda ash.

Though U.S. exports increased in the year following the JFTC decision, they have leveled off to approximately 16 percent of Japanese market share in the past two years. We and the U.S. industry are convinced U.S. exports would increase substantially if our exporters were able to operate in a competitive environment where supply and demand are allowed to have effect.

The U.S. industry's goal of fair access to Japan has strong support from the Administration and many leaders in Congress who have been outspoken on this issue. The industry recently has responded through the Office of the U.S. Trade Representative [USTR] to comments on this issue by MITI. We believe there is a compelling case for the JFTC to conduct a thorough investigation of the industry and to take corrective action if anticompetitive practices are shown to continue. In December 1985, the JFTC informed USTR it was monitoring its 1983 decision. We are convinced this is not sufficient action in light of the overriding international competitiveness of U.S. soda ash and the inability of U.S. exporters to compete fairly for sales to Japanese customers.

Our nations are making progress in achieving fair access in trade. We urge you

to give this case strong attention and we look forward to your response.

Sincerely,

Malcolm Wallop, John H. Chafee,
George Mitchell, John C. Danforth,
David L. Boren, Alan K. Simpson,
Steve Symms, John Heinz, William V.
Roth, Jr., U.S. Senators.●

● Mr. SIMPSON. Mr. President, today I join with my fine senior colleague, Senator WALLOP, in introducing a resolution that directs the President to take all actions possibly available to him in order to eliminate Japanese unfair trade practices and anticompetitive activities that impede United States exports of competitive United States soda ash into Japan.

The United States soda ash industry enjoys an enormous natural resource advantage that permits it to produce soda ash by means not available to Japan. United States manufacturers are so efficient that American producers can produce, ship, and pay Japanese duties and still be competitive with Japanese soda ash producers in quality, service and price. In fact, those Japanese producers must import most of the raw materials and energy needed to make soda ash.

The commitment of United States soda ash producers is extensive and substantial—including the establishment of several distribution and marketing channels in Japan; the establishment of seven bulk warehouses in the cities of Osaka, Kawasaki, Tachibana, Yokkaichi, and Chiba; the maintenance in Japan of inventories of United States soda ash in excess of \$5 million; and extensive United States industry export promotion efforts, including the sponsorship of multiple trade mission tours for Japanese customers and distribution personnel to Green River, WY, and Trona, CA, the major locations in this country where soda ash is produced.

American soda ash sales in Japan have not increased since 1983. There is clear evidence that the continued stagnation of United States soda ash sales reflects the continuing restrictive and anticompetitive activities of Japanese soda ash producers and their affiliated trading companies.

I believe very strongly in the concept of free trade and comparative advantage. However, while the United States has opened its markets to products in which Japan has a comparative advantage, Japan has not opened its markets fully to products in which this country has a comparative advantage. We do not have and have not had a free market in soda ash in Japan.

The unprecedented growth in the size of the Japanese trade surplus with the United States and the rest of the world has made it imperative for Japan to liberalize access to its market. It is time that Japan fully accepts the responsibilities that accompany its role in the international marketplace.

While it is very late in the session and it would be difficult for my friends and colleagues in the Senate to rush this to consideration, I earnestly trust that by introducing the resolution now, both Senator WALLOP and I have placed the Congress on notice that we intend to vigorously pursue this resolution—or similar legislation—very early in the 100th Congress.●

AMENDMENTS SUBMITTED

RELEASE OF RESTRICTIONS ON CERTAIN PROPERTY

TRIBLE AMENDMENT NO. 3265

Mr. DOLE (for Mr. TRIBLE) proposed an amendment to the bill (S. 2852) to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport Commission, Virginia, for airport purposes; as follows:

On page 2, add after line 21 the following new paragraphs:

(3) Any release granted by the Secretary of Transportation under subsection (a) of this section may not apply to more than 7.5 acres of real property.

(4) The Peninsula Airport Commission may not lease or convey any interest in any of the property which the United States conveyed to such Commission by the deed described in subsection (a), to any person or business concern other than the City of Newport News, Virginia.

KOREAN WAR VETERANS MEMORIAL

McCLURE AMENDMENT NO. 3266

Mr. DOLE (for Mr. McCLURE) proposed an amendment to the bill (H.R. 2205) to authorize the American Battle Monuments Commission to establish a memorial to honor members of the Armed Forces of the United States who served in the Korean conflict; as follows:

1. On page 3, line 5, of H.R. 2205 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

2. On page 3, line 20, of H.R. 2205 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986" and insert in lieu thereof "House of Representatives on September 29, 1986".

ADDITIONAL LEASES IN THE EL PORTAL ADMINISTRATIVE SITE

McCLURE AMENDMENT NO. 3267

Mr. DOLE (for Mr. McCLURE) proposed an amendment to the bill (H.R. 1390) to authorize additional long-term leases in the El Portal adminis-

trative site adjacent to Yosemite National Park, CA, and for other purposes, as follows:

1. On page 4, line 12, after the word "sublease," insert the following: "the process to be used in establishing fees for such leases and subleases."

2. On page 6, line one, delete "Sec. 6." and insert in lieu thereof: "Sec. 2."

1. On page 6, after line 7, add the following new section 3: "Sec. 3. Notwithstanding any other provision of law, the Secretary of the Interior shall, within six months of the enactment of this Act, complete the exchange of all lands in four isolated federal parcels within the boundaries of Inks Creek Ranch, Tehama County, California, as described in Exhibit A of the July 25, 1986, letter of intent to exchange issued by the District Manager, Ukiah District Office, Bureau of Land Management."

FRANCIS SCOTT KEY MEMORIAL

McCLURE AMENDMENT NO. 3268

Mr. DOLE (for Mr. McCLURE) proposed an amendment to the bill (S. 2370) to allow the Francis Scott Key Park Foundation, Inc., to erect a memorial in the District of Columbia, as follows:

1. On page 4, line 25, of S. 2370 as reported by the Committee on Energy and Natural Resources, strike "Senate on September 10, 1986 (S. Rept. 99-421)" and insert in lieu thereof "House of Representatives on September 29, 1986".

LOWER COLORADO WATER SUPPLY ACT

McCLURE (AND METZENBAUM) AMENDMENT NO. 3269

Mr. DOLE (for Mr. McCLURE, for himself and Mr. METZENBAUM) proposed an amendment to the bill (H.R. 5028) entitled the "Lower Colorado Water Supply Act," as follows:

Page 4, line 8, strike the period and insert: "on a current basis."

Page 4, line 8, following the period insert: "(4) The Secretary has transmitted to Congress the final planning report/environmental assessment on the Lower Colorado Water Supply Project."

Page 4, line 23, following "struction" insert: "through September 30, 1993"

Page 5, line 16, insert the following new section and renumber the existing section 4 as section 5:

"SEC. 4. CONTRIBUTION OF CONSTRUCTION COSTS.

"The Secretary is authorized to accept monetary contributions from the City of Needles and other incorporated cities for the construction of project features of the Lower Colorado Water Supply Project allocated to the provision of water supplies to the City of Needles and other incorporated cities; Provided, that, such contributions shall be credited towards the reimbursable costs to be repaid by the City of Needles and other incorporated cities pursuant to the contracts entered into pursuant to Sec. 2 of this Act. Such contribution by the City of Needles and other incorporated cities shall be contributed during the construction of the appropriated project features and

shall constitute twenty percent of the costs of such project features allocated to the City of Needles and other incorporated cities for repayment.

CONVEYANCE OF CERTAIN LANDS

McCLURE (AND DeCONCINI) AMENDMENT NO. 3270

Mr. DOLE (for Mr. McCLURE, for himself and Mr. DeCONCINI) proposed an amendment to the amendment of the House to the text of the bill (S. 565) to direct the Secretary of Agriculture to convey, without consideration to the town of Payson, AZ, approximately 30.96 acres of Forest Service lands; as follows:

At the end of the House amendment insert the following new section 5 as follows: Sec. 5. Section 205 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715(c)) is amended—

(1) in the first sentence of subsection (c) by striking out "Lands and interests" and inserting in lieu thereof "Except as provided in subsection (e), lands and interests"; and

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

"(e) Lands acquired by the Secretary pursuant to this section or section 206 in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or re-conveyed to the United States pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary."

At the end of the bill, add the following new Section:

Section. . Notwithstanding any other provision of law, the Secretary of the Interior, if he determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to:

(2) revoke the withdrawal under the First Form by Order of the Secretary of the Interior dated December 14, 1904, and as interpreted by Order of Interpretation of the Secretary of the Interior dated May 19, 1964, insofar as said withdrawal applies to Section 31 (Lots 1,2,3,W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) T.5 N., R. 7 E., Gila and Salt River Meridian, Arizona.

Add a new section to S. 565 as follows and number accordingly:

Sec. . Notwithstanding any provision of law or order based thereon, the Secretary of the Interior, at the request of the Secretary of Agriculture, is authorized to take such actions (including but not limited to the revocation of withdrawals and the issuance of patents) as may be necessary to facilitate and consummate a land exchange in Idaho known as the Mesa Falls Exchange, as described in a Land Exchange Notice by the Department of Agriculture published in the Post-Register newspaper published in Idaho Falls, Idaho on November 12, 1985 (p. B-5), if the Secretary of Agriculture decides to proceed with such exchange."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, October 9, in open later to become closed executive session, in order to continue the nomination hearing of William A. Clinkscals, to be Director of the Selective Services.

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

ADDITIONAL STATEMENTS

THE NOMINATION OF JIM R. BILLINGTON TO SERVE AS A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD

● Mr. BOREN. Mr. President, yesterday, the Senate confirmed the nomination of Jim R. Billington to be a member of the Farm Credit Administration Board. Jim Billington is a longtime friend and distinguished Oklahoman.

Jim Billington is a farmer and rancher from southwestern Oklahoma, raising wheat, cotton, and feed grains and maintains a cow-calf operation. He has been an agricultural leader for many years. He first served as president of the Oklahoma Wheatgrowers from 1977 until 1979. His hard work and dedication to the organization gained him the presidency of the National Association of Wheatgrowers, in which capacity he served from 1981 to 1982. He presently serves as president of the National Association of Wheatgrowers Foundation, the educational arm of the National Association of Wheatgrowers.

In addition to his work with the Wheatgrowers Association, he served as a board member of the Federal Grain Inspection Service advisory committee between 1982 and 1984.

Jim Billington will be an asset to the Farm Credit Administration Board not only from the standpoint of his extensive knowledge of agriculture, but also from his vast knowledge of agricultural credit. Jim has served as a president and chief executive officer of a bank and a production credit association. He has also served as an examiner for the Federal Intermediate Credit Bank, Ninth Farm District, Wichita, KS.

We have waited a longtime for the administration to nominate the third member of the Farm Credit Administration Board. For several months, the Board has operated with only two members. There are many of us who feel very strongly about getting the third member on the Board as soon as possible.

Mr. President, I am very proud of Jim's accomplishments for agriculture and for our State. I enthusiastically commend him to serve as a member of the Farm Credit Administration Board.●

CONCERNING THE SAFETY PROGRAM OF TINDLE MILLS, INC.

● Mr. DANFORTH. Mr. President, truck safety is a serious problem on our Nation's highways. Heavy truck accidents kill 5,000 people each year. Truck accidents reported to the Department of Transportation were 18 percent higher in 1984 than in 1983 and rose another 6 percent in 1985.

There are some companies that are taking steps to stop this disturbing trend. For example, Tindle Mills, Inc., of Springfield, MO, pays drivers on a per-mile basis for every mile driven without an avoidable accident.

Tindle has shown that safety pays for both the company and its drivers. In a 28-month stretch, Tindle's drivers accumulated almost 1.5 million miles without an accident. Its drivers have received \$70,000 in bonuses since the program began in 1979.

I congratulate Tindle on its successful program and urge other companies to profit from its example.●

THE GOVERNMENT MANAGEMENT REPORT ACT OF 1986—S. 2004

● Mr. ROTH. Mr. President, I am pleased to present for the Senate's consideration S. 2004, a bill which provides for the President of the United States to submit an annual report, with his budget, on the major activities undertaken and planned to improve the management of the executive branch of Government. The bill also requires the Comptroller General to prepare for Congress a statement analyzing such report within 90 days of its submission.

In 1984, the Congress mandated in the Deficit Reduction Act a report by the President on how he had responded to recommendations made by outside organizations, including the Grace Commission, to improve Government management. A report issued by OMB in 1985 not only addressed the legislative requirement, but also informed the Congress of other efforts being undertaken, especially Reform 1988: the President's Management Improvement Program. OMB issued a second report, "Management of the U.S. Government, Fiscal Year 1987," with this year's budget documents.

OMB has advised my Committee on Governmental Affairs that it plans to continue reporting annually on management at the time the budget is issued, but we have no assurance beyond the agency's promise that this

report will be issued in future years, and Congress has no voice in deciding what the report will contain. The Deficit Reduction Act required only a single report. S. 2004 ensures that Congress will receive such a report every year. In addition, it outlines the specific subjects on which the President would report, including the provision of a summary of major management improvement initiatives and a discussion for each initiative of its purpose, the progress and problems in implementation, and the impact on agency operations.

The report required by S. 2004 would not be another document to be quietly forwarded to Congress and end up collecting dust in committee staffers' in-boxes. Rather, I see this report as the basis for annual hearings before the Governmental Affairs Committee on the state of Government management, any Presidential management legislative initiatives, and what is being done to ensure that our Government has the leadership, the systems, and the organization to meet the challenging times ahead.

The bill keeps the reporting requirements as simple and flexible as possible, but improves the usefulness of information available to Congress for overseeing executive branch management improvement activities. It also assures that the President's report will cover all management activities and present, insofar as possible, a balanced summary of both the problems and accomplishments in management.

In his February 26, 1986, testimony before the Governmental Affairs Committee, Comptroller General Charles A. Bowsher said, "History tells us that implementing management initiatives effectively has often proven illusive. Sustained attention is needed from OMB and the line agencies." He said S. 2004 is a means for establishing a process to help sustain executive branch commitment and for providing a forum for congressional oversight.

In its comments on S. 2004, the Office of Management and Budget welcomed the opportunity to provide a report on the administration's initiatives, but expressed concern about the overly prescriptive requirements contained in the bill. Following the hearing, the committee staff met with OMB officials to clarify the nature of these concerns.

To respond to these concerns, the committee adopted an amendment removing language on page 3 of the bill pertaining to costs, benefits, efficiency improvements, and so forth, and inserted in lieu thereof a requirement that the President submit for each initiative a description of "any significant and identifiable impact of the initiative on agency operations." The committee report on S. 2004 noted that such description should include information on costs, savings, efficien-

cies, and service delivery improvements only where appropriate.

To accommodate another OMB concern, the committee in its report on S. 2004 requested that GAO minimize its information and documentation requests on OMB, but also stated that OMB should be forthcoming in meeting those information needs. Finally, the report made clear that the President need report only on his "major management improvement initiatives"—as currently specified in the bill—not the "detailed report on all Government-wide problems and issues" described in OMB's comments on the bill.

Three years ago, OMB instituted a management review process, parallel to the budget process, wherein OMB officials meet annually with the management staff of each of the 20 or so largest Federal agencies to discuss an agenda of management reforms for the coming year. Following these meetings, the agencies submit management plans for OMB review and approval. These plans then are the blueprints for agency action the following year. The annual hearings triggered by the report required by S. 2004 would not set up so systematic a process, but they would give Congress an opportunity, similar to that exercised by OMB with executive agencies, to ensure that appropriate actions are being taken to see that the Federal Government is managed in the manner the Nation expects and deserves.

On June 25, 1986, the Governmental Affairs Committees ordered S. 2004 reported to the full Senate by unanimous vote. I strongly urge my colleagues' support of this measure in a similar manner.

REAUTHORIZE SUPERFUND

● Mr. BIDEN. Mr. President, there are disturbing reports that the President is considering a veto of the Superfund bill passed by Congress last week. I cannot think of a more mistaken action that could be taken.

The Superfund Program addresses a dangerous threat to the health of Americans in thousands of communities across our Nation. Public support for Federal action on this issue is unquestioned. Any debate on the Superfund Program does not question the need for Federal action, but how far it should go.

The Superfund Program has not yet reached its potential in resolving the threats of abandoned hazardous waste dumps. The cleanup of thousands of sites lies ahead, an operation expected to take decades. And there is much more to be understood about the safe containment and destruction of toxic wastes. While the job ahead is imposing, the Superfund Program provides the framework and resources to do it.

But the progress we are making in hazardous waste management would be lost in the event of a Presidential veto. The Superfund Program has hobbled along this year on temporary funding, resulting in delays and cutbacks of critical cleanup efforts. Now, the research, technology, expertise, and manpower that comprise this program are in grave jeopardy, posing an enormous cost in time and resources, and risking the public's health and safety.

There are some provisions of the bill that environmentalists would like to see improved, that manufacturers would like to see changed, that the oil industry has reservations about. The important point is that a strengthened Superfund Program will be in place and the \$8.5 billion in costs will be distributed in a fair manner. This is a far-reaching bill on a complex issue that is the product of bipartisan compromise. Hazardous waste cleanup is a shared responsibility; the dangers of toxic waste expose all of us to risk.

It is ironic that several times this year the Administrator of the Environmental Protection Agency has made clear the problems a shutdown of the Superfund Program would cause. He knows that the severe disruption that would occur could take years to recover. He has appealed to the President to sign this legislation but his plea so far has been ignored. Three former Administrators of the EPA—Russell Train, Doug Costle, and William Ruckelshaus—have written to President Reagan urging him to support Superfund. The Senate passed the conference report by the overwhelming vote of 88 to 8; the House acted by an equally wide margin. Mr. President, all of these people, experts and politicians alike, are not wrong. There is an urgent need to act and the American people are demanding that we do so.

The risks that hazardous waste sites pose to so many Americans require that the Superfund Program not be allowed to end. It is perhaps the most important environmental legislation of the past decade. The decision is now in the President's hands. There is only one right decision and that is to sign the Superfund bill.●

THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

● Mr. METZENBAUM. Mr. President, on October 3, 1986, I introduced S. 2907, a bill to amend the Racketeer Influenced and Corrupt Organizations Act, more commonly known as "RICO." Earlier this week, the House passed an almost identical bill by the vote of 371 to 28. Because of the interest in this measure, I ask that the text of S. 2907 be printed in the RECORD.

The text follows:

S. 2907

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

SECTION 1. PATTERN OF ILLICIT ACTIVITY.

(a) **CHAPTER 96 HEADING.**—The heading for chapter 96 of title 18, United States Code, is amended by striking out "RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS" and inserting in lieu thereof "PATTERN OF ILLICIT ACTIVITY".

(b) **SECTION 1961.**—Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "racketeering" the first place it appears and inserting "illicit" in lieu thereof;

(2) in paragraph (5), by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof;

(3) in paragraph (7), by striking out "racketeering" each place it appears and inserting "criminal" in lieu thereof; and

(4) in paragraph (8)—

(A) by striking out "racketeering" the first place it appears and inserting "illicit activity" in lieu thereof; and

(B) by striking out "racketeering" the second place it appears and inserting "criminal" in lieu thereof.

(c) **SECTION 1962.**—Section 1962 of title 18, United States Code, is amended by striking out "racketeering" each place it appears and inserting "illicit" in lieu thereof.

(d) **SECTION 1963.**—Paragraph (3) of section 1963(a) of title 18, United States Code, is amended by striking out "racketeering" and inserting "illicit" in lieu thereof.

(e) **SECTION 1968.**—Section 1968 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "a racketeering investigation" and inserting "an illicit activity investigation" in lieu thereof;

(2) in subsection (b), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof;

(3) in subsection (c), by striking out "racketeering" each place it appears and inserting "illicit activity" in lieu thereof; and

(4) in subsection (f)—

(A) by striking out "racketeering" the first and fifth place it appears and inserting "criminal" in lieu thereof; and

(B) by striking out "racketeering" each other place it appears and inserting "criminal" in lieu thereof.

SEC. 2. AMENDMENTS TO SECTION 1964 RELATING TO CIVIL SUITS.

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows:

"(c)(1) Any person injured in his business or property by reason of conduct in violation of section 1962 of this chapter may sue any person who engaged in that conduct and, with respect to such conduct, was convicted of an illicit activity or of a violation of section 1962 in any appropriate United States district court, and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

"(2) If the business or property of the United States or a State, including any department, agency, or Government corporation of the United States or a State, is injured by conduct in violation of section 1962 of this chapter—

"(A) the Attorney General of the United States or the chief legal officer of the State; or

"(B) in the case of a political subdivision of a State, the chief legal office of such sub-

division, if the State has authorized him to bring such action

may sue any person who engaged in that conduct in any appropriate United States District Court and shall recover threefold the actual damages that the government sustained by reason of such injury and the cost of the suit, and a reasonable attorney's fee.

"(3)(A)(i) Except as provided in paragraphs (1) and (2), any person injured in his business or property by reason of conduct in violation of section 1962 of this chapter (subject to the definition of pattern of illicit activity provided in subparagraph (B) of this paragraph) may sue any person who engaged in that conduct in any appropriate United States district court, and shall recover the actual damages such injured person sustains, the cost of the suit, and reasonable attorney's fee: *Provided*, that in the case of plaintiffs eligible for punitive damages under division (ii), a prevailing plaintiff shall recover a reasonable attorney's fee.

"(ii) In addition to the recovery provided by division (i), the trier of fact shall award punitive damages up to twice the level of actual damages to a person if—

"(I) such person is a natural person;

"(II) neither Federal nor State securities laws make available an express or implied remedy for the type of illicit activity in which the person bases his claims;

"(III) the injury occurred in the purchase or lease of a product, property, service, credit, or investment for personal or household use or investment; and

"(IV) the defendant's conduct was in wanton disregard of plaintiff's rights.

The amount of punitive damages recoverable under this division, if any, shall take into account—

"(aa) the degree or culpability of the defendant;

"(bb) the vulnerability of the victim;

"(cc) any history of similar conduct by the defendant;

"(dd) the benefits derived from the unlawful conduct by the defendant;

"(ee) the number of persons victimized; and

"(ff) any other factor the court deems to be an equitable consideration bearing on the appropriate amount of punitive damages.

"(B) For purposes of this paragraph, the term 'pattern of illicit activity' requires at least two acts of illicit activity—

"(i) one of which occurred not more than five years after the prior act;

"(ii) each of which is not so closely related in time and place to the other that together the acts constitute a single transaction; and

"(iii) (for actions based on section 1962(c)) each of which is related to the affairs of the enterprise.

"(4) A civil action under this subsection may not be commenced—

"(A) later than three years after the time the cause of action accrues or the conduct causing injury to the plaintiff terminates; or

"(B) two years from the date of the criminal conviction required for an action to be brought under paragraph (1) of this subsection,

whichever is later. The statute of limitations is tolled during the pendency of a government civil or criminal action relating to the course of conduct upon which the claim is based.

"(5) In an action under this subsection the plaintiff must aver with particularity as to each defendant the facts supporting the claim."

SEC. 3. EFFECTIVE DATE.

(a) **GENERAL RULE.**—The amendments made by this Act shall apply to any action initiated after the date of enactment.

(b) **EXCEPTION.**—In any pending action under section 1964(c) of title 18, United States Code, in which a person would be eligible to recover only actual damages and attorney's fees under paragraph (8) of section 1964(c) as added by this Act, if this Act has been enacted prior to the commencement of that action, that person may recover only actual damages and attorney's fees unless—

(1) there has been a jury verdict or district court judgment, establishing the defendant's liability, or settlement has occurred; or

(2) the court determines that such limitation of recovery would result in manifest injustice.●

SUPERFUND REAUTHORIZATION

● Mr. MURKOWSKI. Mr. President, I rise today to express my strong support for the Superfund Reauthorization bill. I voted for the Senate Superfund Reauthorization bill over a year ago. I voted for the conference committee report on this bill last week.

This bill represents nearly 3 years of extraordinary effort by many people. It is a carefully developed compromise of many competing interests. It is overwhelmingly supported by the Members of Congress and the public.

The reason for this support is obvious. Superfund is perhaps the most important environmental protection program we have. Its purpose is to address the very serious problems posed by hazardous waste. Toxic fumes in the air we breath, risk of fire and explosion, and poisons in the water we drink are all the results of the improper disposal of the residues of our chemical dependent society.

The ill-effects of toxic wastes are not limited to the contamination of our environment, however. People are the ultimate victims of these chemicals. People who drink them or inhale them; or children who are exposed to them while playing in a playground or abandoned field. These people face a much greater risk of contracting cancer and other crippling or fatal diseases.

Mr. President, I think everyone should take a moment to consider what will happen if Superfund is not reauthorized.

The program has already been on a shoestring budget for over 15 months. Despite two interim funding measures during the past year, cleanup activities at more than 200 toxic waste sites nationwide have been significantly delayed. If the program is not reauthorized now, these cleanups will cease entirely.

The long-term result, however, is much more serious. Failure to reauthorize Superfund now means the death of this program. There is no saving it with some interim, stop-gap funding measure.

What does termination of the program mean? It means that cleanup of perhaps 10,000 or more very dangerous hazardous waste dumpsites will be delayed indefinitely. Any delay in cleaning up these sites translates directly into greater pollution of the environment and more and more people exposed to serious health risks.

This Nation's toxic waste problem is a time bomb. We created it and it will not go away by itself. The longer we wait to correct the problem, the more dangerous the situation becomes.

Mr. President, no one doubts the serious nature of this Nation's toxic waste problem and the need for Superfund. The disagreement between President Reagan and the Congress concerns how we pay for this program. I believe that the funding mechanism hammered out by the conference committee is a fair and reasonable approach. We are dealing with a national problem which affects all Americans. It is a problem for which we are all, in one way or another, responsible. And, therefore, the solution to that problem is something that we all should pay for by one means or another.

Mr. President, the American people strongly support Superfund and I believe they are willing to pay for it. More importantly, the American people want their elected public officials to stop arguing about what the program should look like and get on to the job of cleaning up toxic wastes. I suggest that we do that.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a revised budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 9, 1986.

HON. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1987. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 120. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through October 8, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report Congress has completed action on the Superfund Amendments and Reauthorization Act, H.R. 2005, and the Federal Technology Transfer Act,

H.R. 3773, changing budget authority, outlay and revenue estimates for 1987. With best wishes,
Sincerely,
RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONG. 2D SESS., AS OF OCT. 8, 1986

(In billions of dollars)

	Current level ¹	Budget resolution S. Con. Res. 120	Current level +/- resolution
FISCAL YEAR 1987			
Budget authority.....	634.0	1,093.4	-459.4
Outlays.....	734.5	995.0	-260.5
Revenues.....	857.7	852.4	5.3
Debt subject to limit.....	2,111.0	* 2,322.8	-211.8
Direct loan obligations.....	20.4	34.6	-14.1
Guaranteed loan commitments.....	33.1	100.8	-67.7

¹ The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.
² The current statutory debt limit is \$2,111 billion.

SUPPORTING DETAIL FOR CBO WEEKLY, SCOREKEEPING REPORT, U.S. SENATE, 99TH CONG., 2D SESS., AS OF OCT. 8, 1986

(In millions of dollars)

	Budget authority	Outlays	Revenues
FISCAL YEAR 1987			
I. Enacted in previous sessions:			
Revenues.....			843,799
Permanent appropriations and trust funds.....	733,558	647,692	
Other appropriations.....	195,861	195,861	
Offsetting receipts.....	-165,990	-165,990	
Total, enacted in previous sessions.....	567,568	677,563	843,799
II. Enacted this session:			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99-251).....		2	
Technical Corrections Amends to Food Security Act (Public Law 99-253).....	50	50	
VA home loan guarantee amendments (Public Law 99-255).....		49	
Food Security Improvements Act of 1986 (Public Law 99-260).....	-115	-115	
White Earth Reservation Land Settlement Act of 1985 (Public Law 99-264).....	10	10	
Consolidated Omnibus Budget Reconciliation Act of 1986 (Public Law 99-272).....	155	-3,553	2,503
FHA and GNMA Credit Commitment Assistance Act (Public Law 99-289).....		-178	
Federal Employees' Retirement System Act of 1986 (Public Law 99-335).....	-150	-1,670	-666
Judicial Improvements Act (Public Law 99-356).....	2		
Temporary extension of certain housing programs (Public Law 99-345).....		-85	
Military Retirement Reform Act (Public Law 99-348).....	-47	146	
Urgent supplemental appropriations, 1986 (Public Law 99-349).....	-278	-914	
Panama Canal Commission Authorizing Act (Public Law 99-368).....		2	
Omnibus Diplomatic Security and Anti-Terrorism Attack Act (Public Law 99-399).....	1	1	
Children's Justice and Assistance Act (Public Law 99-401).....	10		
Socorro County land conveyance (Public Law 99-427).....	-1	1	
Total, enacted this session.....	-363	-6,255	1,837
III. Continuing resolution authority.....			

SUPPORTING DETAIL FOR CBO WEEKLY, SCOREKEEPING REPORT, U.S. SENATE, 99TH CONG., 2D SESS., AS OF OCT. 8, 1986—Continued

(In millions of dollars)

	Budget authority	Outlays	Revenues
IV. Conference agreements ratified by both Houses:			
Tax Reform Act (H.R. 3838).....	65	65	11,462
Higher Education Amendments of 1986 (S. 1965).....		-579	
Bankruptcy Amendments of 1986 (H.R. 5316).....	-55	-55	
Superfund Amendments and Reauthorization (H.R. 2005).....			583
Federal Technology Transfer Act (H.R. 3773).....	2	2	
Total, conference agreements.....	12	-567	12,045
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund.....	126	126	
Claims, defense.....	156	150	
Payment to the foreign service retirement trust fund ¹	(173)	(173)	
Range improvements.....	10	7	
BLM: Miscellaneous trust fund.....	(*)	(*)	
Compact of free association.....	42	42	
Administration of territories.....	35	30	
Payments to air carriers, DOT.....	32	30	
Retired pay—Coast Guard.....	370	341	
Maritime, operating-differential subsidies.....		297	
BIA: Miscellaneous trust funds.....	1	1	
Social services block grant.....	2,700	2,538	
Family social services.....	758	584	
Guaranteed student loans.....	3,219	2,580	
Guaranteed student loans (S. 1965).....	-75	-65	
Higher education facilities loans and insurance.....	19		
Government payment for annuitants.....	1,459	1,301	
Retirement pay for PHS officers.....	83	81	
Medicaid.....	19,595	19,241	
Medical facilities guarantee and loan fund.....	20	19	
Payments to health care trust funds ¹	(20,825)	(20,826)	
Special milk program.....	16	11	
Child nutrition programs.....	4,212	3,791	
Federal unemployment benefits and allowances.....	103	102	
Advances to unemployment trust fund ¹	(9)	(9)	
Special benefits (general retirement and Federal employee retirement).....	257	257	
Black lung disability trust fund.....	549	549	
Supplemental security income.....	7,846	7,846	
Special benefits for disabled coal miners.....	698	638	
Assistance payments.....	7,350	7,350	
Child support enforcement.....	599	583	
Payments to Social Security trust funds ¹	(501)	(501)	
Veterans insurance and indemnities.....	5	4	
Veterans readjustment benefits.....	750	723	
Veterans compensation.....	10,300	9,360	
Veterans pensions.....	3,684	3,385	
Veterans burial benefits.....	138	138	
Salaries of judges.....	104	103	
Fees and expenses of witnesses.....	46	37	
Compensation of the President.....	(*)	(*)	
Payment to civil service retirement trust fund ¹	(4,557)	(4,557)	
National wildlife refuge fund.....	6	6	
Military pay raises and benefits.....	1,566	1,539	
Total, entitlements.....	66,780	63,728	
Total, current level as of Oct. 8, 1986.....	633,996	734,468	857,681
1987 budget resolution (S. Con. Res. 120).....	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution.....			5,281
Under budget resolution.....	459,354	260,532	

¹ Interfund transactions do not add to budget totals.
* Less than \$500,000.
Note.—Numbers may not add due to rounding.

NAKASONE'S REMARKS

● Mr. SIMPSON. Mr. President, Japanese Prime Minister Yasuhiro Nakasone has now publicly apologized to the American people for the very unfortunate comments he made about minority groups in the United States. I know that this episode—and all of the coverage and heavy criticism that has surfaced from it—are of great and deep personal anguish to the Prime Minister. And I believe that he is being most sincere in his apology.

Please know that I do not intend to defend the remarks in any way. Racist remarks—alleged or real—are highly offensive to me. Yet, I do feel that Nakasone is truly distraught over the remarks that may have brought pain to individuals and groups in this country.

There were and are indeed times in my life when I wished "I could have said that differently"—or not at all. I would suggest that many of us had similar experiences. Prime Minister Nakasone has indeed erred—and admitted that error of judgment.

His specific remarks seemed very uncharacteristic to me—although I note some suggestion that the remarks may have been misinterpreted. Yet over the past 2 years I have had the fine opportunity of three personal visits with Prime Minister Nakasone. Those were arranged by the U.S. Ambassador Mike Mansfield, our former majority leader. Mike Mansfield was one of my "idols" in politics, serving with remarkable distinction my neighboring State of Montana. Mike and my father Milward, served together in the U.S. Senate. They were fine friends and respected each other greatly. It was Mike Mansfield who shared with me the stature of the man—Nakasone. Funny place here—in this Washington government. Only several short months ago we in Congress and in the media were hoping and praying that this remarkable man would be able to lead his government again and we would be the beneficiary of that and many glowing things were written of him and of his legislative skills and abilities and his compassion, for he is a man of solid integrity and honor.

Let us just say for now—without reading a lot of "stuff" into the situation how much we appreciate having the apology. It is tough to apologize. We all know how very personally tough it is to admit that we are wrong or to admit that we just did not quite "mean it that way." Prime Minister Nakasone has had the great courage to apologize. I am one who accepts that apology in the spirit in which it is tendered. It takes guts to do that and I always admire that trait. Let me also commend the Japanese Ambassador, Nobuo Matsunaga, a fine and sincere man who has anguished greatly in this situation. He has been a strong force in resolving the matter. He deserves great credit.

Let me take this moment to ask to submit for the record a column written by Nathaniel B. Thayer, in the Tuesday, September 30, 1986, edition of the Washington Post. This article, penned by an American who has worked closely with Prime Minister Nakasone provides us with a most interesting and valuable insight that might give us a better perspective of this very painful episode.

The United States and Japan have many, many issues confronting our fine countries. My dear friend and colleague from Wyoming, MALCOLM WALLOP, and I are deeply disturbed about the Japanese Government's treatment of trade in soda ash and beef cattle and coal. There is this tremendous and very serious trade imbalance between our two countries. Both of us need a very monumental and good faith effort in order to resolve that imbalance. I would earnestly trust that Mr. Nakasone's apology might properly lay this recent and highly publicized episode to rest in order that we can be about our critical business of honestly discussing and conscientiously negotiating our differences with the nation of Japan. We have much to do together. We must be about it. Continually elevating this incident like a target on a firing range diverts us from an objective that is one of overwhelming national interest. We should put this behind us and press on.

The article referred to follows:

[From the Washington Post, Sept. 30, 1986]

(By Nathaniel B. Thayer)

NAKASONE IS NOT A RACIST

I have known and argued with Yasuhiro Nakasone for 25 years. A few years back, I helped him put an autobiography into English. I am now working on a political biography of him. I see him regularly, the last time just 10 days ago. I feel confident I know what he thinks. He is not a racist.

Nakasone got to be and has stayed on as Japan's prime minister by doing first things first and doing them fast. That explains his summoning the press in the middle of the night and giving it a handwritten apology to the American people for comments he made about U.S. minority groups. That apology, he hoped, would allow him to get on with his "political commitment to strengthen the friendship between our two peoples." But he was also aware that it would serve to confirm the charges of racism that many Americans leveled against him for his speech to young Liberal Democratic Party workers in the Shizuoka foothills of Mount Fuji.

The problem with the Shizuoka speech seems to rest with Nakasone's penchant for mixing English phrases into his Japanese sentences. I've listened to a voice clip from the speech. He says that Japan has an "intelligent society." The quotation is the part of the sentence in English. In a following sentence, he says its level is low in the United States, and attributes that to the blacks and Hispanics. The Japanese foreign office has said that he was talking about education and literacy.

I agree that Nakasone was talking about education. But I think he was talking about something beyond just literacy. I think he

was talking about intellectual integration, though that term is mine not his. I think Nakasone was talking about the ability of a nation to recognize its general welfare, formulate its goals and then act on them. He could just as easily have been talking about established America's inability to bring its minorities into the mainstream of society as about the minorities themselves. He was condescending. He is contrite. That accounts in part for his speed in issuing an apology.

The last time I met with Nakasone, he handed me a pamphlet of a speech he had given to a seminar of other party workers in the mountains at Karuizawa on Aug. 30. In it, he speaks of a philosophy of accommodation. He quotes from the 13th-century Japanese Buddhist sage Dogen, who found divinity in all living matter. He recalls the Asian idea that all men are brothers. He speaks of respect for human values.

The Karuizawa speech is not Nakasone at his best but Nakasone as usual. It's a better measure of his thinking than the Shizuoka speech.

What are the attitudes of other Japanese toward the West? That question was explored in five national polls between 1950 and 1970. In the first two, a plurality of the Japanese felt inferior to Westerners. In the next two, a plurality of the Japanese felt superior to Westerners. In the fifth poll, only the Japanese who felt Westerners and Japanese were the same were on an upward curve.

But while Japanese intellectuals write of learning from China, since it is the historical source of much Japanese culture, polls show this attitude is not accepted by other citizens. More common is the attitude that China has something to learn from Japan. And while South Korea ranks above North Korea in Japan's estimation neither is liked.

A Japanese diplomat, writing under the pen name Satoru Nagasaka, has said, "Japanese will accord Koreans equal social status when their nations have achieved an economic status equal to Japan. Europeans and Americans imposed the same condition on Japan." The book received a literary prize.

Japanese spend little time worrying about their own minorities, although from time to time powerful Japanese writers have come to their defense. Police fear of North Korean spies and illegal immigrants has greatly affected treatment of Koreans in Japan. Keidanren, the organization of economic organizations, has committees to study every possible problem in the Japanese economy, but it has no committee to study employment problems among the Burakumin, a caste that is subject to various forms of discrimination.

The great intellectual theme of the 1970s and 1980s has been the "internationalization" of Japan. But it is fair to say that most Japanese see their society as quite different from others. Some Japanese see this difference as a blessing, others as a burden. Nakasone sees it as both. It is not always easy to tell which thought is uppermost in his mind when he talks of Japan's future. ●

GREEK INDEPENDENCE DAY

● Mr. LAUTENBERG, Mr. President, yesterday the Senate passed Senate Joint Resolution 308, a resolution designating March 25, 1987 as "Greek Independence Day: A National Day of Celebration of Greek and American

Democracy." This resolution also asks the President to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

This resolution passed the House of Representatives last week. It is an amended version of an earlier Senate resolution sponsored by Senator SPECTER and myself, which designated March 25, 1986 as Greek Independence Day. That resolution passed the Senate on March 25, 1986.

Since we last considered this resolution, Greece has taken a number of steps which have improved the climate of American-Greek relations. That improvement was confirmed by Secretary of State Shultz, who said, upon his return from Greece, that there has been a "real turn for the better" in United States-Greek relations.

For example, in May, Greece expelled Libyans associated with terrorism, and in July cut the size of the Libyan "diplomatic" delegation in Athens. The United States and Greece have cooperated in the training of anti-terrorist personnel, and the Greek maritime industry has become a leader in anti-terrorist procedures.

In March, Secretary of Defense Weinberger reported to Congress that Greece was No. 1 among all NATO nations in the 1971-84 period in its increase in total defense spending for NATO security. It was also No. 1 in 1984, the last year for which figures are available, in the percentage of its gross domestic product spent on NATO defense.

I'd also like to speak about why March 25, 1987, has been designated as Greek Independence Day. March 25, 1987, marks the 166th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. It is fitting that we celebrate this day together with Greece in order to reaffirm the common democratic heritage of Americans and Greeks.

The ancient Greeks forged the very notion of democracy, in which the ultimate power to govern was vested in the people. As Aristotle said, "If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost." Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not of Greek ancestry, are kinsmen of a kind to the ancient Greeks. Indeed, our own Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy.

Constitutional democracy has made the American way of life possible. It established the precious freedoms of speech, religion, and assembly which

Americans cherish, and which are so fundamental to American democracy. For that contribution alone, we owe a heavy debt to the Greeks. The common heritage which we share has forged a close bond between Greece and the United States, and between our peoples. And it is reflected in the numerous contributions made by present day Greek Americans in New Jersey and across the country to our American culture.

I thank my colleagues for passing this resolution as a tribute to these contributions, past and present, which have greatly enriched American life. I look forward to even closer United States-Greek ties in the months and years ahead. ●

RETIRING SENATORS

● Mr. SPECTER. Mr. President, at the close of the 99th Congress, the U.S. Senate will lose some of its most distinguished Members. It has been an honor for me to serve with them.

Senator PAUL LAXALT has the unique gift of effectively advocating a cogent point of view while remaining the friend even of those whose views are different. His unique role as a bridge between the administration and the Senate is irreplaceable. All of us who have counted PAUL LAXALT among our friends will feel his absence acutely. He has been a unique resource for us, as well as for the President.

Senator CHARLES MATHIAS has also occupied a special niche in this institution. The people of Maryland have long revered him for his independence and integrity, and rightly so. He is one of those Senators who not only have the courage of their convictions, but who manage to make it a pleasure either to agree or to disagree with them. The respect in which MAC MATHIAS is held cannot be overstated. He has helped keep alive the tradition of Abraham Lincoln in the Republican Party, and the Senate will be poorer for his absence.

Senator BARRY GOLDWATER has much in common with Senator MATHIAS in terms of adherence to principle. His steadfastness has earned him the admiration and affection of millions of people who agree with him on the issues, and millions of others who do not. In the Senate, he has built his reputation on many talents, but most of all on his consistency, and on his willingness to express his opinion even when a consistent application of principle leads him to a somewhat unorthodox position. Not only has Senator GOLDWATER written about the The Conscience of a Conservative, but he has lived life as a conservative with a conscience. I know of no higher compliment that could be paid to any political figure.

The relationships of friendship and respect that we enjoy here in the U.S.

Senate fortunately are not limited to one side of the aisle. Senator RUSSELL LONG will be remembered as a major figure in the history of the Senate. Some Senators make their reputations through their orations on the floor; others make their reputations through their quite effectiveness in getting things done. Senator LONG is famous for the depth and breadth of his knowledge in critical areas of public policy such as the tax laws. Both as chairman of the Finance Committee and as its ranking minority member, his influence has been incalculable. Indeed, few Senators have affected the daily lives of all Americans as much. I join in wishing him every success in his next endeavors.

Senator TOM EAGLETON has served with great distinction in the U.S. Senate for 18 years after a remarkable career as attorney general of Missouri and the prosecuting attorney of St. Louis. Senator EAGLETON is well known for his candor and his incisive comments which go to the heart of any subject under discussion. In meetings at the North Atlantic Treaty Assembly, his comments would go to the heart of controversial issues affecting the United States and our NATO allies and still leave the friendliest of feelings with his diplomatic approach. We will all miss TOM in the Senate.

Senator GARY HART has helped focus our attention on the issues of the future. Both inside and outside the Senate, he has worked hard to give the younger generation of our citizens an effective voice in national policy. Most of my contacts with Senator HART have been in the Senate gym. In those less formal settings, he provides real insights into complex issues with a very few words. He made an admirable showing in the 1984 Presidential sweepstakes, and we shall all watch our departed colleague as 1988 approaches.

All of us who remain in the Senate—and I sincerely hope to be one of them—will be held at a high standard by the public's recollections of these retiring Senators. They will remain a living challenge to us as we face the difficult issues remaining before this country in the years ahead. ●

IN COMMEMORATION OF MINORITY ENTERPRISE DEVELOPMENT WEEK

● Mr. LAUTENBERG. Mr. President, October 5-11, 1986, has been designated as Minority Enterprise Development Week.

I am pleased to take note of the importance of the contributions of minority entrepreneurs to our economy. I know from personal experience how it feels to start a new business and watch it grow. Many risks and problems face the aspiring entrepreneur.

However, the pride and self-esteem which accompany success and acceptance in the marketplace make it well worth the effort.

Successful business activity is the basis for our country's economic growth. And, economic well-being in our minority communities will increase as entrepreneurial opportunities expand. The challenge for Government is to provide assistance and opportunities for the many talented and ambitious minority citizens who wish to establish or enlarge their own businesses. This assistance can range from sharing information to setting aside portions of Federal contracts for minority enterprises.

Mr. President, I would like to address set-asides for a moment. Attention has focused on set-asides recently, as some have called for their elimination. I strongly support set-asides as one method of providing an opportunity for minority enterprises to gain equal footing in bidding for Government-funded contracts. Set-asides have a long history of bipartisan support in the Congress and have been upheld in executive and judicial decisions. While I do not dispute that there have been some abuses of the program, this does not justify terminating the program. Rather, these problems should be addressed.

I am pleased to salute the minority entrepreneurs around the country. I stand ready to do everything I can to help them flourish and to increase their numbers.●

NAUM AND INNA MEIMAN: A SPECIAL PLEA

● Mr. SIMON. Mr. President, the Reagan-Gorbachev presummit meeting begins tomorrow. Although there are many pressing and important issues to discuss, the importance of human rights cannot be exaggerated. Human rights are the basic ingredient of a civilized society. We have a responsibility to do all that we can to help everyone attain the freedom that they deserve.

I would like to make a special plea for my Soviet friends Naum and Inna Meiman. They have been trying to emigrate for more than 10 years. Naum has always been a vocal leader attempting to bring human rights to all Soviet citizens. He was an instrumental member of the Helsinki Watch Group. His quest for human rights has now become a matter of life or death. His wife Inna suffers from cancerous tumors on her neck. After the removal of four tumors, the Soviet doctors decided that there is nothing more they can do for her fifth and most recent tumor. Fortunately, there is experimental treatment available to her in the West. I only hope that the Soviets allow Inna to receive this necessary treatment before it is too late.

I strongly urge the Soviet Union to allow Naum and Inna Meiman to emigrate to Israel.●

HUMAN RIGHTS IN EAST TIMOR

● Mr. HATFIELD. Mr. President, since the 1975 invasion and occupation of East Timor by the Indonesian military, as many as 200,000 of a population of 650,000 East Timorese men, women, and children have perished. As William Buckley wrote in the *National Review* last May, "It is worthy of comparison with Pol Pot's bloody reign over Cambodia, not only for the devastation inflicted, but also for the lack of attention, in the world community, paid to the holocausts." For those of us concerned about international human rights, the repression and brutality carried out in East Timor since 1975 stands out as one of the great crimes of our time.

When we talk about 200,000 people, 3 men seem almost trivial. But they are not, Mr. President. Today I bring to the attention of my colleagues the troubling case of three East Timorese law students who were recently arrested in Jakarta. They are the subjects of two Amnesty International "Urgent Actions," and they may represent an entirely new dimension of Indonesia's disregard for East Timor and its population at a time when the situation on the small island seemed to be improving.

Antonino Goncalves, Joao Freitas de Camara, and Francisco Fernandes Carvalho have all been arrested by the Indonesian military in Jakarta during the past several weeks. Since the arrests, the Indonesian authorities have refused to reveal information about where these students are being held. The Indonesian Government recently informed United States Embassy officials that the students were charged with stockpiling guns in their homes in the East Timor town of East Timor, but details of the charges have yet to be released. Amnesty International is concerned that these men may be the victims of torture, as have many East Timorese in the past.

These arrests and the potential of torture are troubling, and I have made my concerns known to the Government of Indonesia. But there is more. Although the East Timorese have endured incredible hardships and mysterious arrests at the hands of the military in their native land, rarely if ever have there been reports of such arrests outside East Timor. Now we have witnessed three such arrests in several weeks.

Mr. President, being straightforward with Indonesian officials about our concern for the many thousands of East Timorese who continue to be denied even the most basic human rights can only serve to strengthen our relationship with that nation of great

strategic interest to us. Being straightforward with Indonesian authorities about our concern for these students can only serve to help them and stem what could be a most dangerous tide before it threatens an entire population and endangers Indonesia's ties with the United States as well.●

HONORING SENATOR STAFFORD AND REPRESENTATIVE WAXMAN ON THE 10TH ANNIVERSARY OF MECA

● Mr. CHAFEE. Mr. President, some of my colleagues recently attended an event commemorating the 10th anniversary of the Manufacturers of Emission Controls Association and honoring our colleagues, Senator ROBERT STAFFORD, and Representative HENRY WAXMAN, for their role in shaping our Nation's clean air laws.

The development of an environmentally clean automobile was placed on the country's urgent agenda in 1970, and there were many people in and outside the auto industry who said the standards we set in law were too restrictive, the deadlines too ambitious, cleanup technology too far in the future.

The doubters were proven wrong, and due to advances in catalytic converters and other cleanup technologies, our Nation's air is cleaner today. Despite substantial increases in motor vehicle mileage, our cars are more efficient, and the engineers have turned their minds and research money to the problem of pollution from larger vehicles and diesel engines.

MECA was formed 10 years ago to give Congress and other policymakers the benefit of its technical expertise. The MECA companies have shown that technology-forcing legislation like the Clean Air Act can and does yield important gains in pollution control, and that there is a profit in the business of a clean environment.

This event honored two legislators whose commitment to clean air is unquestioned, irreplaceable, and historically significant—Senator BOB STAFFORD and Congressman HENRY WAXMAN. They presided over the committee and subcommittee of jurisdiction on clean air issues at a time when the Clean Air Act was under extreme pressure. Their defense of the Clean Air Act looked beyond questions of party loyalty and put the public interest foremost. At times, in 1981 and 1982, each must have felt like a lonely voice in the wilderness. But while they worked alone, each in his own way, each in his own arena, together they turned aside efforts to roll back our clean air laws. And since 1983, both have authored and advanced legislation to extend and improve the Clean Air Act.

The battle is not over yet. We need to get more pollution control from mobile sources, and we will look again to the MECA companies and others to guide our policies. We also need legislation to stop acid rain, address the problems of our upper atmosphere and protect our citizens from toxic air pollution.

The unfinished agenda is a long one. But it should not overshadow the genuine contribution to public health and welfare of the MECA companies in cleaning up the Nation's automobiles.

It was fitting, Mr. President, that the Honorable Paul Rogers, former Congressman from Florida, HENRY WAXMAN's predecessor as chairman of the Health and Environment Subcommittee, and the veteran of so many Clean Air Act battles, presented MECA's first Awards for Excellence in the Preservation of the Environment.

Mr. President, as long as men and women of the character, strength, and perseverance of BOB STAFFORD and HENRY WAXMAN serve in Congress, that goal will continue to be national policy.

I ask, Mr. President, that Mr. Howitt's remarks at the 10th anniversary MECA reception be printed in the RECORD at this point.

The remarks are as follows:

REMARKS OF JOHN HOWITT, MECA PRESIDENT, AT AWARDS CEREMONY HONORING SENATOR STAFFORD AND CONGRESSMAN WAXMAN

Good evening. My name is John Howitt. I am President of the Manufacturers of Emission Controls Association.

I would like to take this opportunity to welcome everyone and to thank you for joining us this evening to mark MECA's 10th anniversary and to honor two distinguished gentlemen for their outstanding efforts to protect our environment.

I believe most of you are familiar with MECA but for the benefit of those who are not, let me briefly introduce the Association and explain the origin of the environmental awards. MECA is a non-profit association of leading manufacturers of motor vehicle emission control equipment. The association was created ten years ago to serve as a source of technical information on emission control for public officials and others. Since the early days, we have grown considerably and now 16 companies participate in MECA activities.

The U.S. Motor Vehicle Pollution Control Program is probably the greatest environmental success story of the past two decades. The credit for the success of that program belongs to many of you who are in this room this evening. It's something I believe all of us can take great satisfaction in. I know our companies—some of whom have been involved in the development of emission control since the early 1960's—are proud to have played a role in this environmental success.

As we looked back over the past decade while planning for our 10th anniversary, we concluded that it would be very appropriate to honor an individual or individuals who have made and are making a substantial contribution to the preservation of this nation's environment. It is our hope to continue this awards program by recognizing, on a

biennial basis, other public officials and individuals from the private sector who have served our environment well.

We felt the Steubben rendition of the American Bald Eagle in flight over the Earth a fitting award, for the eagle symbolizes the strength and beauty of our natural environment—a national resource and treasure worth preserving.

At this time, it is my great pleasure to introduce the gentleman who has honored us by agreeing to present these environmental awards—the Honorable Paul G. Rogers.

This gentleman certainly needs no introduction to most of you in the room who will remember his Herculean efforts in championing major environmental legislation of the 1970's.

Paul Rogers served 24 years in the U.S. House of Representatives and eight of those years as Chairman of the House Subcommittee on Health and the Environment. Virtually every major health law in effect today bears the Rogers' mark.

Some of the more prominent pieces of environmental and health legislation which bear the Rogers' name are the Clean Air Act, the Safe Drinking Water Act, the National Cancer Act, the Health Manpower Training Act, the Heart, Blood Vessel, Lung and Blood Act, the Research on the Aging Act, the Comprehensive Drug Abuse Convention and Control Act of 1970, the Medical Device Amendments of 1970, the Emergency Medical Services Act, the Health Maintenance Organization Act, and the Radiation Health Safety Act.

Paul Rogers is a partner in the law firm of Hogan and Hartson in Washington, DC, and has continued his keen interest in conservation and the environment. In 1982, the National Academy of Sciences awarded him its Public Welfare medal in recognition of his "distinguished contributions in the application of science to the public welfare."●

TAIWAN

● Mr. LUGAR. Mr. President, I rise today to take note of the recent announcement by President Chiang Ching-kuo of his proposal to end martial law on Taiwan. This, I believe, is a most welcome development. I was in Taiwan in August of this year and had the opportunity to visit with the President. We discussed, among other things, the long-term evolution of economic and political developments on Taiwan. I believe that it is inevitable that a nation which develops economically—as Taiwan has done so strongly—will develop pressures to expand participation in political life. This is what is occurring on Taiwan and I am pleased that the Government is prepared to take the step of terminating martial law and loosening restrictions on personal freedoms.

Mr. President, I would note, too, that October 10 is Taiwan's national day. President Chiang Ching-kuo's announcement has thus occurred at a most appropriate time of celebration.

I am confident that I join all colleagues in congratulating Taiwan and in looking forward to further developments in the coming months and years.●

MUNICIPAL GARDENS

● Mr. LUGAR. Mr. President, in May 1986, the Municipal Gardens Amateur Basketball Team, made up of 13 and 14 year-olds from the Indianapolis region, won the Indiana AAU Junior Olympic Championship.

Under the astute leadership of Tom "Red" Taylor, they defeated an excellent Washington, DC, team to capture the 1986 National AAU Junior Olympic Championship. This team—with some changes over the years—has won the National AAU Junior Olympic title 3 of the last 4 years.

In the week-long tournament, held in beautiful Orlando, FL, the Municipal Gardens team defeated teams from California, Oklahoma, Iowa, Georgia, West Virginia, and Washington, DC.

This outstanding team consisted of the following members: Damon Dailey, who was named the tournament's most valuable player; Lloyd Carr, Marc Dickison, Jeff Gradek, Elliot Hatcher, Chuck Huffman, Kyle Kenworthy, Paul Lee, Eric Montrose, Tom Moore, Steve Mzingo, and Troy Terrell.

Coach Taylor, who works as the vice president treasurer at Ivy Technical College, has been coaching at Municipal Gardens for the past 17 years. In that time, his team have won five AAU Junior Olympic National Championships and finished runner-up another three occasions. He also led his teams to 16 Indiana State AAU Junior Olympic Championships. This exceptional leadership and ability is indicative of the talent both Coach Taylor and his teams exhibit.

Indiana is proud of these achievements and wish the Municipal Gardens teams continued success.●

10TH ANNIVERSARY OF UKRAINIAN PUBLIC GROUP TO PROMOTE IMPLEMENTATION OF HELSINKI ACCORDS

● Mr. HEINZ. Mr. President, I join the other members of the Helsinki Commission and my colleagues in the Senate in saluting the 10th anniversary of the heroic Ukrainian Public Group to Promote Implementation of the Helsinki Accords, the Ukraine's Helsinki monitoring group.

The group was formed spontaneously on November 9, 1976, a decade ago. In those 10 years the Ukraine Helsinki monitors have performed the same noble task as similar groups in Moscow, Lithuania, Georgia, and Armenia have—to bear moral witness to the continuing Soviet violation of its solemn international commitments on human rights.

For us in the West, the signing of the Helsinki Final Act in 1976 marked the end of one long series of diplomatic negotiations to frame the act, and the opening of another to review im-

plementation of the Final Act's human rights provisions. For the courageous members of the Ukraine monitoring group, the ceremony in Helsinki marked the beginning of years of intensified persecution, detention, arrest, torture, and, for some, death in Soviet labor camps.

The 37 members of the Ukraine monitoring group have paid the price for their moral witness. All but 1 have been imprisoned, with 16 in prison or exile today. Three have become martyrs to the principles of basic human rights and Ukrainian national identity, suffering death in Soviet labor camps.

The Soviets employ all of the standard instruments from their toolkit of expression. Ukrainians who join the Helsinki group are accused of common crimes and shipped off to harsh regime labor camps. They are sent into exile in the West. Their sympathizers are incarcerated in mental hospitals. Their homes are searched, their documents seized, they are followed, detained and tortured, their communications monitored, their privacy destroyed. The hypocrisy of Soviet officialdom is never more brazen than in its persecution of a group whose only purpose is to ensure respect for human rights, rights that Moscow has pledged itself to observe.

The Ukrainian monitoring group has shown extraordinary courage in the face of the brutal repression of the Soviet authorities. In this they have carried on a proud tradition of Ukrainian nationalism that has resisted russification and cultural genocide for generations. From the days of the independent Ukrainian Republic at the time of the Russian Revolution, to the struggle of the Ukrainian Insurgent Army against the Nazis and the Soviets in World War II, the Ukraine has seized every opportunity to assert its rights against the great powers that have denied it self-determination.

The Soviets have unknowingly paid tribute to the indomitable spirit of Ukrainian nationalism in persecuting Yuriy Schukevych, son of Roman Shukhevych, commander of the Ukrainian Insurgent Army during the Second World War. Yuriy has spent 34 of his 52 years in prison or exile, all for refusing to renounce his father, who led Ukrainian guerrillas against the double occupation of the Nazis and the Soviet Red Army.

Shukhevych managed to join the Helsinki group in 1979, despite his twilight life in the Soviet gulag. Today, he has begun to show the physical disability of those who are consigned to the living hell of Soviet labor camps—blindness, ulcers, and heart disease. His body is failing, but his very life stands as a testament to the spirit of human dignity and national identity of the Ukrainian people.

The rollcall of heroism on behalf of universal principles of human rights

and national rights of the Ukrainian people goes on and on. It is a melancholy list, for all of those on it are either exiled from the land they love or degraded, imprisoned, and tortured at home by the Soviet authorities. Some have paid the ultimate price, giving their lives in defense of their ideals.

By adopting Senate Concurrent Resolution 154, we make the smallest of gestures in saluting those whose courage cannot be adequately described. But we must let the people of the Ukraine, the members of the Ukrainian Helsinki monitoring group, know that their struggle is not conducted in the darkness, as Moscow might wish. It is waged in the glaring light of world opinion, world opinion that does not forget, does not give up, does not surrender the hope that the struggle is not in vain. When we vote for this resolution, we reaffirm our bond with those who daily suffer for the principles of freedom we are fortunate to enjoy here in the United States. ●

THE NEW GOVERNMENT OF PRESIDENT AQUINO

● Mr. LUGAR. Mr. President, the publisher and editor-in-chief of the Philippine News, the largest Filipino-American newspaper in the United States, Mr. Alex A. Esclamado, has written a most perceptive and moving article about the new government of President Aquino. The article appeared in the San Francisco Examiner on September 24, 1986. It presents the case for assistance to that government very persuasively, especially the argument that it is the national interest of the United States that we help democracy survive in the Philippines. I ask that Mr. Esclamado's article be printed in the RECORD at the appropriate place.

The article follows:

STRONG SUPPORT FOR AQUINO

(By Alex A. Esclamado)

When the Filipino people succeeded in regaining their freedom in a most dramatic revolution last February, freedom-loving peoples around the world cheered them on. In center focus was Corazon C. Aquino, wife of the fallen hero, Senator Benigno S. Aquino Jr.

There were doubts in many minds whether she had the ability to lead a devastated nation. The most stinging indictment of her supposed lack of competence to handle the Herculean job of the presidency of the Philippines was made by The New York Times editorial board.

The Times had interviewed Aquino immediately after her victory. Candidly and unguardedly, acting like the sincere housewife she used to be, always giving center stage to her dynamic husband, she expressed her personal doubts about her ability to govern. She answered questions with the sincerity and openness characteristic of her personality.

Obviously, no politician of her newly-acquired stature would have dared to display such candidness. Predictably, the Times ar-

ticle was devastating. The image created of Corazon Aquino was of a president who had no experience, who admittedly had to take crash courses in government and leadership under special tutors—tutors who, as many feared, could take advantage of her political naivete.

Today, barely seven short months after she assumed the powers of the presidency, Americans are being given the opportunity to size up, at close range, a diminutive housewife-turned president of 55 million people.

What is her performance rating? I can only sum up what she has already done in such a short time:

She has restored freedom to the Filipinos. This is clearly demonstrated by the reinstatement of press freedom. There are 26 newspapers and magazines in the Philippines today each trying to find fault with her government.

She is dismantling the corrupt political machinery of the past regime. Local, provincial and national officials who for 20 long years were the vital instruments of power of a totally corrupt administration are being replaced. One can appreciate the enormity of the undertaking and the tremendous implications it has on political stability.

She is restructuring the framework of the nation through the formulation of a new constitution that embodies the Filipinos' high aspirations of a truly democratic system. She has announced that elections will be held under the new constitution soon after it is ratified.

With a duly elected Congress that provides the checks to the presidency and local officials receiving fresh mandate from the people, together with an independent judiciary, full political stability shall be achieved.

She has personally implemented the laudable policy of reconciliation with the rebel and insurgent elements of the Philippine society which flourished from the brutal repression and unconscionable corruption of the past regime. She released all political prisoners including Communist leaders.

Aquino has traveled to the dangerous southernmost region of the country to meet the leader of the Moslem rebels with whom she has struck a ceasefire agreement. She has flown to the almost inaccessible jungles of northern Luzon to "smoke the peace pipe," so to speak with one of the most enigmatic of rebels.

She is in the process of negotiating peace with the New People's Army, the Communist-backed insurgents, whose cause and numbers flourished under the injustices and inequities of the Marcos dictatorship.

As Aquino pointed out in her speech before Congress, the communist insurgency started with only 500 armed soldiers when martial law was declared in 1972. It had grown to over 16,000 when the Marcos regime ended in February.

No president of the Philippines before her has accomplished these daring personal feats in the first 200 days of his term. At another time before hers, these things would only be attempted by a man in a man's world.

Now she has come to the United States to solve the most difficult problem of her government: the revival of the Philippine economy. There is no need to belabor here how much devastation has been inflicted by Imelda and Ferdinand Marcos upon the Filipino nation; much has been written about it.

Not only have they stolen a major chunk of whatever there was to steal from the

country, they have also plunged the land hopelessly into debt. As Aquino has said, it is a \$26 billion obligation of a people who never received the benefits of the debt.

President Aquino came to appeal to the United States for three forms of assistance:

To increase the level of U.S. aid to the Philippines so that the democracy that her people have valiantly regained in a phenomenal revolution may be preserved.

She was right in her speech to Congress when she pointed out that the Philippine revolution was the cheapest revolution ever. For in how many places have Americans been embroiled in conflicts to promote democracy and have failed at tremendous cost of American lives and financial resources?

To urge American investors to resume their business activities in the Philippines and to encourage new business ventures.

To make the burden lighter for the impoverished Filipino who must honor a huge foreign debt from which "he never benefited."

The bottom line is: To what extent is America willing to help the Aquino government? How much is America willing to pay to help keep the Philippines on the side of freedom?

Doubts about Aquino's personal competence and ability to govern the Philippines should be erased by the time her plane lands in Manila to the rousing welcome of her proud people. She will return to her country finding it very much intact and well under her full control. Indeed, her visit will have been a definite diplomatic and substantive success.

She will also leave the United States with the strong support of the Filipino-American community throughout the country. Everywhere she went—Washington, D.C., New York, Boston and San Francisco, Filipinos welcomed her as their new heroine, a person full of sincerity, decency and talent. She has become the personification of the Filipinos' love and commitment to the immutable ideals of freedom and patriotism.

This is the real Corazon C. Aquino that I know: intelligent, strong-minded, sincere. No one can manipulate her. No one can dictate to her. While she needs advice from experts, she is clearly the Boss. There is no doubt that she can lead the Philippines to the greatness that it deserves.

How much must we help to make her succeed? I say enough to make her win the battle to preserve democracy in the Philippines!

I am an American by adoption, a Filipino by birth. I have seen how the United States has failed the Filipinos at certain crucial moments in the long history of Philippine-American friendship.

Democrats and Republicans alike, gave the Marcoses free rein, enabling them to destroy the moral and material well-being of the Filipino people.

I believe it is time for America to do justice and make amends to their Filipino friends who love Americans more than any other people in the world.

What is an equitable price, then, for maintaining democracy in the Philippines?

If the primary interest in the Philippines is the maintenance of U.S. strategic military bases there, then let the U.S. pay the price to maintain them. Assuming that the biggest threat to U.S. bases are the Communists, then let us spend now what it takes to defeat the Communists in the Philippines. How?

As President Aquino eloquently stressed, communism cannot be defeated by sheer military power. There must be an allevi-

ation of the poverty of the people to remove their cause for rebellion.

Recently, Washington sent experts to the Philippines to determine how much it would cost to transfer the military bases in the Philippines to other areas, like the Marianas Islands. The figure was \$10 billion and the resultant facility would not be even half as effective as the present facilities.

In response to the appeal of President Aquino, I submit that the United States adopt a Marshall Plan-type of commitment to the Philippines. The amount shall be equal to what would be spent to transfer the military bases elsewhere programmed over five years. The \$2 billion annual budget may be placed in the Defense budget as "rental" for the military bases in the Philippines or for the maintenance thereof. The amount shall then be considerably reduced after the five-year period.

The fund should not be termed "foreign aid." This fund would enable President Aquino to effectively implement social amelioration projects to enhance the economic life of the Filipinos. The Communists then will lose their mass base and will eventually be defeated, thus the threat to the military bases will disappear.

And when the military bases issue is brought before the Filipino people for decision in a plebiscite in 1991 when the current treaty expires, I am certain that an overwhelming majority will vote for their retention.

We must help Aquino's government succeed. The \$2 billion annual budget which I propose is only at parity with Egypt. It is very much less than our present support to Israel of over \$3 billion. The Reagan administration is reported to be considering an aid package for Pakistan at the level of \$900 million. I say, in the scale of strategic importance and commitment to democracy, the survival of Philippine democracy should be ranked as equally important to America as the survival of democracy in Egypt, Israel or Pakistan.

If the United States cannot help democracy survive in the Philippines where all conditions are favorable how can she be expected to win a battle for Democracy anywhere else in the world? Is there a better country to invest in democracy and freedom? ●

FREIDA MAE DAWKINS

● Mr. LUGAR. Mr. President, today I ask my colleagues in the Senate to join me in honoring the former executive director of the East Chicago, IN, Civil Rights Commission who passed away on November 2, 1985.

Freida Mae Dawkins, a native Hoosier from Mount Vernon, IN, was born July 23, 1917. She moved to East Chicago, IN, upon her marriage to Henry A. Dawkins. Her energy was immediately seized upon by the Zion Missionary Baptist Church. Her work in the church was outstanding. She was also involved in many other church organizations, such as: past president of the Matron's Department with the Indiana State Baptist Convention, past president of the Zion Baptist Missionary Church Society, past president and director of the Gospel Chorus of the Zion Baptist Church and past president of the East Chicago Singing

Convention which included churches in Hammond and East Chicago, IN.

This remarkable woman, after raising her two daughters, Henretta and Patricia, decided to return to school herself and complete a program in practical nursing. She graduated from the Purdue University Calumet College of Practical Nursing and went on to serve for 12 years at the Methodist Hospital in Gary, IN.

The strength and solid character of this great lady could be seen in her civic and social activities. She was a charter member of Club Reginas which provided scholarships to needy college students; chairperson of the board of directors of the Project Area Committee; she organized and incorporated the Unity for H.E.L.P. which allowed the Food Fair to remain open; was a chairperson for city employees to the Lake County area United Way Campaign 1976-77; was on the board of directors for the Tri-City Mental Health Program; served on the first board for the St. Catherine Credit Union; was the president of the Indiana State Consortium of Local/State Civil Rights Agencies from 1981-82; served as a board member to the East Chicago NAACP; and was a member of the Lily of the Valley Chapter 41 of the Twin City Lodge also located in East Chicago.

This untiring Hoosier is typical of many who give freely of themselves so that the lives of others may be enhanced. ●

ABORTION AND INFORMED CONSENT: MASSACHUSETTS

● Mr. HUMPHREY. Mr. President, I urge all my colleagues to read Debbie's letter describing her experience with two abortions. Abortion is one of the, if not the, most serious violations of human rights that one person can inflict on another. It is the deliberate destruction of the offspring of a human being—which is without a doubt a human being.

But to literally add insult to injury, abortionists are degrading women and endangering the health of the mothers by not adequately informing them of the risks and nature of abortion. Pregnant women, 4,100 of them each day, are procuring abortions, and most of them will not know the basic facts regarding the gestation of their infant, or the type of abortion procedure to be used.

It is imperative that S. 2791, my bill requiring informed consent before abortion, be enacted into law in order to protect the emotional and physical health of this Nation's women. I ask, in particular, my colleagues from Massachusetts to heed the plea of Debbie, their constituent, and support informed consent before abortion.

I ask that Debbie's letter be printed in the RECORD.

The letter follows:

AUGUST 15, 1986.

DEAR SENATOR HUMPHREY: My first abortion was illegal at the age of 18. That didn't stop the doctor from asking me if I wanted an abortion. That was all the counseling I received.

It is tragic that the counseling most women considering abortion receive is so near-sighted. Those who counsel women at abortion clinics are simply interested in rushing scared women and girls into abortions which many will regret later. It may take months, even years, but once the realization of what abortion is and does sets in, women suffer devastating emotional crises and find it very hard to forgive themselves for the role which they had in killing their own children.

The tragedy of killing an unborn child by abortion is compounded by the physical harm done by abortion to many women who undergo the procedure. I myself suffered from a very bad infection after my abortion, an infection which spread throughout my body. Other women I know have been forced to have total hysterectomies or simply rendered barren as the result of extensive scarring—all because of an abortion to which they never gave informed consent. Abortion is a very dangerous procedure for the mother and child, both physically and psychologically.

I, along with many others, became hateful, angry, bitter and resentful after the abortion. I dwelled on the baby's due day for years. My next abortion later was legal and the counselling wasn't any better. I wanted to make up for the first baby I killed. In turn I killed this one also. It saddens me to see how tough and "pro-choice" I became after the second abortion. The first one devastated me and, in order to handle my feelings, I had to become hard and put up a wall. I didn't know how to deal with murder.

Can you imagine how it feels years later to see pictures of aborted babies? I thought I would die, seeing what I'd done! I am 100% pro-life now. Women should be told all the facts about abortion. "What you don't know can hurt you!" It kills babies physically and women spiritually.

We, the women who have had abortions, know the physical and emotional pain left in abortion's wake. It is and has been our struggle to deal with abortion's aftermath, now it is our struggle to tell others the truth about abortion. Please help us in this effort.

Sincerely,

DEBBIE SOTIRKYS,
Massachusetts.●

SOVIET PRISONERS OF CONSCIENCE

● Mr. D'AMATO. Mr. President, we are grateful for the recent release of Dr. Yuri Orlov, founder of the Moscow Helsinki Group, from internal exile. A renowned Soviet scientist, Dr. Orlov was a member of the Armenian Academy of Sciences and conducted research at some of the finest institutes. During the early 1970's Orlov began to speak out on behalf of Soviet political prisoners. In 1973 he wrote a statement in defense of fellow scientist and human rights advocate Dr. Andrei

Sakharov. Orlov was a founding member of the Moscow chapter of Amnesty International and became the driving force behind the Moscow Helsinki Group. The group, whose members included Dr. Elena Bonner, Sakharov's wife, and Anatoly Shcharansky, was organized following the signing of the Helsinki Final Act to document Soviet human rights violations. Orlov was arrested, charged with anti-Soviet agitation and propaganda, and sentenced to 7 years in strict regimen camp plus 5 years internal exile. During his term of imprisonment, Orlov was subjected to long periods of solitary confinement. While in internal exile, he was harassed repeatedly by the authorities, denied the right to correspond with his wife, Irina, and even attacked by thugs in the remote Siberian village of Kobyal.

Orlov's release serves to remind us that there are many other Soviet prisoners of conscience who languish in the gulag. Earlier this year, Dr. Andrei Sakharov, a Nobel Peace laureate, sent a special appeal to Soviet General Secretary Gorbachev asking for the release of prisoners of conscience in the U.S.S.R. Sakharov, an outspoken advocate of human rights, was banished to the closed city of Gorky by Soviet authorities in 1980. In 1984, Dr. Bonner, a founding member of the Moscow Helsinki Group, was arrested, charged with anti-Soviet slander, and sentenced to 5 years internal exile. Together, they live in isolation, cutoff from contact with the West and under constant surveillance by the KGB.

Mr. President, as chairman of the Commission on Security and Cooperation in Europe, I urge my colleagues to voice their concern over Soviet human rights violations. It is particularly important that, on the eve of the Reykjavik meeting and the opening of the Vienna CSCE followup meeting in early November, we demonstrate our continued concern for Soviet prisoners of conscience and others denied basic human rights.

Mr. President, I ask that a copy of Dr. Sakharov's appeal and a list of imprisoned Helsinki monitors be included in the RECORD at this time.

The appeal follows:

ANDREI SAKHAROV'S APPEAL FOR PRISONERS OF CONSCIENCE PREFACE

On February 20, 1986, I sent a letter to General Secretary Mikhail Gorbachev urging the release of prisoners of conscience. The return receipt indicates that it was received by the General Department of the Central Committee on March 3rd.

When I wrote the letter, I did not know that Anatoly Schcharansky had been freed. I was extremely glad to receive news of this humanitarian act. It shows that the worldwide release of prisoners of conscience is necessary and feasible.

Prisoners of conscience have, however, been excluded from all amnesties in the USSR, placing them on a par with criminals

convicted for especially grave felonies. The recent amnesty, celebrating the 40th anniversary of the victory over Nazi Germany passed over prisoners of conscience who would otherwise have qualified as veterans or invalids of World War II. This illustrates the magnitude of the ideological barriers blocking the release of prisoners of conscience. But I still believe in the ultimate triumph of reason and justice!

I attach exceptional importance to the fate of political prisoners. Taking into account my earlier appeals to Mikhail Gorbachev, to the Chairman of the Supreme Soviet, Andrei Gromyko, and to the Chairman of the KGB Vitaly Chebrikov, I consider it my right and duty to make my letter public and ask the press to print it, but not before September 3, 1986.¹

ANDREI SAKHAROV,
Nobel Peace Laureate,
GORKY, March 1986.

FEBRUARY 19, 1986.

DEAR MIKHAIL SERGEYEVICH: First of all, let me express my appreciation that my wife, Elena Bonner, received permission to travel abroad to visit her mother, children and grandchildren, and to obtain medical treatment. I assume that this permission, so important for us, was made possible by your personal intervention.

I hope that your intervention may help to resolve another problem which deeply concerns me. It is also humanitarian in nature, but it is more complicated, and it has broader, national significance.

I am referring to the fate of prisoners of conscience, the term adopted by Amnesty International to describe persons detained for their beliefs or for actions motivated by their beliefs, provided that they have not used or advocated violence. The term "prisoner of conscience" is thus more narrowly defined than the term "political prisoner."

In your interview published in L'Humanite on February 8, 1986, you asserted: "Now, about political prisoners, we don't have any. Likewise, our citizens are not prosecuted for their beliefs. We don't try people for their beliefs."

Mikhail Sergeyevich, it is true that the Criminal Codes of the Russian and other republics do not use the term "political prisoner". Articles 190-1, 70 and 142 of the RSFSR Criminal Code and the corresponding articles in the Codes of the other Soviet republics are not called political.² This may provide formal justification for saying that we don't have political prisoners, and that no one is prosecuted for his beliefs, but your advisors have misled you as to the real state of affairs. They may have done so unintentionally, influenced by their preconceptions. It is for you to decide whether this makes things any better.

Article 190-1 makes it an offense to circulate fabrications known to be false which defame the Soviet state or social system. A commentary on the criminal Code published by Yuridicheskaya literatura states that

¹ In a letter to Gorbachev written on June 29, 1985, Sakharov stated his "wish to cease public activities (apart, of course, from exceptional cases) and to concentrate on scientific work." Sakharov was then on an extended hunger strike seeking permission for his wife to go abroad for medical treatment.

² Article 190-1: The circulation of fabrications known to be false which defame the Soviet state or social system. Article 70: Anti-Soviet agitation and propaganda. Article 142: Violation of laws on separation of church and state and church and school.

"the circulation of fabrications . . . is not a crime under Article 190-1 if the person circulating them does not know them to be false." In all the cases with which I am familiar, however, the courts have completely ignored this issue posed by legal experts and common sense; they have avoided any discussion as to whether the defendant had knowingly circulated lies or had been expressing his or her sincere beliefs. In fact, the latter has been true. The absence of any proof of conscious intent is crucial under the law. It means that people have in reality been convicted in court for their beliefs.

My wife Elena Bonner is one victim of this illegitimate practice; I have written you in detail about her case.

The interpretation by the courts of Article 70 of the RSFSR Criminal Code is equally unjust. (This article is taken almost word-for-word from Stalin's Criminal Code. It was one of the points in the notorious article 58. . .)

In all the cases known to me, honest, selfless people have been convicted under Articles 70 and 190-1 for the circulation of information which they firmly believed to be true and which in most instances was in fact true. (The information included objective news about, unjust trials, psychiatric abuse and other repressions; the important right to choose freely one's place and country of residence, to leave any country and to return to one's own country; the persecution of religious believers; and—of particular importance—conditions in places of detention, which are often incompatible with human dignity.) Despite the diatribes in our press, their motives in the overwhelming majority of cases were honorable—they were striving for justice, for openness and for the rule of law. People do not sacrifice themselves because of greed or vanity, for base or insignificant aims!

Article 70 speaks of "agitation or propaganda carried on for the purpose of subverting or weakening the Soviet regime or of committing particular, especially dangerous crimes against the state, or the circulation for the same purpose of slanderous fabrications. . ." In the cases known to me no one convicted under Article 70 had or could have had the purpose of subverting or weakening the Soviet regime or of committing a crime against the state. The courts have never attempted to prove that Article 70 defendants had such intentions. In both Article 70 and Article 190-1 cases, the courts substitute the endless repetition of empty, ritualistic formulas for a discussion of real issues, and sometimes, as in my wife's case, they resort to outright forgery. That may be the reason that the defendant's right to an open trial has been violated in every single case known to me of prosecutions under these articles. The courts have been packed with specially selected audiences; friends and sometimes relatives of the defendants were kept out by police cordons, even when the judge pronounced the verdict. Wrongdoing shuns the light of day.

Trials under Articles 70 and 190-1 clearly constitute prosecution because of the defendants' beliefs.

That is also true of many prosecutions under Article 142. It is formally concerned with the separation of church and state, but it is often used to punish nonviolent religious activity.

I am greatly disturbed by the revival of the cruel and unjust practice of trying prisoners again and again while they are serving their sentences. Prisoners of conscience "resisting reeducation"—which means those

who remain unbroken and defend their beliefs—can be tried using summary procedures and sentenced to new terms of imprisonment on the basis of inspired denunciations by their fellow convicts or charge directly initiated by the camp authorities.

I shall name a few of the prisoners of conscience known to me.

My friend, Anatoly Marchenko, has been sentenced under Article 70 to 10 years imprisonment and 5 years internal exile. (He was the victim of several prior unjust trials.) The main charge at his most recent trial involved his letter to the late Academician Petr Kapitsa asking him to protest my illegal exile to Gorky.³

(In regard to myself, let me simply repeat here that I consider the measures taken against me to be unjust and unlawful. I am ready to answer for my actions, like other prisoners of conscience, but I alone should bear the responsibility. It must not be shifted onto my wife or anyone else.)

Ivan Kovalev and his wife Tatiana Osipova, were convicted under Article 70 for public statements they made as members of the Moscow Helsinki Watch Group and as private individuals. The plight of this young couple, separated for many years, illustrates the illegality and cruelty of the persecution of prisoners of conscience. An affidavit about Kovalev issued by the camp authorities states that he was repeatedly confined in a punishment cell and subjected to other penalties because he did not change his beliefs. What idiots the camp overseers are! During Tanya Osipova's pretrial investigation, her interrogator threatened that she would not receive needed medical care and thus would never be able to bear children unless she cooperated and altered her beliefs. A year ago, Osipova was sentenced to an additional two-year term after a camp trial.

Yuri Orlov, a corresponding member of the Armenian Academy of Sciences, Victor Nekipelov, a poet, and Anatoly Shcharansky are other convicted Helsinki Group members. Nekipelov had been previously sentenced for his poetry; a court ruled that it contained slanderous philosophical ideas. Nekipelov is an exceptionally decent, intelligent and compassionate person. Now he is seriously ill.

I want to make a particular point about the Shcharansky case. No one should object to the exposure and prosecution of spies—that is the job of the state security organs. However, the charge against Shcharansky that he gathered information about refuseniks for publication (!) in an American newspaper has nothing in common with espionage.

Tatiana Velikanova, Alexei Smirnov, and Yuri Shikhanovich were convicted for editing "A Chronicle of Current Events." (My friend Sergi Kovalev, a distinguished biologist and the father of Ivan Kovalev, served a ten-year sentence on the same charge.) Tatiana Velikanova exemplifies the best traits of prisoners of conscience: absolute integrity, a desire to act openly and devotion to justice. From 1968 until 1982 "A Chron-

³ Marchenko is the author of "My Testimony," an account of the post-Stalin labor camps. On August 4, 1986, in a letter smuggled out of Chistopol Prison to the Vienna Conference, Marchenko announced a hunger strike demanding an end to the abuse of prisoners, punishment of the guards who banged his head on the cement floor of his cell, a visit with his wife, and an amnesty for all political prisoners. His "Open Letter to Academician P. L. Kapitsa" was printed in On Sakharov, Knopf, New York, 1982, pp. 31-37.

icle of Current Events" published objective information on the human rights situation in the USSR without editorial comment. Its history is the embodiment of the ideals of many self-sacrificing individuals.

Sergei Khodorovich was tried for administering a fund which assists political prisoners and their families. The fund is supported by contributions of Soviet citizens and by royalties from Alexander Solzhenitsyn's books.

Smirnov and Khodorovich were severely battered during pretrial detention by prisoners who were assigned to their cells for that purpose. The beating continued for many days. I do not know if other prisoners of conscience have suffered similar torture.

Mustafa Dzhemilev has repeatedly been tried for his defense of the Crimean Tatars' right to return to their homeland.

Mart Niklus was sentenced to ten years labor camp and five years internal exile for Helsinki Watch Group activity in Estonia and for signing a collective letter demanding the repudiation of the secret articles of the Molotov-Ribbentrop Pact. (Juri Kukkk, who also signed the letter, died in a labor camp.) One has to meet Niklus, an ornithologist and a true scientist, an absolutely honest and sensitive person, to appreciate the full cruelty and injustice of his sentence.

Merab Kostava was sentenced to exile in 1978 for his attempts to preserve the cultural and historical heritage of the Georgian people. In contrast to his codefendant, Kostava refused to repent and was tried again on trumped up charges. I sent a telegram about this to Eduard Shevardnadze at the time. I do not want to condemn Kostava's codefendant; Shevardnadze disparaged him in a speech by saying that he was "not a chevalier." Every individual has his own problems and code of behavior in extreme situations. But Kostava, to borrow Shevardnadze's phrase, is certainly a chevalier and a true son of Georgia.

I know everyone on this list except for two individuals, and absolutely trustworthy friends know those two well. Even if there is no general amnesty for prisoners of conscience, I ask you to release all those named above. I vouch for the good character, civic responsibility, integrity and altruism of every one of them.

I do not have recent information on these cases. One or two may have been released by now, but I rather doubt it.⁴

Unquestionably, prosecution for one's beliefs or for actions motivated by them is a relatively rare occurrence now. There is no comparison with the deplorable Stalin era. I believe that the existence of prisoners of conscience in our country is a legacy of the intolerant, dogmatic ideas of those years, ideas that still affect the thinking and actions of some government officials.

I know personally some thirty prisoners of conscience. The figure of 200 prisoners, which you cited in another connection, probably is a significant portion of the total number. Additional prisoners of conscience are confined in prison psychiatric hospitals. Others have been convicted on fabricated criminal charges, such as hooliganism, re-

⁴ Anatoly Shcharansky was released in Berlin on February 11, 1986, in connection with an East-West spy swap. On September 30, 1986, Secretary of State Shultz announced that Yuri Orlov would be released from internal exile and allowed to depart the USSR by October 7; the release was arranged during discussions between Soviet Foreign Minister Shevardnadze and Shultz about the case of Genadi Zakharov.

sisting arrest, parasitism, and attempted rape. I suppose, however, that even with these additions, the number of prisoners of conscience is not very great, although I cannot supply exact figures.

There should not be any prisoners of conscience at all in a just society.

We can do little to affect the fate of prisoners of conscience in other countries, except through the example we set. We can, however, free our own prisoners of conscience. (Amnesty International works with some success on this problem in all countries.)

Release them and get rid of this painful issue. There are so few prisoners of conscience in relation to our population, but their release would have real humanitarian, moral, political and, I dare say, historical significance. It would substantially increase our country's prestige. It would make all international contacts easier. It would advance the openness of our society, international confidence and the cause of peace. It would gain the support of a significant part of the Soviet intelligentsia. It could change the psychological atmosphere in our country, and thereby open the way for a solution of the problems facing us. It would bring happiness at last to the prisoners' families after many years of undeserved suffering. And this wise, humanitarian act would certainly evoke a positive response throughout the world.

I ask you to take steps to secure the release from prisons, labor camps, and exile of all prisoners of conscience convicted under Articles 901-1, 70 and 142 of the RSFSR Criminal Code and the corresponding articles of other republics, as well as those confined in special psychiatric hospitals (their release would not depend on the complete absence of mental illness) and those convicted on trumped up criminal charges.

Mikhail Sergeevich! I hope you will ask your assistants to acknowledge receipt of this letter and, if possible, let me know your reaction to my request. I assign exceptional importance to the fate of prisoners of conscience.

With respect and hope,

ANDREI SAKHAROV.

In a telephone conversation with his relatives in Newton on September 1, Dr. Sakharov stated that he had not received a reply to his letter. He asked that Viktoras Petkus, who was sentenced in July 1978 to ten years imprisonment and five years exile for his participation in the Lithuanian Helsinki Group, be added to his list of Article 70 prisoners of conscience.

Additional information on the prisoners mentioned in this letter is available from Cronid Lubarsky (Wolfratshausen Str. 68/III, Munich), who publishes the biweekly USSR News Brief and the annual List of Political Prisoners in the USSR.

THIRTY-NINE IMPRISONED MEMBERS OF THE HELSINKI MONITORING GROUPS IN THE USSR AND LITHUANIA (UPDATE: OCT. 1986)

MOSCOW HELSINKI GROUP

Sentenced

1. Elena Bonner—sentenced on August 17, 1984 to five years of internal exile for "anti-Soviet slander."—currently living in Gorky, RSFSR, with husband, Dr. Andrei Sakharov.

2. Ivan Kovalev—sentenced on April 2, 1982 to five years of strict regimen camp plus five years internal exile for "anti-Soviet agitation and propaganda."

3. Anatoly Marchenko—sentenced on September 4, 1981 to ten years of special regi-

men camp plus five years of internal exile for "anti-Soviet agitation and propaganda."

4. Viktor Nekipelov—sentenced on June 13, 1980 to seven years in labor camp and five years of internal exile for "anti-Soviet agitation and propaganda." (Sentenced in October 1982 to prison for three years.)

5. Tatiana Osipova—Sentenced on April 2, 1981 to five years general regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." Re-sentenced in camp to five years strict regimen camp in May 1985 for "habitual disobedience to the demands of camp authorities."

6. Feliks Serebrov—sentenced on July 21, 1981 to four years strict regimen camp plus five years exile for "anti-Soviet agitation and propaganda." Also a member of the Psychiatric Working Group. (Sentenced in 1977 to one year in camp.)

UKRAINIAN HELSINKI GROUP

7. Mykola Horbal—sentenced April 10, 1985 to eight years strict regimen camp plus three years exile for "anti-Soviet agitation and propaganda." (Sentenced on January 21, 1980 to five years of camp for "resisting a representative of authority" and attempted rape).

8. Iosif Zisels—sentenced on April 10, 1985 to three years strict regimen camp for "anti-Soviet slander." (Sentenced in 1979 to three years camp for "anti-Soviet slander.")

9. Vitaly Kalynchenko—sentenced on May 18, 1980 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

10. Ivan Kandyba—sentenced on July 24, 1981 to 10 years special regimen camp plus five years exile for "anti-Soviet agitation and propaganda."

11. Yaroslav Lesiv—sentenced on November 15, 1981 to five years of strict regimen camp for "possession of narcotics." (In 1980, he got two-years term for "possession of narcotics.")

12. Levko Lukyanenko—sentenced on July 20, 1978 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

13. Myroslav Marynovych—sentenced on March 29, 1978 to seven years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

14. Mykola Matusevych—sentenced on March 29, 1978 to seven years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." (Sentenced in October 1980 to prison.)

15. Mykola Rudenko—sentenced on July 1, 1977 to seven years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

16. Vasyl Striltsiv—sentenced in October 1981 to six years in camp on unknown charges. (In 1979, he got two year term for "violation of internal passport laws.")

Died in Camp

Oleksy Tykhy—sentenced on July 1, 1977 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda" and illegal possession of firearms. (Died in camp from malnutrition on May 6, 1984).

Yuri Lytyvn—sentenced in April 1982 to 10 years of special regimen camp plus five years of exile for "anti-Soviet agitation and propaganda." (In 1979, he got three year term for "resisting a representative of authority.") (Died in camp, probably suicide, in late August 1984).

Vasyl Stus—sentenced on October 14, 1980 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agita-

tion and propaganda." (Died in camp September 4, 1985, from stomach and kidney ailments).

LITHUANIAN HELSINKI GROUP

Died

Rev. Bronius Laurinavicius—killed (by truck) on November 24, 1981 in Vilnius. (On November 21, 1981, was subject of accusatory article in Tiesa, official Lithuanian newspaper).

Sentenced

17. Viktoras Petkus—sentenced on July 13, 1978 to three years in prison, seven years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." (Petkus also joined the Ukrainian Helsinki Group in 1983).

18. Vytautas Skuodys—sentenced on December 22, 1980 to seven years strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." (U.S. citizen. Also member of the Catholic Committee.)

19. Algirdas Statkevicius—sentenced on August 11, 1980 to forcible psychiatric treatment after being arrested on February 14, 1980, reportedly for "anti-Soviet activities." (U.S. citizen).

GEORGIAN HELSINKI GROUP

Sentenced

20. Merab Kostava—sentenced in June 1985 to two years in camp for "malicious disobedience to the demands of the camp administration." (Before completion of previous term of five years camp).

21. Eduard Gudava—sentenced in November 1985 to four years strict regimen camp for "holliganism".

22. Tenghiz Gudava—sentenced in June 1986 to seven years strict regimen camp plus three years internal exile for "anti-Soviet agitation and propaganda."

23. Valentina Pailodze—sentenced on May 25, 1983 to eight years strict regimen camp plus three years exile for "giving bribes" and for "giving false testimony." (In 1978, she got a three year term for "anti-Soviet slander.")

24. Emmanuel Tvaladze—sentenced in June 1986 to five years strict regimen camp plus three years internal exile for "anti-Soviet agitation and propaganda."

ARMENIAN HELSINKI GROUP

Died

Eduard Arutunyan—died of natural causes in late November or early December 1984. Arrested in November 1982, he was sentenced to three years strict regimen camp for "anti-Soviet slander." (In 1979 received three-year camp term on these charges.)

CHRISTIAN COMMITTEE FOR THE DEFENSE OF BELIEVERS

Sentenced

25. Father Gleb Yakunin—sentenced on August 20, 1980 to five years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

WORKING COMMISSION ON PSYCHIATRIC ABUSE

Sentenced

26. Anatoly Koryagin—sentenced on June 5, 1981 to seven years strict regimen camp plus five years of internal exile for "anti-Soviet agitation and propaganda" and for "illegal possession of a firearm." Sentenced to two additional years for "resisting camp authorities" in February 1986.

Feliks Serebrov—(See Moscow Helsinki Group).

GROUP FOR THE LEGAL STRUGGLE OF THE
FAITHFUL AND FREE SEVENTH-DAY ADVENTISTS

Sentenced

27. Rostislav Galetsky—sentenced on March 25, 1981 to five years in camp plus five years in internal exile for "anti-Soviet slander" and violation of laws separating church and state.

CATHOLIC COMMITTEE FOR THE DEFENSE OF
BELIEVERS

Sentenced

28. Alfonsas Svarinskas—sentenced on May 6, 1983 to seven years labor camp and three years internal exile for "anti-state activities," "slandering the Soviet state," and "encouraging believers to violate laws and defy authority."

29. Sigitas Tamkevicius—sentenced on December 2, 1983 to six years strict regimen camp and four years exile for "anti-Soviet agitation and propaganda."

Vytautas Skuodyds—(See Lithuanian Group).

Died

Father Juozas Zdebskis—died on February 6, 1986 in a car accident under suspicious circumstances.

INITIATIVE GROUP FOR UKRAINIAN CATHOLIC
RIGHTS

30. Vasyl Kobryn—sentenced on March 22, 1985 for "anti-Soviet slander" to three years standard regimen camp.

31. Yosyp Terelya—sentenced on August 20, 1985 for "anti-Soviet agitation and propaganda" to seven years camp plus five years exile.

INITIATIVE GROUP FOR THE RIGHTS OF THE
DISABLED

32. Nikolai Pavlov—sentenced on September 22, 1981 for "anti-Soviet agitation and propaganda" to five years exile.

33. Vasily Pervushin—sentenced on November 11, 1983 to an indefinite term of psychiatric detention.

MEMBERS SENTENCED BEFORE JOINING

Ukrainian Group

34. Vasyl Ovsienko—sentenced in August 1981 to 10 years strict regimen camp plus five years exile for "anti-Soviet agitation and propaganda." (In 1979, he got a three years term for "resisting a representative of authority.")

35. Oksana Popovych—sentenced in 1974 to eight years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

36. Yuri Shukhevych—sentenced in September 1972 to five years in prison, five years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

37. Danylo Shumuk—sentenced on July 7, 1972 to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

38. Mart Niklus—sentenced in January 1981 to 10 years in special regimen camp and five years internal exile for "anti-Soviet agitation and propaganda." Transferred from camp to prison in July 1983. (Niklus, an Estonian human rights activist, joined the Ukrainian Helsinki Group in 1983).

Lithuanian Helsinki Group

39. Balys Gajauskas—sentenced on April 14, 1978, to 10 years in special regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."●

ICELAND INTERIM SUMMIT

● Mr. DOMENICI. Mr. President, President Reagan and General Secretary Gorbachev will meet this weekend in Reykjavik, Iceland, to plan for their second summit. Some have written off this meeting as simply a political ploy to show that the President is serious about improving relations with the Soviets and making progress on arms control. I think this is neither a fair nor accurate characterization, particularly since it was Mr. Gorbachev who proposed this presummit session in the first place. The President accepted Mr. Gorbachev's invitation, noting that with so many grave and complex matters to be discussed, there is no such thing as too much preparation. I agree.

The Iceland meeting will serve to lay the groundwork for the second full summit scheduled for later this year or the early part of 1987. It will enable the two leaders to continue the process of dialog which was initiated at the Geneva Summit last November, and go into the second summit with a clearer idea of the issues we need to focus on. I sincerely believe these informal discussions will contribute to a more productive summit. If nothing else, getting the "niceties" out of the way this weekend will allow the President and the General Secretary to get down to business as soon as possible when they next meet.

The Soviet-American relationship is, by far, the most important and complex of the world's bilateral relationships. Today, it is at a turning point in history, for while there obviously remain many areas of serious conflict between the two superpowers, there are important areas in which negotiated agreements are imminent. For example, United States and Soviet arms negotiators are already very close to an agreement on intermediate range nuclear forces in Europe. We are on the brink of drastically reducing an entire class of modern nuclear weapons. There is also some promise for progress on issues such as chemical weapons and nuclear testing.

The Iceland meeting, therefore, comes at a critical time in negotiations on several key issues of vital concern to our Nation. While no agreements are anticipated at the Iceland meeting, the discussions that will take place can lead the way for agreements at the second summit, and I support any effort that will give this process an extra push. I wish the President well on his trip.●

ROY WILKENS

● Mr. LUGAR. Mr. President, one of the great leaders of our time will be honored by the establishment of a community hall in East Chicago, IN, that will be named the Roy Wilkens/Freida Hawkins Center. The impetus

behind this building is Eunice Roper-Allen who wanted the city of East Chicago to honor one of the Nation's finest citizens.

Roy Wilkens was born in St. Louis, MO, in 1901. He attended the University of Minnesota where he worked as the night editor of the school paper, editor of the local black newspaper and participated in both the NAACP and Urban League in St. Paul. He moved to Kansas City, MO, where he worked for the Kansas City Call. His outspoken campaigns against Jim Crow brought his efforts to the attention of Walter White, then Director of the National NAACP.

Roy Wilkens accepted a position with the national chapter of the NAACP and moved to New York in 1931. He served as assistant secretary, editor of the Crisis, and finally as executive director of the NAACP. He advocated progressive change through legal action and participated in every major civil rights achievement: working for the integration of the U.S. Army, organizing the historic march on Washington, lobbying for the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the 1968 open housing legislation. Wilkens was among the first to comment on the need for action by the United States for the abolition of apartheid in South Africa.

Above all, Roy Wilkens believed in the United States, the Constitution and the effort to allow freedom and equality to exist for all Americans. He died on September 8, 1981. C. Delores Tucker, former secretary of state for Pennsylvania, stated it correctly, "Roy Wilkens, you have been our Rock of Ages—Our Rock of Roy."

INTERNATIONALISM—IS IT A
FOREIGN POLICY ISSUE?

● Mr. SIMON. Mr. President, last summer, the Johnson Foundation sponsored a conference entitled "The United States and the United Nations." The U.S. role within the United Nations has been the subject of extensive debate in the Congress. I continue to believe that the United Nations offers an opportunity for international cooperation that would simply not exist without this organization. While we should continue to debate the U.S. role within the U.N. we should not be considering in any way leaving the U.N. or reducing our role within that body.

At the Johnson Foundation conference, one of the papers was presented by Prof. Lawrence S. Finkelstein of Northern Illinois University. Professor Finkelstein addresses the fundamental link between foreign policy and international cooperation, activity and participation in organizations like the U.N. His ideas are strong and persuasive.

I hope my colleagues will take the time to read this article and I ask that it be printed in full in the RECORD.

The article follows:

INTERNATIONALISM—IS IT A FOREIGN POLICY ISSUE?

(By Lawrence S. Finkelstein, Professor of Political Science, Northern Illinois University)

(Based on Final Address at Conference on The "United States and the United Nations" sponsored by the Johnson Foundation, the Wisconsin Universities Summer Seminar on the United Nations, the Wisconsin UN Association and Wisconsin Governor's Commission on the UN, Wingspread, Racine, Wisconsin, June 26, 1986.)

The important recent article by Thomas Hughes, (The Twilight of Internationalism Foreign Policy, Number 61, Winter 1985/86) illuminates a number of paradoxes in the evolution of American internationalism. The chief one is that the internationalism that carried the United States into cooperation with other countries across a broad front of issues and organizations after World War II differs diametrically from today's internationalism.

The old internationalism was optimistic about progress toward the American goals of peace through collective security (we had tamed the frontier—why not the world?), freedom and self-determination through the spread of the American dream, justice under the rule of law, prosperity driven by American genius and free enterprise, dignity and respect for human rights for all.

Today's internationalism is pessimistic on all those counts. Collective security has given way to reliance on national strength—not the posse but the Lone Ranger. Pursuit of justice under law has given way to self-serving certainty that we are the law. Human rights have been subordinated to short term tactical objectives of foreign policy. We are frightened about the results of our own success in pursuing the earlier goals. The generous vision of Harry Truman's Point Four has given way to aid predominantly geared to the aims of national security policy.

The deepest insight of Hughes' article though has to do with our maturity. The early internationalism was real enough. Joining the United Nations was a serious break with the isolationism which had dominated American belief until World War II. But it rested on the unreliable assumption that we could afford to join the world because the world was ours for the shaping. American internationalism was at root American. The world would be safe for America because we would make it over in our image. When that proved wrong, we found it difficult to adjust to the complexity which displaced our simplicities. Hughes says it this way: "internationalism practices the sin of complexity, i.e., the truth." He implies, and I agree, that we do not face the truth.

That is the international setting for our pursuit of American purposes is inescapably complex. In part, our environment responds to us. In part, it is hostile, although it is perhaps more neutral than we acknowledge. The United Nations mirrors the complexity. Emphasizing the complexity does not intend to obscure the fact that there are dangers. There are forces inimical to American interests. But we sometimes exaggerate them. And we prefer to ignore the extent to which our own behavior affects our environment.

The key question is whether we decide to "engage" with others—notice that I do not say "remain engaged"—or whether we pursue our separate path. That path is not "isolationist." Isolationism is not the issue. The issue is unilateral internationalism.

Before considering that issue as it affects our future, there are three points I wish to make about the past. Too often we forget that the past is part of our present and of our future too.

The first point emphasizes what I have already said—that in thinking we could shape the world we expected to dominate it. That was an unstated condition of our joining the world in 1945. For a while, we did in fact shape our world. We tend to think that was because we were militarily strong and economically powerful. We were strong and powerful. We like to forget though that we were also morally attractive. We led in directions most of the world could follow—toward peace, justice under a rule of law, prosperity, self-determination and human rights. Eleanor Roosevelt contributed as much to our leadership as did our armies, fleets, airforces and atomic bombs or, for that matter, our money. There was indeed an "American difference" during the era of our leadership.

Second, we believed too uncritically that what we thought right would prevail because we believed it right. We had trouble adjusting to adversity. The United States, we believed, had always prevailed and must continue to do so. (One reason the Vietnam experience hit us so hard was the difficulty we had reconciling the unmistakable evidence of defeat with our erroneous belief that we had always been victorious in war.)

We had trouble with compromise too. Obviously, if we were right, no compromise was possible. So, we would not suffer the constraints of multilateralism. From early in the postwar period, we chose unilateral alternatives. Some examples: the overturning of Mossadegh in 1952, support of the Guatemalan invasion in 1954, the insertion of American troops in Lebanon in 1957, involvement in a revolutionary plot in Indonesia in 1958, the Bay of Pigs invasion in 1961, the invasion of the Dominican Republic in 1965, the Vietnam War, the Mayaguez affair, and, now Grenada, Nicaragua, and Libya.

The strategic objective of a world order gave way to short term tactics of loss-avoidance.

The third point about the past is that we quit trying to lead relatively early because we would not risk contending with the adversity engendered by our success. We hoped for colonial revolution. When it came, we were frightened by the number of votes we could not control. I date this shift in the overall United States stance from the government decision in 1964—that long ago—that we could not afford to win the argument over compulsory financing of UN peacekeeping. Tom Hughes has this right. That was when the United States quit trying to lead. Thereafter, it concentrated on defending our bastion of beliefs, security, and material wealth.

Now, looking ahead, I have to synthesize in a few guidelines I offer hesitantly.

The first point is implicit in what I've already said. As a people, we tend to think there is a fresh dawn every day. In itself, that seems to me a desirable trait. All the same, it is arrogant to believe we can ignore the past. We believe there is discontinuity between the past and the future and that we can shape it. But the past counts, par-

ticularly our own. Part of our present and future dilemmas is of our own creation. We got ourselves into Vietnam, for example, and that is a good part of the burden we carry into the future. We'd do better to recognize that, though there are motives in many eyes, there's a beam in ours too. In a word, a touch of humility would help.

Second, we must recognize that our participation in multilateral organizations, the UN for example, is not a separate item on the foreign policy agenda. It is imbedded in our overall foreign policy. We cannot expect to succeed in organizing and maintaining support our purposes need if they are to prevail in the UN if, outside the UN, we behave in a fashion inconsistent with its norms and standards. We cannot have it both ways. We cannot both claim to be the most ardent champion of the Charter which, we correctly assert, we helped shape because it represented us, and simultaneously behave in ways which give the lie to our claims of virtue. Actions, our national leaders are wont to remind us when they refer to other countries, speak louder than words. The maxim applies to us too.

Third, there is also a close relation between what we seek internationally and what we are at home. I'll give one example, in some ways a minor one. United States policy about UN agency funding of population programs is a direct product of essentially religious fundamentalist convictions held at home. More broadly, what we are influenced, perhaps determines, how we act internationally. It certainly affects how others view us. It matters in the world, in short, whether we are generous, humane and committed to letting government work for people at home or, to the contrary, driven by an ideological resentment of government. The latter inescapably puts us in a minority in the world. That others do not agree with us does not necessarily prove them wrong.

Fourth, even now, our government says it still sees many benefits in multilateralism. At the same time, however, it tends to reject what may be multilateralism's most important role. That is to serve as the forum in which shared problems are explored with the serious purpose of developing "consensual knowledge" as the basis for common action in pursuit of agreed solutions under accepted rules. The UN Charter calls on it to be "a center for harmonizing the actions of nations." That is a function to which the United States should pay more than lip service. We should welcome that role and seek to exploit it in the development of the "consensual knowledge" we need to deal with the problems that are not merely the world's but ours as well. There is no lack of evidence that the United States still has enormous leadership opportunities when it knows what it wants, develops sound policies and pursues effective tactics, above all showing "a decent respect to the opinion of mankind."

Fifth, we should recognize that intergovernmental organizations like the UN are political institutions. There are important differences, of course, between them and national governments. In many ways, however, they behave in ways which can be compared with how we conduct our political business at home. Who understands that business or can do better at it than we? International organizations, in other words, are not alien. Constitutionally, and in how they work, they mirror us.

Sixth, I want to emphasize one implication of what has preceded. Compromise, re-

spect for the views and interests of others, is the indispensable oil of politics. Bargaining is its means. Let me give one very speculative example of what I mean. I tend to agree that, because international organizations consist of states which are not the same as the people on which national governments are based, the one member one vote system of many international organizations sometimes works badly. It is, I think, desirable to consider improving it. All agree that is a formidably difficult task to accomplish. Achieving change will require compromise to accommodate the varied interests that have to be satisfied. That is why the most promising idea for constitutional improvement involves a complex system for voting on budgets and perhaps other specified issues.

That system would require three concurrent majorities for passage of specified types of measures. One majority would respect the interest of the many smaller countries in preserving the system of sovereign equality of states. It would require a majority of the states voting. The second required majority would acknowledge the democratic principle and would count by populations. The third would accede to the demand of large, rich countries that they be protected against the "tyranny of the majority." It would require a majority weighted by financial measures. To complete the compromise package, the United States would have to commit itself to be "engaged" and play by the rules if the change should take effect.

Summing up is not difficult. These remarks reflect the conviction that we've entered a crucible period in America, comparable in many ways with the gestation time that produced the move of the United States from isolation to international commitment after World War II. As I've implied, the issues penetrate to the heart of the American being. What kind of country is this?

My plea is that we pay attention to restoring that "American difference" President Reagan refers to often but, as Hughes says, is succeeding in destroying. I hope, but do not predict, that candidates for national leadership in this country will be measured by that standard.●

BROADCAST JOURNALISM

● Mr. SIMON. Mr. President, broadcast journalism was born 66 years ago, on November 2, 1920, when radio station KDKA in Pittsburgh broadcast the Harding-Cox election returns.

Since that day, the contributions of broadcast journalists have become an integral part of our culture. Every day, millions of Americans learn of local,

national, and world events through radio and television. Broadcast journalism allows us to hear news as it is being made. Broadcasting informs us of tragedy, warns of imminent dangers, and lets us share in great triumphs.

I ask my colleagues to join me in officially commending the men and women who, through their dedication and commitment to fair and accurate reporting of the news, permit the citizens of this country to live in a free and informed society.●

ORDERS FOR FRIDAY

RECESS UNTIL 10 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 10 a.m., on Friday, October 10, 1986.

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

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, following the two leaders under the standing order, I ask unanimous consent that there be special orders in favor of the following Senators for not to exceed 5 minutes each: Senators HAWKINS, PROXMIRE, and BAUCUS.

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

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is ordered.

PROGRAM

Mr. DOLE. Mr. President, at the conclusion of routine morning business tomorrow, we will turn either to the House message on the drug bill, H.R. 5484, or the reconciliation conference report. As I have said earlier, I am not certain there will be votes. Well, I am almost certain there will be votes, put it that way. There will be no

votes prior to noon. We will not be on any bill until about sometime after 11 o'clock.

It is the hope of the distinguished chairman of the Budget Committee, Senator DOMENICI, and the ranking member, Senator CHILES, that they will have that bill before us by noon. So I think there will be some rollcall activity tomorrow.

Does the distinguished minority leader have anything else?

Mr. BYRD. I can think of nothing.

Mr. DOLE. I thank the distinguished minority leader for his cooperation.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 10 a.m. on Friday, October 10, 1986.

The motion was agreed to; and at 7:50 p.m., the Senate recessed until Friday, October 10, 1986, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 9, 1986:

DEPARTMENT OF STATE

Paul A. Russo, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of Dominica, Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Lucia, Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Vincent and the Grenadines, Ambassador Extraordinary and Plenipotentiary of the United States of America to Antigua and Barbuda, and Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Christopher and Nevis.

DEPARTMENT OF DEFENSE

Robert B. Barker, of California, to be chairman of the Military Liaison Committee to the Department of Energy.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.