SENATE—*Friday, June 19, 1987*

The Senate met at 9 a.m. and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

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

Let us pray.

Blessed are the peacemakers * * *.—Matthew 5: 9.

God of peace, thank You that we live in a land where we are free to disagree. There are countries where disagreement is not allowed under penalty of imprisonment. Thank You for a political system which assumes disagreement, discussion, and debate to the end of justice—whether it is a neighborhood dispute about zoning, a local club, or a church board.

But grant, gracious Father, that in disagreement spirits may be restrained from being hostile, unkind, or judgmental. You know our hearts, sovereign Lord, infinitely better than we. Guard our motives, our attitudes, our lips, against that which demeans or wounds another. However great the pressure, grant cool heads and warm hearts. Infuse us with Your love. Manifest Your presence—Your wisdom in this place—and guide the Senate to an equitable resolution of their differences. In the name of a God of love and justice and peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 19, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

RESERVATION OF REPUBLICAN LEADER TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for his use later in the day.

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

SCHEDULE

Mr. BYRD. Mr. President, there will be a cloture vote today. I do not anticipate that cloture will be invoked, but on this side of the aisle Senator BOREN and others are preparing an offer which we do not think our Republican friends can refuse. If they do, it will certainly be at the risk and with certitude that they will be revealed as being opposed to a genuine campaign financing reform bill because of its inclusion of campaign spending limitations.

Now, we are working and reaching across the aisle, and there are Senators on the other side of the aisle who are interested in trying to work out a compromise. I hope that we will be able to do that.

Next week, we will be, in all likelihood, operating on at least a two-track system. We will be continuing with campaign finance reform and with verisimilitude working on trade legislation as well. There will be late sessions. Both of these measures are very, very important.

The trade bill itself appeared on the calendar on last Friday. So we are prepared, and the Republican leader has given me consent, to go to this measure or to go to an omnibus measure, which I have talked about on several occasions and which needs no further elaboration here. So we will go to the trade bill at some point next week.

The budget conference report will probably come over from the House on Tuesday late, and that would enable us then to get to it on Wednesday if not on Tuesday. Of course, that is going to have the green light over everything.

So there will be votes early and late. And when I say "late," I am not just talking about 7 o'clock in the evening. Everybody knows that I believe that we ought to have some quality of life in this Chamber and I do not like to have late sessions, but there come times when desperate actions have to occur in order to achieve reasonable goals. The people's business must be done and we are going to do our best to get it done.

There will probably also be votes on certain nominations on the calendar at some point next week. But, in any event, I would urge Senators to read the RECORD and ponder carefully what I have said. Every majority leader has to do a little bluffing now and then, but there come times when the majority leader really is not bluffing. There come times when the majority leader has to take desperate measures—I will use the word "desperate" out of desperation—in order to get the work done.

This hurts me as much as it does anybody. I need my sleep as much as anybody else needs sleep. I like to be with my family as much as anyone else likes to be with family.

But, I am saying for the record that Senators had better not make plans for early evenings unless they are willing to miss votes. They, of course, have to reach their own judgments on that. I cannot do other than to urge all Senators to be in attendance. But, in making their plans, they should not plan on early evenings away, and they should not plan on mornings without votes and they should not plan on Fridays with votes at 10 o'clock and then no votes for the rest of the day. Count on votes every day—Tuesday, Wednesday, Thursday, Friday and do not rule out Saturday; do not rule out Saturday.

We have a Fourth of July break coming up, and we have a lot of business on our plate to be done before then.

We have not only the budget conference report, the trade bill, and the campaign finance reform bill, but there is still also the defense authorization bill which our Republican friends filibustered and which they were successful in blocking against three cloture efforts to get the bill up. That is still awaiting action.

There are going to be other extremely important measures coming along. They are not here yet. I refer to the reconciliation bill, the extension of the debt limit, and appropriations bills. We have an August recess, and I have already indicated that that August recess may suffer some erosion—may suffer some erosion.

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

I hesitate to use the word warn, but I am warning Senators to read this RECORD of what I am saying so that everybody will know, they will have been forwarned. That is all I can do. I have carried out my responsibility. I hate to ask for drastic action but that is what we are going to have to take if we cannot settle these matters reasonably, if we cannot get legislation up, if we cannot break these filibusters. Then we have to respond accordingly.

I urge Senators not to schedule trips out of town in the evenings, not to schedule trips out of town on Fridays, and to be very, very prepared to stay in town on Saturday.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

HOW TO BUILD PEACE IN THE PERSIAN GULF

Mr. PROXMIRE. Mr. President, what should be the objective of the United States in the Middle East generally and the Persian Gulf specifically? Is our overriding objective peace in the Middle East? Is it the free flow of oil from this site of 60 percent of the world's oil reserves? Is it to prevent the domination of this critical strategic section of the world with its vital oil supplies by our great superpower adversary, the Soviet Union? Or is it all of these things? Of course, each of these objectives is related. Peace in the Iran-Iraq war would restore the freedom of oil transit in the Persian Gulf. The Soviet Union by virtue of its location, its size, and its military power has exerted considerable influence in the Middle East. It will continue to exert that influence. The Soviet Union is itself the biggest oil producer in the world. It is a major exporter. Obviously, it does not need the Persian Gulf oil. But the Soviet Union shares a very long common border with both Iraq and Iran—much like our border with Mexico. Do the Soviets want to dominate the Persian Gulf? Would the Russians want to control the vital oil shipments out of the gulf? Do bees like honey? Of course they do. And yes the Soviets would like very much to dominate the Persian Gulf and make it a Soviet lake. If the Soviet Union achieved that control, what would be the consequence for the United States and its European allies? The immediate economic consequence to the United States itself would be de minimum. Our oil import from the gulf is less than 6 percent of our oil consumption. We can easily compensate for such a loss by stepping up our own oil production and by effective oil conservation measures. But for France, for Germany, and especially for Japan, any action to cut off the flow of Persian Gulf oil would have very serious economic consequences, indeed.

Great Britain imports 11 percent of its oil from the Persian Gulf—down from 20 percent in 1986. Germany has cut its dependence from 20 to 9 percent in 1986. But Japan with 59 percent, France with 32 percent, and Italy with 49 percent have significant dependencies on that region.

Could this provoke an actual armed conflict involving the United States and its allies versus the Soviet Union in the Persian Gulf? Almost certainly not. The Soviets are very unlikely to engage in any effort to impede the transportation of oil in the gulf. They must know that in view of the decisive naval advantage, NATO would have a big head start at sea and in the air. They also know that any armed conflict between the United States and the Soviet Union could swiftly escalate into a grim choice for both sides. The choice: First, ignominiously stepping back or, second to avoid the ignominy foolishly moving ahead into a superpower naval and air war. Such a war would be fought at first with missiles such as the missile that struck the U.S.S. *Stark*. It could quickly move to an attack on air bases and ports.

Both sides would be extremely reluctant to be the first to use nuclear weapons. On the other hand, both sides might be strongly tempted to provide the surest expression of the deep seriousness with which it regarded its cause by firing one or two nuclear weapons. The other side would be very reluctant to "wimp out" by withdrawing at that point. It would be hard to resist a corresponding nuclear response. Now, of course, all of this is unlikely—very unlikely but it is possible.

Suppose, instead of pursuing a hostile response of any kind, the President welcomed the Soviet Union's announced willingness to provide cover for ships transporting oil in the Persian Gulf as part of a multinational force. Would the Soviet Union or the world view such a response as a sign of weakness? Would it appear that the Soviets with a greatly inferior naval force compared to NATO had cleverly moved in as a prime guardian of freedom of the seas in this trade that is absolutely critical for the economies of Japan, Germany, France, Italy, and other countries of the free world? Why should it appear that way? Soviet and American combined protection for oil transport in the gulf would not change the actual fact of naval or air power one bit. It would not give the Soviets one more aircraft carrier or submarine or frigate. It would not add to the Soviets' military technology or significantly to the combat experience or skill of Soviet military personnel. The Soviet Union would be just one participant out of many.

But it would do two other things: It would end any prospect of a superpower war beginning in the gulf. Second, it would commence a joint multinational peacekeeping effort in a very dangerous section of the world. It could act as a useful precedent of United States-Soviet cooperation at the very point where fundamental interests clashed and, however remotely, war threatened. Both superpowers would gain respect. The world could breathe more easily as the nuclear giants showed that they could and would solve even the most economically critical problems cooperatively.

A multinational force could have one other significant consequence. It just might cause the two belligerents to think twice about attacking ships in the gulf—because they might think that an attack could cause all the nations of the multinational force—France, Italy, the United States, Japan, Germany, the Soviet Union, and its Warsaw Pact allies—to retaliate. World opinion could change against the attacking nation. That is how all peacekeeping operations work, through the process of deterrence by virtue of having a common consensus to keep a geographic area open to commerce.

Reflagging 11 Kuwaiti tankers will not solve the problem of access to the Persian Gulf. Kuwait produces 12 percent of the gulf's oil and 70 percent of that is shipped on foreign flag ships. Therefore, we will be protecting only 4 percent of all gulf shipments. Economically, the proposed U.S. reflagging plan makes no sense and protects little at great cost.

But a multinational force could protect shipping from a broad range of nations and collaterally demonstrate that East and West can cooperate in a peacekeeping operation.

It is worth lcoking at.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, is the time equally divided between the two leaders?

The ACTING PRESIDENT pro tempore. Once the unfinished business is laid down, that will be the order.

Mr. BYRD. I thank the Chair.

SENATORIAL ELECTION CAMPAIGN ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the unfinished business, S. 2, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election

campaigns, to limit contributions by multicandidate political committees, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Byrd-Boren Amendment No. 305, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from West Virginia.

RECESS FOR 15 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that there be a recess for 15 minutes, with the time to be equally charged.

There being no objection, the Senate, at 9:16 a.m., recessed until 9:31 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senate will come to order.

Mr. BYRD. Mr. President, I suggest the absence of a quorum and I ask that the time be charged equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 9:50 A.M.

Mr. BYRD. Mr. President, Senator BOREN is in the Intelligence Committee at this moment. Other Senators are working in committees. I have discussed with the distinguished Senator from Kentucky [Mr. MCCONNELL] the necessity of either staying in a quorum for the moment or recessing, and so he and I have agreed that we will recess until 10 minutes to 10 o'clock. So I ask unanimous consent that the Senate stand in recess until 9:50 a.m. today with the time to be equally charged against both sides.

There being no objection, the Senate, at 9:35 a.m., recessed until 9:50 a.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we have been on S. 2 for 2 weeks and 2 days.

Clearly, it is possible for the Senate to pass a meaningful campaign finance reform bill. The distinguished majority leader has indicated that his side is willing to talk, and I reiterate the observations of the Republican leader yesterday, that the leadership group on this side consisting of Senator STEVENS, Senator BOSCHWITZ, Senator PACKWOOD, and myself, has been saying for some 2 weeks and 2 days that we would like to sit down with those on the other side of the aisle and have a discussion on formulating a truly meaningful campaign finance reform bill.

There are a number of areas upon which we can agree. The Senator from Oklahoma and I yesterday discussed "soft money". We discussed independent expenditures. We discussed the need for effective controls on PAC's. We have discussed over the weeks the problem of the millionaires' loophole. These are the real problems that our constituents have spoken against, in letters, in calls, and even in editorials supplied by Common Cause. As I mentioned yesterday, only a very small percentage of these editorials that pile up on our desks advocate public financing and spending limits to bring down overall spending. Most just want to control the PAC's.

But today, I'm going to talk about the millionaires' loophole and independent expenditures, under current law, under S. 2, and under McConnell-Packwood. I am proposing today a constitutional amendment to deal with these campaign finance abuses, and I might add that we usually think that constitutional amendments take a long time to pass.

The constitutional amendment that I will be introducing is simple, direct, and strongly supported in this body. It would grant to this body and to the various State legislatures the authority to regulate what an individual could put into his own campaign from personal funds, just as we have the constitutional authority to regulate what any of us can put into somebody else's campaign from personal funds. It would also grant to the Congress and to the various State legislatures the authority to regulate the independent expenditures.

In the course of the debate on campaign finance reform, Members on both sides of the aisle have decried the ease with which wealthy candidates can virtually purchase congressional seats, and the surge of independent expenditures in campaigns.

Both of these campaign abuses are the result of loopholes in the Federal election law, carved out by the Supreme Court decision in *Buckley* v. *Valeo*, 424 U.S. 1 (1976). In that decision, the Supreme Court held that restrictions on campaign expenditures from personal funds and on independent political expenditures are violations of the first amendment guarantee of freedom of speech. Thus, the "millionaires' loophole" and the independent expenditure loophole are constitutional problems, and will not be corrected by any clever statutory incentive or spending of public moneys.

That is why I introduce today a joint resolution to amend the Constitution, to allow Federal, State, and local governments to restrict the spending of personal funds in campaigns, and the amount of independent expenditures in election cycles. Unlike a broad amendment to limit all campaign spending, this amendment would quickly pass through the Senate and be ratified by the State legislatures. It is a measure for which I have heard nothing but unqualified support.

I do not dispute that my earlier campaign finance reform bill, S. 1308, offers only imperfect solutions to the millionaires' loophole and independent expenditure problems. It is true, for example, that wealthy candidates could spend up to $250,000 in personal funds before S. 1308 would provide relief to opponents. And although my earlier bill incorporates the same restrictions and reporting requirements that S. 2 applies to independent expenditures, it is unlikely that any of these administrative constraints will curb the negative practices of independent expenditures.

S. 2, the taxpayer campaign finance bill now before the Senate, tries to address these two problems by spending the taxpayers' money. Candidates, facing wealthy opponents or negative ads financed by independent expenditures, would be armed with additional public funds—funds that would be diverted from farm programs, Social Security, education, and our antidrug war. Yet, S. 2 would probably not discourage wealthy candidates from sinking their personal fortunes into campaigns, particularly since S. 2 doesn't give the opponent much to compete with. Under S. 2, a candidate from the State of Arkansas would get a maximum of $1,727,200 to do battle with a millionaire. An Oklahoman would get $1,989,500, and a Coloradan would get $1,998,000. This is a lot of money to our taxpayers, but not much at all to a millionaire, unless he's a rather poor millionaire.

Further S. 2 hopes to limit independent expenditures by compensating each attacked candidate for the full amount spent against him or her. This candidate compensation fund again comes from the American taxpayer. Last year, independent expenditures totaled nearly $5 million in Senate races; thus, we can safely tack another $5 million onto S. 2's $100 million price tag, and another $5 million onto the overall amount of campaign spending allowed under S. 2.

Will those who now spend hundreds of thousands of dollars to express their political views independently be deterred simply by the spending of taxpayers' money against them? Mr. President, I think not. Will candidates be compelled to tap the public till every time they believe they are being unfairly treated in an independent ad? Mr. President, I hope not. It is apparent that S. 2's independent expenditure provision is just another loophole to funnel more of the taxpayer's money into our reelection campaigns.

Another $5 million every election year is obviously not very much to those who seek to dominate the political debate with independent expenditures—but it is a lot of money to the American taxpayer, and we shouldn't be throwing it away on a proposal that won't benefit anyone except broadcasters.

Neither administrative constraints nor government entitlements will prevent well-heeled individuals and groups from independently trying to influence elections. Nor will wealthy candidates be deterred from trying to purchase congressional seats merely by S. 2's costly but ineffective millionaires' loophole provision.

These are constitutional problems, demanding constitutional answers. This Congress should not hesitate, nor do I believe that it would hesitate, to directly address these imbalances in our campaign finance laws. I offer this constitutional amendment in the sincere hope that the Senate will begin to turn its attention to the real abuses in campaign finance—the millionaires' loophole, independent expenditures, political action committee contributions, and "soft money"—and develop simple, straightforward solutions, rather than strangle the election process with overall spending limits and a larger political bureaucracy.

Mr. President, I ask unanimous consent that this constitutional amendment be printed in the RECORD.

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

S.J. RES. 166

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

SECTION 1. The Congress may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and Congress may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for Federal office.

SECTION 2. The several States may enact laws regulating the amounts of expenditures a candidate may make from his personal funds or the personal funds of his immediate family or may incur with personal loans, and such States may enact laws regulating the amounts of independent expenditures by any person, other than by a political committee of a political party, which can be made to expressly advocate the election or defeat of a clearly identified candidate for State and local offices.".

Mr. McCONNELL. Mr. President, these two areas have repeatedly been agreed by both sides to be at the crux of the problem. What distorts the process, of course, is the ability of an individual of unlimited wealth to put literally everything he has into his own campaign; whereas, if he were contributing to anyone else's campaign, he would be limited to $1,000 in the primary and $1,000 in the general election. That is clearly unfair, and we ought to cure it. We can cure it, however, only with a constitutional amendment.

Another unfairness that we all agree on is the independent expenditure, again a constitutionally protected area of expression, according to the Supreme Court decision in Buckley versus Valeo.

This constitutional amendment that I propose would grant to the Congress and to the various State legislatures the right to deal with that problem.

Mr. President, if we dealt with three areas of great concern: The closing of the millionaires' loophole, the ability to regulate independent expenditures, and the cost of broadcast time, which we can address simply by statute, we would have passed in this body the most meaningful campaign finance reform since Watergate.

The third area I just referred to, Mr. President, is the cost of television. What has driven up the cost of campaigns in the last several years has been the cost of television advertising. Candidates have to use television because it is the most effective way to reach our people and communicate ideas. That is particularly true in the large States. My colleagues from New York, California, Texas, and Florida could shake hands all day, every day, for the rest of their lives, and never make a dent in the huge populations in their States, let alone discuss the issues that concern the citizens of those States. Clearly, both incumbents and challengers should be able to use television to reach our people.

What has happened, Mr. President, is that the broadcast stations in America have raised the rates they charge during key times in political campaigns, and have made handsome profits on the candidates, in terms of the cost of advertising.

We could in this body pass legislation that would, for example, require television stations to grant to candidates television time at the lowest unit rate of the previous year, for the class of time purchased. This would dramatically lower the cost of campaigns, and give us all an ability to afford the broadcast time which is absolutely essential to modern political communication.

What happened in Kentucky last May, just last month, is typical of what goes on all over America. The lowest unit rate skyrocketed just prior to the election, such that the "discount" given to candidates amounted to nothing—it was like offering a 25-percent-off sale after a 100-percent price increase. That problem, Mr. President, could be solved by legislation.

These are the kinds of agreements that we can reach together. I hope we can work together on direct, simple solutions to the real problems that plague our campaign finance system.

The ACTING PRESIDENT pro tempore. The time of the Senator from Kentucky has expired.

Mr. McCONNELL. Mr. President, I ask unanimous consent for 1 more minute.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Kentucky 1 minute from our side.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has yielded 1 minute to the Senator from Kentucky.

Mr. McCONNELL. I thank the distinguished majority leader.

The Senate could solve these key problems by the passage of the kind of constitutional amendment I outlined earlier. I believe that this resolution, unlike most constitutional amendments, would zip through this body and zip through the State legislatures; I believe that, by passing a statute that did something meaningful about the cost of television, we would bring down the cost of campaigns without deterring public participation through contributions.

Those accomplishments would be real reform, Mr. President, and we stand ready on this side to sit down with the leaders on the other side at any time, to work out the kind of bipartisan reform package that we all know will have to be reached, in order to pass any meaningful campaign reform legislation in 1987.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky yields the floor.

Mr. McCONNELL. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, if the Chair will indulge me momentarily and charge the time.

Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Two minutes and 14 seconds.

Mr. BYRD. Mr. President, of course, I have listened with great interest and riveted attention to the urging that we need to meet and discuss compromise. But the problem is that the distinguished Senator from Kentucky [Mr. McCONNELL] and I say this with all due respect, insists that we can com-

promise if the compromise is on his terms, namely, that there be no limitation on campaign spending.

Of course, that is not compromise. We are just wasting our time if we think that is ever going to happen.

Perhaps we will never get to a vote on it, but there has to be a limitation on campaign spending or else we are not passing genuine, meaningful, effective campaign financing reform.

As to a constitutional amendment, fine, but that takes years. It has to be passed by two-thirds of the Members of both Houses and ratified by three-fourths of the States through their legislatures or through conventions and that takes time. In the meantime, the money chase is continuing, becoming more intensified, and the people's mistrust in this institution is growing. The opportunities for scandal are ever present, omnipresent, and very likely to happen.

In the meantime, we need to get on with campaign spending reform now, and let a constitutional amendment work its way down the road. It takes time for three-fourths of the States to ratify such an amendment. Everybody knows that. One will learn that in high school; maybe before one gets to high school. These are all suggestions that are worthy of consideration. But we have got to be realistic at the same time.

Mr. President, how much time remains?

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. One hour having passed since the Senate convened, the clerk will report the motion to invoke cloture. By unanimous consent, the quorum call has been waived.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 2, to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

Senators Brock Adams, David L. Boren, Jeff Bingaman, John Glenn, Jim Sasser, Tim Daschle, John F. Kerry, Wyche Fowler, Jr., Christopher Dodd, Wendell Ford, Edward M. Kennedy, Dennis DeConcini, Terry Sanford, Bob Graham, John Melcher, Robert C. Byrd, Claiborne Pell, and John C. Stennis.

VOTE

The ACTING PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on the committee substitute for S. 2, a bill to amend the Federal Election Campaign Act of 1971, shall be brought to a close? The yeas and nays are automatic under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Florida [Mr. CHILES], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Nevada [Mr. REID], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that the Senator from Vermont [Mr. LEAHY] is absent on official business.

I further announce that, if present and voting, the Senator from Vermont [Mr. LEAHY] and the Senator from Nevada [Mr. REID] would each vote "yea."

Mr. DOLE. I announce that the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER (Mr. T4ConradT1). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 45, nays 43, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—45

Baucus	Exon	Mikulski
Bentsen	Ford	Mitchell
Bingaman	Glenn	Moynihan
Boren	Gore	Nunn
Bradley	Graham	Pell
Breaux	Harkin	Proxmire
Bumpers	Inouye	Pryor
Burdick	Johnston	Riegle
Byrd	Kennedy	Rockefeller
Chafee	Kerry	Sanford
Conrad	Lautenberg	Sarbanes
Cranston	Levin	Sasser
Daschle	Matsunaga	Stafford
DeConcini	Melcher	Stennis
Dixon	Metzenbaum	Wirth

NAYS—43

Armstrong	Hatfield	Pressler
Bond	Hecht	Quayle
Boschwitz	Heflin	Roth
Cochran	Heinz	Rudman
Cohen	Helms	Shelby
D'Amato	Hollings	Specter
Danforth	Humphrey	Stevens
Dole	Karnes	Symms
Domenici	Kassebaum	Thurmond
Durenberger	Kasten	Trible
Evans	Lugar	Warner
Garn	McCain	Weicker
Gramm	McConnell	Wilson
Grassley	Nickles	
Hatch	Packwood	

NOT VOTING—12

Adams	Fowler	Reid
Biden	Leahy	Simon
Chiles	McClure	Simpson
Dodd	Murkowski	Wallop

The PRESIDING OFFICER. On this vote, the ayes are 45, the nayes are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

SENATORIAL ELECTION CAMPAIGN ACT

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, as I stated earlier today, we did not have any expectations of invoking cloture. Everybody knew that. I do not think it comes as any news. But we are going to continue this fight because it is a fight for the right, and the people will know it and they are going to know it more as time goes on.

Senator BOREN and others on both sides are working, probing, trying to find a way to adopt meaningful effective campaign financing reform; there has to be a way for such, but there is no way to have meaningful, realistic, genuine campaign financing reform legislation without a limitation on campaign spending.

I believe that we can find an approach, and we are going to reach out our hands across the aisle—that is what we are doing—and by the first of next week we shall make a new offer. I believe that reason and realism will prevail.

In the meantime, that Senators may know what is in the offing, there will not be any rollcall votes during the rest of today. Debate will continue on campaign financing reform.

Beginning Tuesday or Wednesday we are going to have long sessions. I hope we will not have to go through all-night sessions, and I believe that with the offer of a new package, reason will prevail and Senators will invoke cloture and we can get on with letting the Senate work its will on campaign financing reform.

Trade legislation is now on the calendar. We have no problem with the 2-day rule; the distinguished Republican leader obviated that problem anyhow when he agreed to unanimous consent to proceed to either the bill that has been reported out of the Finance Committee or an omnibus bill, which I have been talking about for weeks and months and which I do not need to elaborate on here.

So by the middle of next week, certainly, I expect us to be on the trade legislation. We will have a two-track system. We will work on trade during the early part of the day up into the midafternoon or a little later than midafternoon. Then we will go to campaign financing reform. I would like to retain the flexibility to switch that mode, but that is my present plan, to go with trade first, then campaign financing reform. We can shift that, of course.

We will have the conference report on the budget, probably early Wednes-

day. The Speaker has informed me that the House will take up the conference report on Tuesday. Of course, that has a green light over everything—campaign financing reform, trade, or anything else. We will have that conference report up, and that comes under an ironclad time agreement.

Other than that, we probably will have a Panama resolution which has been discussed with the Republican leader. We will probably have something on that early next week.

There may be votes on at least two of the nominations on the calendar. I am deteremined to have a vote, one way or the other, on two nominations on the calendar. One is the Wells nomination. The problem may go away, because there are some indications that some progress is being made on that nomination, and I hope that continues to be the case.

There is also a nomination to the judiciary that has been on the calendar since May 1. The nomination of Melissa Wells has been on the calendar since March 31. There is no reason for continuing to delay these nominations much longer. I hope we do not run into a filibuster on either of these, but we will deal with that, also, if that occurs.

I am not going to see the nomination of David Sentelle for a judgeship stay on this calendar. I do not know the man. Nobody is going to put a hold on that and keep the Senate from working its will on it, unless I learn more about the nomination than I know now. The reasons I have heard for its being held up are not good enough.

I have to say, however, that there are those on this side who feel that the Wells nomination should go first because it has been on the calendar more than a month longer than the Sentelle nomination.

Mr. President, there will be rollcall votes next week every day. I believe there should be some quality of life, even for Senators, and certainly for their families. I try to be realistic and deal with the people's business in a way that preserves some quality of life. But there is not going to be more than a modicum of quality of life around here beginning next week if we do not get this campaign financing reform off the dime.

I hope Senators will not take that as mere bluff. All majority leaders have to do a little bluffing. The distinguished Republican leader has been a majority leader, and I have listened to him at times and have felt that he had to bluff a little bit. But there comes a time when the boy who is out there minding the flock yells "Wolf!" and it is real. We try not to do that too often, but it is becoming real.

I warn Senators—and I use that word with trepidation, because when one starts warning Senators, especially when he is in my position, he may put out his fist and draw back a stub. I use the word "warning" advisedly. They should be very careful about how they schedule their days and nights in the forthcoming fortnight.

I urge Senators not to be out of town in the evenings. I urge them not to plan on leaving town on Fridays by 10 o'clock, 11 o'clock, 1 o'clock, 5 o'clock, 7 o'clock, or 9 o'clock. I also urge them, that if they accept engagements for next Saturday, they do it on a conditional basis.

So I have tried to be as plainspoken and as realistic as I know how. But we do have some important legislation now, and coming down the pike behind it will be reconciliation, debt limit and, hopefully, the defense authorization bill. I would hope we could take that up without a filibuster. We have tried three times and have been unable to do it. I have been assessing that with the distinguished Republican leader; and I believe that, based on what he has indicated to me, there is some hope for granting the majority leader consent to take it up, after consultation with the minority leader, at some point. I know that he is working diligently and a lot of bases have to be covered.

I am just saying all these things, Mr. President, to let Senators know. I hope they will read the RECORD—I am trying to say what I say very carefully—I hope they will read the RECORD and understand that this is no bluff.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I thank the majority leader for outlining the program.

So far as campaign financing reform is concerned, the two big problems will be public financing, or something in lieu thereof, and limiting expenditures, which we believe would be aimed directly at any efforts Republicans have in some of the one-party States of ever creating a two-party system. Those are the fundamental differences.

We are willing to reduce the amount political action committees can contribute. A lot of soft money ought to be limited. There are a lot of ways to limit campaign expenditures by an indirect approach, but the direct approach is going to be difficult because, in effect, we would be giving up any opportunity—or at least what the experts tell us is a good opportunity—of making any headway in the one-party States in this country; and we believe that the two-party system is not only good for our party but also good for the country.

So we are going to be reluctant, and I do not see any slippage on this side. We are willing to negotiate but not negotiate away an opportunity we have to strengthen this party.

Whether it is Common Cause or organized labor or whatever, we have some rights, too, as a party. We intend to defend those rights and to make certain that by limiting money in campaigns we are not, in effect, sealing our fate in many States where we believe a lot of conservative Democrats and Republicans will someday be the majority.

We are willing to look at the matter and are willing to meet with the Democrats and Republicans. We have four or five principal players on this side who are happy to meet at any time.

CENTRAL AMERICA COMMISSION

COMMISSION ESTABLISHED

Mr. DOLE. Mr. President, the Senate will recall that last year, as part of the legislative package providing aid to the Nicaraguan freedom fighters—the so-called Contras—Congress established a Central America Commission. The Commission was charged with monitoring any Central American negotiations which ensued. It was to be made up of five members—one appointed by each of the four members of the congressional leadership; and the fifth—the Chairman—to be elected by majority vote of the other four. And therein lies the problem. There were two Democrats appointed and two Republicans and nobody ever got together on any one, so the Commission reporting date has expired and they never had a Commission.

Maybe they are right, maybe they are wrong. But I—then as majority leader of the Senate—appointed former U.N. Ambassador Jeane Kirkpatrick as a member. House Republican leader BOB MICHEL appointed a distinguished clergyman, the Reverend Ira Gallaway from Illinois, as his designee. And both Senator BYRD, and then Speaker O'Neill, appointed members.

MONTHS OF DEADLOCK

Regrettably, the four members were not able to agree on a Chairman, despite considering many candidates. Ambassador Kirkpatrick and Reverend Gallaway, for example, nominated three distinguished Democrats—former Senator Dick Stone; Boston University president John Silber; and Bricklayers Union president John Joyce—each of them, candidates of unquestioned integrity; and with a great deal of knowledge of Central American affairs. But the other two members of the Commission voted against all three, even though all three, as I have indicated, were members of their party.

Finally, on April 21, after many months of deadlock, Ambassador Kirkpatrick nominated former Secretary of State Henry Kissinger. Reverend Gallaway heartily endorsed his candi-

dacy. However, for more than 6 weeks, the other two Commission members were unwilling to vote on Dr. Kissinger's nomination. Finally, a bit over 2 weeks ago, one of the other members did decide to vote for Dr. Kissinger; the other member voted against him.

Unfortunately, by that point, with the passage of so much time, Dr. Kissinger was no longer available to accept the nomination. He has formally notified the committee members of that decision in a letter—a copy of which I ask unanimous consent be printed in the RECORD at this point.

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

Dr. IRA GALLAWAY,
First United Methodist Church, Peoria, IL.
Hon. JEANE KIRKPATRICK,
American Enterprise Institute, Washington, DC.
Mr. EDWARD L. KING,
Chevy Chase, MD.
Mr. L. KIRK O'DONNELL,
Center for National Policy, Washington, DC.

JUNE 9, 1987.

DEAR MEMBERS OF THE COMMISSION: I regret to inform the members of the Central American Negotiations Commission that I am unable to accept their offer to serve as Chair of the Commission.

It has been more than seven weeks since I first indicated to Ambassador Kirkpatrick my willingness to accept the Chairmanship, if offered. She placed my name in nomination at that time.

Now there is no longer sufficient time remaining to organize a staff and conduct a meaningful monitoring of Central American peace negotiations, especially of those proposals for regional peace and security put forward by the President of Costa Rica, Oscar Arias Sanchez.

I am, of course, grateful to the Commission for their offer, but I must decline the privilege of serving as Chair.

Sincerely,

HENRY A. KISSINGER.

UTILITY OF PURSUING ISSUE HAS DISAPPEARED

Mr. DOLE. Mr. President, after all these months, the utility of pursuing the Commission has disappeared. The legislation setting up the Commission concerned money available for the Contras in fiscal year 1987—that fiscal year is coming to a close. All the Contra aid money for fiscal year 1987 has been dispersed. Under the terms of the legislation, the Commission itself will cease to exist within days—having taken no action, and issued no reports.

Because of that, Ambassador Kirkpatrick and Reverend Gallaway have written to me, expressing their view that the Commission should discontinue its operations. They close their letter with an expression of deep regret that the Commission was "unable to serve the purposes which the Congress had envisaged for it." I ask unanimous consent that the text of their letter be printed in the RECORD.

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

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washinton, DC June 4, 1987.

Hon. ROBERT J. DOLE,
Minority Leader, Senate, Washington, DC.

Dear Senator Dole: We, the Republican appointees to the Central American Negotiations Commission, believe that the Commission, having failed since November to elect a chairman, is unable to fulfill its responsibility as mandated by existing legislation for monitoring progress toward a diplomatic settlement of the conflicts in Central America.

We made repeated, serious efforts over the last six months to comply with the intent and requirements of the authorizing legislation. Under the legislation, the Commission could not function until a chairman had been chosen. In a bipartisan spirit, we nominated three Democrats with broad knowledge of Central America: former Senator Richard Stone (nominated on November 21); President John Silber of Boston University (nominated on January 5); Mr. John T. Joyce, President of the Bricklayers and Allied Craftsmen Union (nominated in March). Each was rejected by the Democratic representatives. Finally, on April 21, we nominated former Secretary of State Henry Kissinger who had agreed to serve if selected. Unfortunately, six weeks elapsed before the Democratic appointees acted on the nomination. By then Secretary Kissinger believed that there was not sufficient time remaining for the Commission to discharge its responsibilities.

Now, the time allotted for the Commission's operations under the authorizing legislation has passed. The President issued his determination for further assistance to the Nicaraguan democratic resistance. The $100 million was disbursed. Having taken no official action and having issued no report, the Commission should discontinue its operations. We regret that the Commission was unable to serve the purposes which the Congress had envisaged for it.

Sincerely yours,

JEANE J. KIRKPATRICK.
IRA GALLAWAY.

Mr. DOLE. Mr. President, I share the regret they have expressed. But I believe they have made the right—the only practical—decision.

SERVICE OF MEMBERS

In conclusion, Mr. President, let me take this opportunity to thank Reverend Gallaway for his willingness to serve on the Commission. He was the only member who did not reside in Washington, so his efforts to make the Commission work placed a special burden on him. I know the Senate would join me in thanking him for those efforts.

I would also express appreciation to the members appointed by Senator BYRD and Speaker O'Neill for their willingness to serve and efforts through the months.

Finally, I would say a special word of appreciation to Ambassador Kirkpatrick. When I appointed her, I noted that she would bring to the Commission a unique combination of extraordinary talent and unmatched experience. I should add, now, that she also brought great energy and determination to her efforts to make the Commission work. I'm proud to have nominated her, and deeply appreciate that she agreed to serve, and did so with such distinction.

BICENTENNIAL MINUTE

JUNE 20, 1929: MAJORITY AND MINORITY SECRETARIES ESTABLISHED

Mr. DOLE. Mr. President, 58 years ago tomorrow, on June 20, 1929, the Senate offices of secretary for the majority and secretary for the minority were established into law. Carl A. Loeffler became the first Republican Secretary and Edwin A. Halsey the first Democratic Secretary. They filled the posts that are currently held by Howard O. Greene and Abby Saffold.

The two party secretaries aid the majority and minority leaders, and all other Senators, in a profusion of activities on the Senate floor and in the cloakrooms. They serve as the principal staff members of the party conferences, and attend party steering commitee and policy committee meetings. The party secretaries spend much of their time in the Senate Chamber, where they assist the leadership in counting heads before a vote; and they advise party Members on the nature of bills under consideration. They keep the leadership informed of any Members of their party who will be absent from town, to help in scheduling votes, and arrange "pairs" for Members who will miss votes. In short, they are expected to know all that there is to know about what is happening on their side of the aisle—and a good deal about the other side as well—and to assist their party in whatever ways may be required.

Considering this wide range of responsibilities, it is surprising that the positions were established so recently in the Senate's history. But in fact, even before there were officially designated party secretaries, there were staff members performing the roles. Between the 1890's and 1929, the Senate provided for two assistant sergeant at arms to be appointed by each party, and to serve the parties directly. The last two men to hold these posts were Carl Loeffler and Edwin Halsey. By 1929, their positions had grown so essential that the formal titles of "majority" and "minority" secretary were adopted.

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

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the time during the afternoon up until no later than 4 o'clock be equally divided and controlled by the distinguished minor-

ity leader and myself and that Senators may speak out of order during the afternoon, notwithstanding the Pastore rule, and if the order is granted I will yield the control of my time to Mr. BOREN or his designee.

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

Mr. DOLE. And I yield my time to Senator PACKWOOD or his designee.

Mr. BYRD. Mr. President, I thank the Republican leader.

BUDGET POKER

Mr. BYRD. Mr. President, today's Washington Post carries an excellent editorial entitled "Now for the Republicans."

The President sent up a budget which was soundly defeated by both Houses of Congress. It got 16 votes here in the Senate out of 46 Republicans, a pretty sad commentary on the President's budget. It was a budget which did not meet the Nation's needs. Republican Members in both Houses obviously did not agree with the President's priorities or with the garage sale way of raising revenues he offered.

Democrats have crafted a sensible budget. Conference reports have not been adopted, but the conferees, the chairmen of the committees, the leadership on both sides of the Hill, have agreed on this budget.

I regret that we had to do it on our own without Republican input or assistance. The best thing for the country is a bipartisan meeting of the minds over how to address our needs and begin to get our runaway deficit under control.

We now have a budget proposal. Democrats have shown our hand. The President has folded his cards and walked away from the table. I hope he will come back. Instead of telling the American people the truth, he is perpetuating the old fiction that there is such a thing as a free lunch.

I do not believe that the President can bluff his way through this game. The stakes are too high and the American people know it. I think that the people know that all the balanced budget amendments which can be thought of will not help us with the deficit problem we have right now.

And it happened—I am talking about triple digit deficits—it happened on this President's watch.

I think that the American people want their elected leaders to get a handle on our budgetary problems and make the tough decisions that will get us back on the road to fiscal sanity and economic security. The problem is not process. The problem is a President who is leading a party that will not participate.

Leadership is about tough choices. Leadership is about taking responsibility. Those who sit on the sidelines have no right to complain about the way the game is going. Leadership is often difficult and thankless, but those who ask for it should be willing to try to meet the challenges head on.

Real leaders do just that. Real leaders think about the legacy they are leaving for the country and the problems they are leaving for future leaders.

Mr. President, I ask unanimous consent that the Post editorial be printed in the RECORD at this point with the fervent hope that all of us who have asked for leadership will read it.

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

NOW FOR THE REPUBLICANS

The Democratic leadership did a little screeching—that's what leaders are for—and the factions of the party now seem to have broken their deadlock on the budget. The moderate document to which House and Senate conferees have agreed is a sensible plan on the merits, provides shelter for the party against both the charge of tax-and-spend and the charge that it is soft on defense, and is a solid starting point from which to bargain with the president if he ever chooses to come out and play. Both houses should gratefully adopt the resolution and get on with the business of carrying it out.

The sticking point during the month the Democrats spent in conference was defense. They more or less split the difference, but sensibly. There are always two defense budget numbers—spending authority, which speaks to the defense program of the future, and outlays or actual spending in the coming fiscal year. The habit the past several years has been to keep the authority of future figures relatively high but the outlay figure low. The virtue was that members could then vote simultaneously for a strong and cheap defense. The defect, of course, is that in doing so they only exacerbated the problem for the next fiscal year, because defense policy had still not been tailored to fiscal reality. The new Compromise does the opposite. To staisfy the House, the conferees came down relatively hard on authority and future obligations, while to satisfy the Senate they were relatively generous on the outlay side. That's the right way to move from rapid buildup to plateau, because it's more gradual. And understand what is being voted for defense: $290 billion in outlays versus $158 billion in fiscal 1981. That's close to a doubling in seven years.

The Democrats would restrain both domestic spending and defense, add a modest tax increase and—on the basis of current economic assumptions—reduce the deficit about $40 billion from the $180 billion expected this year. That's substantial progress, about all the economy can stand. Indeed, not even all of this may be achievable if interest rates turn up and growth is disappointing. The deficit is so high that the government has lost all maneuvering room. Fiscal policy is much more the prisoner of the economy than an instrument for influencing it. That is why this budget is important, why it is urgent to work the deficit down. The issue is whether, in a mechanical as well as philosophical sense, the country can recover self-control.

The congressional Republicans sat out this first round of the budget process, along with the president. The idea was to force the renascent Democrats to declare themselves, which was fair enough—but now they've done that. The interesting question is what the Republicans next do as Congress takes up the implementing legislation to carry out the budget resolution. Do they continue sitting idly by—or do they return to the government?

Mr. BYRD. I yield to the distinguished Senator from South Dakota such time as he may require.

Mr. DASCHLE. I thank the majority leader for yielding to me.

CAMPAIGN FINANCE REFORM

Mr. DASCHLE. Mr. President, I feel disappointed. I feel frustrated. I feel obligated, really, to take the floor at this time now that another cloture vote has failed.

The last time I spoke on this issue, that is campaign reform, one of my comments early on in the remarks I made was that I feel optimistic that somehow Republicans and Democrats who share the view that something needs to be done with regard to campaign reform will be done and that I was encouraged by the bipartisan tone that the debate had taken on that given afternoon.

I must say 3 weeks later that I do not share that optimism any longer, that I do not have the kind of euphoric feeling that I felt as we took this issue up that at long last, maybe at some point this session, we will address one of the most complex and difficult issues that we face in public policy today.

There are those who have indicated that this particular issue is really a nothing issue; that it really is not of major importance; that there really is not that kind of significance attached to the issue as some of us would argue. Well, I cannot think of anything more fundamental, I cannot think of anything more specifically and directly related to the way we govern than the way we elect our candidates. Something is awry, something is wrong when in South Dakota one has to spend $22 for every vote to get elected to this body. Something is wrong when we have to ask people to go in hock for the rest of their lives simply to ask for public service.

So today I am frustrated. Today I am less optimistic. Today I am very concerned about whether this session or next session or at any time in the foreseeable future we will have the opportunity to reform our election laws.

I think, as I have watched the last couple of weeks of debate, one of the greatest concerns that I have had is the incredible lack of proper information, the misinformation that has come about as a result of speeches and the debates that we have had on both sides of the aisle about what S. 2 does and what it does not do, about what McConnell-Packwood does and what it

does not do. Each and every time someone advocating McConnell-Packwood gets up to say they are in favor of some limits of PAC's, I just about fall out of my chair, frankly.

So for the next couple of minutes perhaps the most important thing from my own perspective is to try as best I can to clarify the record, to do what I can to set the record straight, at least for the moment for anyone who may be watching—and on a Friday morning, I doubt if there are that many.

I think it is important, for my own purposes and for those who may be listening, that we clarify the record with regard to what we are doing here. One of the most important clarifications ought to be that we are not arguing here as advocated of change and advocated of the status quo. I do not know many Members of the Senate, if any, who are arguing for the status quo. The McConnell-Packwood bill argues for change. S. 2 argues for change. The Stevens bill argues for change. The Hollings constitutional amendment argues for change. So let that be the first clarification.

There are not many people here who would believe that somehow the status quo was appropriate, somehow we are satisfied with the current system. We are not satisfied. You are not satisfied when you have to spend $12 million or $14 million in California. You are not satisfied when you have to spend $3½ million in South Dakota. You are not satisfied when you subject the people time and again to the pressure that they feel from PAC's and big contributors when they come down here to vote.

And so what do we do? Well, we offer change. That is what they are doing with McConnell-Packwood. That is what they are doing with the Hollings amendment. That is what they are doing with the Stevens amendment. That is what they are trying to do with S. 2.

There is another clarification that somehow there is not any groundswell of support, that somehow this really is not an issue that has caught on with the American people. Well, I can only speak for my State, but I must say that the majority leader very appropriately indicated some show of support a couple of weeks ago by putting into the RECORD some 200 editorials from around the country from those people who have watched the political process, those people who are most sensitive to what is happening in the country, those people who understand that something has to change, the editorial writers in this country. They understand the need for change. They understand the need not only for change but for S. 2.

And so it is in South Dakota. Conservative and moderate editorial writers alike are saying enough is enough. One by one—the Brookings Register, the Mitchell Republic, the Sioux Falls Argus Leader, the Watertown Public Opinion—one by one editorial writers in South Dakota, who have seen what is happening in our system and advocate change, tell us now is the time, tell their Senators to support S. 2. I ask unanimous consent that those editorials be prined in the RECORD.

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

[From the Brookings (SD) Register, June 5, 1987]

A DUBIOUS DISTINCTION

This past fall, South Dakota finished first in something, but it was a rather dubious distinction.

To get your vote in the race for the Senate, Tom Daschle and Jim Abdnor combined to spend more than $25 per vote, more than double the previous per-vote spending record set in 1984 in the race between Sen. Jesse Helms and Gov. Jim Hunt in North Carolina.

More than $7,000,000 was spent electing a senator from South Dakota!

The Daschle-Abdnor confrontation was only one example of how public trust in our election system is being undermined by big money interests who invest huge sums of money to curry favor with candidates.

It's understandable that voters are starting to wonder if their candidates are being bought and paid for by the special interests.

The process of raising and spending such huge amounts of money is what was in question this week as the Senate began debate on a bill to limit campaign spending.

In a statement made in April, Daschle said, "More than any other single factor it is this almost unlimited funding that is a problem. If we are ever to get a handle on the multiple maladies that afflict our campaign financing system, our very first step must be to limit spending."

That is what Senate Bill 2 is designed to do.

S-2 is the Senatorial Election Campaign Act which was introduced by Sen. David Boren, D-Okla., and Senate Majority Leader Robert Byrd, D-W.VA. It's the first comprehensive campaign finance reform bill sent to the full Senate since 1977.

The bill provides a system of public financing for Senate elections. It would require candidates to limit their total spending in both the primary and general elections in return for being eligible to receive public funds to finance their general election campaigns.

In South Dakota, that limit would be $950,000 on the general election per candidate and $636,500 in the primary.

That limit of $1.6 million is well under half what both Daschle and Abdnor spent in 1986.

That extra $2 million allowed the candidates to go far beyond what was necessary to get their messages to the voters of South Dakota. There was so much money in the two campaigns that they almost couldn't spend it all.

In the last few weeks, the money which was burning a hole in the pockets of the candidates was used to burn their opponents with negative advertising.

The presence of big money throughout the campaign created another problem for the candidates. The candidates had to spend an inordinate amount of time trying to get those big bucks into their coffers.

That meant hours and hours on the phone and in meetings courting the big money people. Now even the most naive must wonder what promises had to be made to get that money.

The second important part of S-2 is a limit on how much money a candidate can accept from political action committees.

The limit in South Dakota would be $190,950.

For example, if S-2 had been in effect during the last election, the PAC receipts of Daschle would have been cut a whooping $971,000; for Abdnor, the cut would have been equally dramatic at $892,000.

We don't need to spend $7 million to get the message of candidates to the people of South Dakota.

If we don't limit campaign spending soon, what the voters of our state think won't much matter anymore.

Doug Anstaett, Editor and Publisher.

[From the Mitchell (SD) Republic, June 11, 1987]

STATE HAS SHOWN NEED FOR CAMPAIGN LIMITS

South Dakotans, it seems to us, have ceased marveling over the fact that the 1986 Senate race between Sen. Tom Daschle and former Sen. Jim Abdnor cost the candidates $25 per vote.

If that means that voters are prepared to accept spending at the rate of $30 or $35 a vote next time around, then we may be looking at a new and dubious meaning for the expression "silence is golden."

Under this new meaning, candidates later in the 1980s and in the 1990s may have to wheel carts full of gold bricks to their creditors.

As you have probably already been able to tell, we are far from ready to accept spending at this level as a political reality. Excess is, of course, much less noticeable when we reach it by degrees, rather than all at once but it is still excess.

So far as we're concerned South Dakotans should be especially concerned about the effects of virtually unlimited spending on election campaigns and especially vocal in calling for passage of limiting legislation now before Congress called "the Senatorial Election Campaign Act."

South Dakota's sparse population and relatively cheap rates for political advertising make us that much more vulnerable to politicians with a lot of money to thrown around. In South Dakota, the people doing the spending tend to get "a lot of bang for their buck."

Considering that South Dakota has the same right to two Senate seats that much bigger states have, we are a tempting target for national party organizations fighting for majority control in the Senate.

Without some clear and well-enforced limits, it seems safe to assume that we have nothing to look forward to in the years ahead but more and more advertising saturation, longer and longer campaign seasons, and votes that will command a higher and higher price per head.

News of this kind, we're sure, is enough to make mouths water in East Coast public relations firms and in the ranks of those whose life's work seems to involve drifting from the staff of one candidate to the staff of another.

Those of us in South Dakota who have yet to manage to put the 1986 Senate campaign

out of our minds respond differently. It is about enough to make us lose our lunch. A.H.

[From the Sioux Falls (SD) Argus Leader, May 30, 1987]

CAMPAIGN FUNDING RULES IN NEED OF AN OVERHAUL

The word "scandal" is tossed around loosely in politics.

Common Cause, that high-road, public interest lobbying group, sees one in the way the nation finances congressional campaigns.

We won't go quite that far. We see the financing system as a national disgrace badly in need of reform.

Common Cause is on target, however, in calling for support for a bill pending in Congress to overhaul the campaign financing system.

The proposal, Senate Bill 2, would put overdue limits on how much money candidates for the Senate could spend in election campaigns.

Sen. Tom Daschle, D-SD., is among the bill's co-sponsors. The position of Sen. Larry Pressler, R-SD., is not as clear. In mailings on the topic, Pressler's support is couched in qualifiers.

With no limits, officeholders are too dependent on the checking accounts of political action committees, commonly called PACs. PACs are committees formed by trade organizations, businesses, labor groups and other organizations to make contributions to candidates.

The PAC problem is more pronounced in Senate races than House races because Senate campaigns usually cost more. Reform is needed for House races, too, though.

According to Common Cause, almost half the members of the House received 50 percent or more of their campaign money from PACs during the 1986 campaign. Incumbents received more than $65 million last year; challengers received less than $9 million.

Of course, PACs don't donate money just to be good Americans. They want access. They want influence. They want votes to go their way. And for Congress, it is difficult to say no to the groups that helped get them elected.

Under the bill proposing restrictions on Senate candidates, PACs still would be allowed to give up to $5,000 per candidate each election. But:

Each state would have a spending limit based on its voting-age population. The limit would range from a minimum of $950,000 to a maximum of $5.5 million

As a condition of eligibility for public financing in a general election, a candidate must certify that he or she will not spend more than 67 percent of the state's general election limit in the primary.

To qualify for public financing, a candidate would have to raise about 20 percent of the state limit in private contributions of $250 or less, with at least three-fourths of that coming from the candidate's home state.

The changes are overdue. The bill should be approved.

[From the Watertown (SD) Public Opinion, June 8, 1987]

PRESSLER NEEDS TO SUPPORT S. 2

On Saturday, May 30, we criticized opponents of Senate Bill 2, which is designed to bring comprehensive campaign funding reform to the U.S. Senate. In talking to South Dakota's two U.S. senators, Senator Daschle is a co-sponsor of this legislation and Senator Pressler said he needed to see some amendments to it before he could lend his support. He said at that time he felt that a proposed substitute amendment coming from Senator Packwood of Oregon would rectify some shortcomings S. 2 had.

Well, S. 2 has now been introduced on the Senate floor as has an amendment by Packwood and Senator McConnell of Kentucky. They say their amendment would eliminate PAC contributions to individual candidates. However, an article in *The Wall Street Journal* said about their proposal, "The move was seen mostly as a tactical ploy to protect Republicans from being branded as anti-reform." We can't say this is a strictly partisan proposal because there are a number of senators on both sides of the aisle who are mighty beholding to PACs for their past contributions.

The important thing here is that besides being a tactical ploy, this proposed legislation is a charade and would not accomplish its stated purpose.

The McConnell-Packwood bill would instead simply lead to PACs changing their method of providing money to a congressional candidate and in so doing would open the door to PACs providing unlimited sums to a congressional candidate.

The impact that this bill would have on PAC money is perhaps best demonstrated by what occurred in Packwood's 1986 reelection campaign. In that election ALIGNPAC, a PAC representing insurance interests, gave the senator a $1,000 contribution made out from ALIGNPAC to Senator Packwood. At the same time, ALIGNPAC's also gathered and turned over to the senator $215,000 in checks made out by ALIGNPAC's members directly to Senator Packwood. This controversial practice, known as "bundling," allowed ALIGNPAC to massively evade the $5,000 per election PAC contribution limit and to get credit for providing what was the equivalent of a $215,000 contribution from ALIGNPAC to the senator.

S. 2, the Senatorial Election Campaign Act, would make clear that PACs could not use this kind of "bundling" practice to evade contribution limits. All such contributions arranged for by a PAC would be counted against the PAC's contribution limit which under present law is $5,000 per election per candidate.

The "Mc-Pack" bill also claims to restrict this kind of bundling practice, but in fact it does nothing of the kind. The so-called "anti-bundling" language in McConnell-Packwood merely says that if a PAC gathers and delivers bundled contributions to a candidate the checks need to be made out by the individuals directly to the candidate. That is, of course, the very practice that ALIGNPAC used to provide $215,000 to Senator Packwood. Rather than restricting this kind of PAC bundling, McConnell-Packwood legitimizes the practice as a way for PACs to provide money to a candidate.

This amendment, if passed, would "hog house" the present wording of S. 2. This proposal to prohibit "direct" PAC contributions to a candidate, while legitimizing the practice of PACs bundling and delivering unlimited sums to a candidate, will result in all PACs simply mechanically changing their methods of raising money and providing it to a candidate without any limit on the total amount the PAC could provide. McConnell-Packwood will increase, not decrease, the ability of PAC money to unduly influence members of Congress.

The McConnell-Packwood bill is not campaign finance reform and should be rejected out of hand. After all of this, if Senator Pressler is really for reform, we hope he will support that rejection. If he doesn't, then the opposite is obvious.

[From the Watertown (SD) Public Opinion, May 30, 1987]

ITS TIME HAS COME!

The Rules Committee of the U.S. Senate favorably reported out Senate Bill 2 on April 29 and we have now learned that it will be up for consideration sometime in June by the full Senate. Why is S. 2 so important? Because it is the first time that this committee has sent a comprehensive campaign finance reform bill to the full Senate since 1977. While this may not be the most perfect piece of legislation calling for vast guidelines for financing the campaigns for our U.S. senators, it is better than the near nothing that we now have.

Of course, if the amendment goes through that is expected to be offered from the Senate floor by Senator Ted Stevens of Alaska, in our estimation even S. 2 will be watered down to such a degree that once again the U.S. Senate will win and the American people will lose.

The amendment by Stevens would eliminate two provisions that are essential for comprehensive campaign finance reform—overall spending limits and limits on the total amount of PAC contributions a candidate can accept. According to Common Cause President Fred Wertheimer, the Stevens amendment is "a diversionary tactic aimed at providing political cover for senators who want to be able to claim they're for campaign finance reform while they filibuster and otherwise drag their feet against S. 2 and, in effect, work to preserve the status quo—no campaign finance reform.

In a telephone call to us this week, South Dakota's Senator Larry Pressler argued bitterly, but not convincingly, against our stand on this issue. He said that S. 2 was a product of the ultra left Democrats and that the Stevens amendment would help rectify many of the faults found in the bill. This is contrary to what was said by the president of Common Cause, which is a congressional watchdog organization emphasizing open government. Pressler also told us that the Common Cause organization is now controlled by the ultra left.

The senator also told us he and a group of other senators are introducing another amendment to make S. 2 even more restrictive, but we haven't yet seen a copy of it so we cannot comment on it.

Senator Tom Daschle is a cosponsor of S. 2, but has not yet decided on the Stevens amendment because it is not yet in its final form, a Daschle spokesman said.

Now, whether or not S. 2 is the proper proposed legislation for comprehensive campaign finance reform, we would think it would behove our senators to introduce, with appropriate fanfare, legislation that would do the trick. To strengthen this argument, the Gallup Poll (Public Opinion April 23, page 16) found that a majority of the American people think federal funding of congressional campaigns is a good idea. The estimated cost of this would be paid for from the voluntary checkoff of our income tax statements just as we do now for the presidential elections.

Campaign financing reform just has to be when one considers the senatorial race last year in South Dakota cost each candidate

more than $22 for every vote they received, the highest priced such election per voting capita in our nation's history.

To those opposed to public financing this may have to be a trade-off to get comprehensive campaign financing reform. There are currently some 65 national PAC organizations supporting this reform measure. Bonnie Reiss, treasurer of the Hollywood Women's Political Committee, a PAC that has raised more than $3 million for candidates in the last three years, said it best when she testified in April at the Senate hearings:

"We can't help but worry about the overwhelming amount of time spent raising money—yours and ours," she told the senators. "It appears that when you're not traveling seeking money, you're on the phone seeking money. When you're not on the phone seeking money, you're worrying about where else you're going to find money .... It is clear to us all that far too much of your time, energy and intellect is spent in demeaning pursuit of the almighty campaign buck."

If this bill becomes law, it will let members of Congress spend their time resolving the nation's problems instead of spending so much time raising campaign funds. It's about time ....

(Mr. HARKIN assumed the chair.)

Mr. DASCHLE. There needs to be another clarification, I suppose, and that is the difference between S. 2 and the McConnell-Packwood bill. Advocates of the McConnell-Packwood bill say that now is the time to eliminate the influence of political action committees. Well, for the life of me, I cannot understand how advocates can make that argument. And I only wish this morning that we have an opportunity to debate this question, because McConnell-Packwood clearly sets out an opportunity for anyone to send in a check, large or small, and preferably large, in the form of a concept we call bundling, allowing a PAC to contribute vast sums of money to any candidate with no limitation at all, none whatsoever.

Today, as everyone knows, a political action committee is prohibited by law from contributing more than $10,000 to a campaign, $5,000 in the primary and $5,000 in the general. Of course, McConnell-Packwood eliminates that, but what they say with a wink—with a wink—is:

We will let you bundle as much as you want. Give us this and we will give you something a lot more valuable that a direct contribution. We will let you take checks 3 feet high if you want to. We will put a rubberband around them and send them to any candidate you want to send them to.

Now if that is not an improvement from the PAC's' point of view, what is? So there you have it. No limits. There is a reporting requirement, but we have that in S. 2. We deal with bundling. We eliminate bundling. We eliminate one of the greatest new threats to campaign reform by saying bundling is something we ought not have and it is time to get rid of it.

And so we lost a great opportunity here, as people interested in campaign reform, to give up on that issue. It is important for us and everyone to understand that particular point more than anything else. If you want limits, you cannot support McConnell-Packwood. If you want some reform of the PAC process, then, by heavens, make sure you understand the important role that bundling will play.

So bundling to me is one of the critical issues here as we debate campaign reform. People do not understand that. There are some who go out and with eyes wide open, telling the press and telling everyone else, "We put limits on our bundling program in the McConnell-Packwood bill."

Well, I only wish the press could ask, "How? Tell us how."

The second issue: soft money. Soft money is another one of those methods by which parties and candidates can benefit from contributions provided in indirect ways. I would rather throw out the word "soft." I would like to use the word "laundered." That is laundered money we are talking about. It is money that goes to a committee, a State committee or a national committee, and, through a third source, directs assistance in very fundamental ways, financially, to candidates who need help beyond the PAC limits that are now allowed.

McConnell-Packwood virtually takes the lid off of laundered money, laundered money in the way I define it, the so-called soft money today.

There is no limit on what they can give State parties. There is no limit to what corporations and other organizations can give State parties. Laundered money, as I define it, this so-called soft money, is one of the greatest threats to campaign reform we see as we look to the next couple of elections. More and more we are going to see soft money utilized. More and more we are going to see the potential for abuse. More and more it threatens any kind of limit that we can put on campaign finance.

I do not care whether you are talking about soft or laundered money, if you are talking reform you have to confront it. McConnell-Packwood does not touch it. It does not say there are any limits. In fact, it encourages additional soft money to be used in the future.

So where is the reform? Where is the limit that we are talking about? Where is the possibility that in some way we can constrain the amount of money being spent on campaigns in the future?

I know what I would have done. I know I would have gone to every corporation, every union and every source of money I have saying, "Give as much as you can to the party because the party can give it to me."

That is not the electoral process I want to be involved in. That is not the kind of election reform we ought to be talking about.

There is another notion that comes up again and again, and was again presented by the able minority leader just a moment ago. That is that somehow S. 2 is incumbent protection.

You talk about driving me up the wall, that is probably the one charge that does it quicker and more effectively than anything else. If we do not have incumbent protection today, what do we have? If we do not have a system whereby 95 percent of the candidates get reelected, what do we have? If we do not have a system where today incumbent challengers are four or five to one with the amount of money they can raise, what do we have if we do not have incumbent protection today? Incumbent protection is what we have lock, stock and barrel and everybody ought to know it. We have incumbent protection. That is why you have incumbents who refuse to bring up campaign reform year after year.

The first time I voted on it was 1979 and that was the last time I ever had an opportunity to vote on campaign reform. Why? I know why. Because incumbents today know how good they have it. That is why. They do not want to see change. Why change? Why give a challenger an opportunity to raise as much money as you are raising?

That is what we are doing with in this bill. We are actually giving people an opportunity to raise as much money as we do. That is unheard of. You cannot do that in Washington. A challenger comes to Washington hat in hand and where is he going to go? They say, "What do the polls look like?" The polls tell you, "I have a 20 or 30 percent right now. My incumbent has 50 or 60 percent. It is a 60 to 20 race. I would like to have you give me some support."

What happens? One by one these guys get turned down. One by one they go home emptyhanded. One by one they are thwarted in their ability to raise money because the incumbent looks invulnerable. With that invulnerability comes a proclamation across town that, "This challenger does not have a chance. Do not give him any money."

That is what happens and everybody knows it.

Talk about incumbent protection? Look at the facts. Look at who raises the money today. Look at who gets elected. Looking down the road, look at who will be elected unless we have a two-party system. If you want reform, given the challenger the opportunity to raise money as you raise money and you will have a two-party system.

Another incredible statement is that we could see a proliferation of candidates here. What are we going to do with all these candidates running for

public office? This could be a madhouse.

Frankly, someone must have a different perception of the democratic process than I have.

It seems to me that in this democracy nothing could be better than to give each and every one of the pages sitting on the steps right now at some point in the future a chance to run for public office. Nothing would please me more than if in every race we had in South Dakota we had five or six candidates running. Each candidate has his or her own constituency. Each candidate brings some new people into the political process and they stay there for awhile.

What would be more helpful to us in bringing people back to vote, bringing people in once again, than to personify politics like it has not been before, by the proliferation of more candidates, by the opportunity for more people to be involved? That is what we are talking about here.

So the proliferation of candidates? I hope that argument keeps coming up again and again because I will talk to the American people about proliferation. I will talk about candidates' involvement. I will talk about the perception that we are closing out the American people. I will talk to anyone, Republican or Democrat, with the sense of encouragement that if you want to change it, if you really want to get involved, then let us give you an opportunity to be involved.

There was another comment made, which I have not heard in the last few days but which galls me to hear it, which is one of the reasons why some of us want S. 2 is that we are afraid to work.

Well, I have to tell you, I think I can speak for every single Member of this body. I know that I speak with some confidence in saying this. There is no one here afraid of work or they would not be here. There is no one here who is going to take a backseat to initiative. There is no one here who could possibly have gotten here if they were not willing to work for it.

The problem is, as we look to the future, that it is work on what? There are only 24 hours a day and I dare say most people here spend 14 hours a day in the work they are on. But if you have to take those 14 hours, or in a campaign 16 or 18 hours, and spend half of it raising money, what that simply means is that out of those 18 hours a bigger and bigger percentage of your work is going to tell people you want their dollars—not going into a discussion of how you respond once you got here, not about the issues that confront this country, not about arms control and human rights and the broad range of agricultural issues and economic issues, not in setting about being a better Senator but in asking people for money. That is the kind of work we are involved in now. I do not mind it, I will continue to do it, and there will always be that part. In fact, in S. 2 you could argue as a result of the way it is formulated we have to work harder for more dollars because it puts limits on the amount of dollars you can actually ask for, in smaller amounts.

If you want to work, go after $250 contributions. If you want to work, go one on one to these people and say you would like their help. But then, for heaven's sake, let us put some limit on the amount of time you spend working on that vis-a-vis working on what you were sent to do here.

That is what we are talking about. It is how you divide up your work. It is not whether somebody wants to work or not. Heavens, there are more people that work harder here than any place else I have seen.

We talk a lot about public finance, and you hear a lot of pros and cons about whether there ought to be public finance. If you go back to a fundamental notion that I have about finance in the first place, maybe this becomes just a little clearer; and I would like to clarify public finance for a moment.

My view is that tax expenditures are public finance. I cannot understand why we do not budget it. I cannot understand why we do not put some controls on it. But tax expenditures, that is tax deductions of kinds, tax credits, is a form of public finance. In business, in agriculture, in education, we expenditures today, through the Federal Government, that we use in the form of deductions and credits. We have had, from that perspective, a public finance system in our public campaign policy for a long, long time, and no one has argued against that.

No one has said: "Let's take away the tax credits or tax deductions because that's a form of public finance." That form of public finance there apparently seems to be unanimous support for. But you turn it around and say, "Let's not make it a credit, let's make it direct contribution," and for some reason people then have problems. But to my knowledge, I have not heard one candidate, one Senator come on this floor and ask us to repeal the Presidential system of public finance.

Where is the minority leader? Where are those who argue today that perhaps the public finance system as we have known it in the Presidential politics needs to be obliterated and apply McConnell-Packwood to that as well? No one has ever argued that. Apparently that has worked.

If that is the case, if it has worked there, then why does it not work as well for Senators? Why does it not work as well in setting some limits, some appreciation that we have got to control spending when it comes to Senate candidates as well?

In fact, the only thing I have heard is what we ought to do is extend the whole concept of campaign reform to Presidential primaries as well. That is what I have heard. That is the way the reform is being suggested for Presidential politics.

The one thing I can say, and I think it is safe to say, is that, sooner or later, there will be a campaign reform bill; unfortunately, it may be later. But there will be one.

One of the frustrations I have as a Senator, as a person in public life, is that in this body as well as in the House we are so retrospective. It takes a crisis for us to address the problem.

Once the crisis is more real, then we are more than happy to address it in some constructive fashion.

I would hope, just once, on something as fundamental as the way we elect our public officials, that we could show some prospective foresight that we could really demonstrate that we understand that unless something changes, we will have a crisis, and that there will be clamoring across this country for some form of campaign reform. I hope we can demonstrate that ability to be prospective that we need in this body.

There is a lot riding on whether or not, ultimately, we can resolve our differences. As one who stands, again, in frustration; who stands with a faded hope that yet this session we can address this issue successfully, I hope that we can resolve those differences. I hope that if we do withdraw this bill, at some point—or if we fail to come up with a compromise—we hold it firm that we are going to resolve this problem of campaign refrom at some point in my term in office. Let us hope that we can find the combined leadership, the willingness on both sides of the aisle to put aside our differences; to clarify these misunderstandings; to come to the conclusion that it is better now than at some point in the future to resolve the problem of campaign reform before it is too late.

I said the first time I spoke that at the rate of 400-percent increase in costs we have experienced in South Dakota and across the country, we will see a $12 million race for the U.S. Senate in South Dakota in 10 years; a $48 million race for the U.S. Senate in South Dakota in 20 years.

Is that what we want? Is that what we want to tell the young people sitting on the steps today: "We want you to get involved in the political process but I only have to come up with $48 million to do so"? That is not what we want.

Our foresight, our judgment, and our commitment to good government is better than that.

I yield the floor.

MORNING BUSINESS

Mr. BYRD. Mr. President, there has been no period provided for morning business, am I correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I ask unanimous consent that there be a period for morning business so that Senators may introduce resolutions and bills.

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

AIDS

Mr. DANFORTH. Mr. President, yesterday, I spent 2 hours visiting NIH, talking to key personnel and to an AIDS patient, trying to understand this terrible disease. It was in many ways the culmination of the first stage of my effort to learn about AIDS; it effects on people; its means of transmission and the efforts needed to prevent its further spread. Today I would like to take a few moments of my colleagues' time to share some of the conclusions I have arrived at during the last month.

Two points should determine Government's response to AIDS. First, this is a rapidly spreading, dreadful, contagious disease that warrants the urgent attention of our country. Second, we know how AIDS is spread and what we can do to avoid it.

The first diagnosed case of AIDS in America was reported in 1981. Six years later, on June 1, 1987, 36,158 cases had been reported. The Government's Centers for Disease Control estimate that unreported cases could push the actual figure 20-percent higher. By 1991, it is expected that 270,000 people will have been diagnosed with the disease.

In addition to these people who show the symptoms of AIDS, at least 1.5 million Americans have been infected with the virus and would test positive in blood tests. Today, it is estimated that 20 to 40 percent of these people will go on to develop AIDS within the next 5 years. I have heard estimates that anywhere from 30 to 100 percent of those who have the virus will eventually develop the symptoms of the disease. All of these infected individuals, whether or not they are ill, are capable of spreading the AIDS infection to others.

AIDS kills. To date, 20,849 of its victims have died. Most of them were between the ages of 20 to 40. By the end of 1991, it is believed that the number of deaths will increase to 179,000. For most, if not all of them, the end will be a blessing. Dying of AIDS is frightening and often painful. Many people with AIDS develop complex medical problems: severe infections, rare cancers that cause horrible disfigurement, and loss of mental faculties. For those with the cancer common to AIDS patients, skin lesions eventually spread throughout the body; in the gut and the lungs. These patients usually die as a result of an uncontrollable vomiting and discharging of blood.

For those patients who contract the pneumonia that is common to AIDS patients, death means suffocation. One patient I met with yesterday spoke of an overwhelming feeling of panic due to an inability to breath. Most of these people, once they have experienced these severe respiratory problems, ask not to be put in intensive care in the future. They would prefer to die than to endure a prolonged period of agony and fear.

Patients can also be infected by a number of different viruses and bacteria. They circulate throughout the body, often infecting the brain and the liver. It is very common for these patients to have uncontrollable diarrhea, often resulting in the loss of 30 to 50 percent of their body weight.

Finally, severe neurological problems are common. Patients can develop Alzheimer-like symptoms, lose control of themselves to such an extent that they need to be strapped down, or experience constant seizures and massive strokes. Most of these are young people who just months before may have been in the prime of their lives. These patients need our compassion and understanding. Yet, like the medieval plague, many are abandoned by family and friends. As one expert told me, "the disease is worse than death."

Unlike the black death of the 14th century, we know precisely how AIDS is spread and how it is not spread. This knowledge serves a dual purpose. It allows us to avoid contracting the disease by acting responsibly, and it allows us to avoid panic in the face of the unknown. For these reasons, knowledge is the key to stopping the spread of AIDS.

With rare exceptions, AIDS is transmitted in just three ways: sexual contact with an infected person, intravenous drug injections using contaminated needles and from an infected mother to her child in the uterus. It is not transmitted by casual contact.

Recently, the World Health Organization held a conference that brought together experts from 27 of the most prominent research institutes in the world. There will soon be a report documenting their consensus agreement. They concluded that casual contact will not transmit the disease. This means that you cannot catch AIDS from a fellow employee or a classmate in school or a resident in the same apartment building absent sex or shared needle use. If a person with AIDS shakes hands with you, you will not catch AIDS. If a person with AIDS sneezes on you, you will not catch AIDS. Researchers have documented that even immediate family members, living in the same house do not catch the disease from casual contact, regardless of how close the family. In one study of 100 people who lived with AIDS sufferers, sharing the same bathrooms, drinking glasses, kitchenware, et cetera, not one became infected with the virus.

This knowledge tells us both what we should do and what we need not do to avoid infection. Some of my constituents have suggested that Government should identify and then quarantine AIDS carriers. Even if this were practical, it would not be necessary. We don't have to avoid all contact with infected people. All we have to avoid is having sex with them or sharing drug needles with them.

In assessing the possibility of contracting AIDS, consider the following: 91 percent of the reported cases in the United States are occurring among homosexuals, intravenous drug users or both. Three percent of the reported cases have resulted from transfusions of contaminated blood or blood products. Four percent of the cases have occurred among heterosexuals. It is believed that intravenous drug users and prostitutes are responsible for much of the spread to heterosexuals.

With extraordinarily rare exceptions, there is no chance that persons who are not sexually promiscuous and who don't use IV drugs will contract AIDS. For this reason, there is no need to isolate infected people or deprive them of their livelihoods. All we have to do is control our own behavior, or, if we can't control ourselves, use condoms and clean needles.

Since knowledge is the best defense against AIDS, it is essential that we develop the best ways to disseminate that knowledge. This means that the general public should be given information through such means as mailings, the mass media, and the schools. I believe that such general information can be both accurate and tasteful, explaining both the cause and the consequences of the disease. More explicit information, relating, for example, to condoms and clean drug needles can be targeted to individuals engaging in high risk activities rather than to the general public. The Government should fund such an educational campaign and should enlist the support of the mass media in conducting it.

Because some have suggested that mandatory testing for AIDS should be used on a widespread basis, I have put that question to the various medical and public health experts I have visited with in the past month. So far, I have failed to find any expert who thinks that widespread mandatory testing is a good idea. In fact, the Surgeon General, who is the most senior health official in the United States, and the Institute of Medicine, which is one of the most prestigious scientific bodies in the world both have recommended strongly against mandatory

testing. In addition, in February, 700 experts in the field of medicine, research, social science, and public health all met to discuss the value of testing. Almost unanimously, they agreed that mandatory testing was inadvisable and would probably be counterproductive.

Before I point out some of the reasons why mandatory testing would be inadvisable, let me say that it is a very natural first reaction to advocate widespread, mandatory testing. When I first started looking at the whole issue of prevention, I thought that everyone should be tested and given a card to identify his antibody status. It soon became clear to me, however, that the issues surrounding testing are enormously complicated and that my first response was quite naive.

What the experts led me to understand was that mandatory testing is a trap that will do more damage than good. Antibodies leading to a positive test do not show up in a victim's blood until sometimes 2 or 3 months after he or she is infected. Therefore, a person could be carrying the disease and still test negative. Similarly, a person could contract the infection hours after taking the test. Therefore, it is likely that AIDS carriers could naively proclaim themselves disease free, thereby relieving potential partners of their own sense of personal responsibility, and then transmit the virus. Implementing widespread, mandatory testing would provide a false sense of security to the public that would only exacerbate the problem of infection.

Even if this problem of a false sense of security did not exist, there would be enormous problems with the testing. In thinking through what could be done with the results after the tests are run, it quickly becomes clear that the uses would either be impractical or counterproductive. If we are planning to encourage people to change their behavior, mandating them to find out whether or not they are positive when we have nothing to offer them except possible discrimination, can only make them defensive and afraid, thereby driving them underground.

Finally, AIDS is a problem serious enough to warrant the united attention of all people in our country. Mandatory testing is the most divisive idea that has been considered on the subject of AIDS. There are special cases such as prisoners and applicants for immigration where mandatory testing may be advisable, but as a general rule, it should be avoided.

Many people will want to be tested on a voluntary basis, if for no other reason than to set their minds at ease, and such testing should be readily available. However, it should only be administered with adequate counseling which points out both the limitations of the test and ways to avoid either spreading or contracting the disease. Because some would not seek testing, counseling, or any kind of help without the knowledge that their test results will never be disclosed, we should allow anonymity at the testing sites. For those who get tested in places such as family physicians' offices where anonymity is impossible, we should ensure confidentiality of those results to the extent that is possible.

As a part of our education campaign, we must lead people to understand that there is no reason for discrimination. People who are infected with AIDS should be allowed to continue working and to keep their homes. In the case of AIDS, the problem of discrimination becomes an important public health consideration. If we are trying to encourage people to change their behavior, we will want them to seek help and advice. They will not seek help if doing so results in discrimination against them.

Education must take the lead in discouraging discrimination. Many people have suggested that legislation should be enacted to ensure nondiscrimination. I believe that AIDS victims should be treated the same as other handicapped people as indicated by the Supreme Court in School Board of Nassau County versus Arline. There it was held that having a contagious disease does not disqualify someone from being considered a handicapped person as long as he or she has a physical or mental impairment. The significance of this decision is that anyone who is sick with a contagious disease will be protected from discrimination in any program or activity that receives Federal financial assistance unless he or she proves to be unable to perform the job or medically, would be a threat to fellow workers. I do not believe that AIDS victims should be treated either better or worse than sufferers of, say, cancer, and I certainly do not believe that a special civil right should be created for one illness. I do believe that an anomaly pointed out by footnote number seven of the Arline case that specifically states that the decision does not address people who are asymptomatic carriers of a contagious disease should be corrected. Clearly, if discrimination is not permitted against full-fledged AIDS patients, it should not be permitted against those who only carry the virus but have not yet developed the symptoms of the disease.

Finally, in our prevention efforts, we should reexamine the drug problem in the United States. Clearly, the greatest risk to people in the heterosexual population, is the sexual transmission of the virus to partners of IV drug abusers. We must learn how to educate your young people so that drug habits never begin. In addition, as long as there are drug addicts who want to end their habit, we must ensure that there are resources available to treat them.

In conclusion, let me emphasize that the responsibility of Government is to make decisions based on the best available scientific knowledge. We must legislate based on facts and we must use our visibility in our own States to disseminate accurate information. It is only with knowledge that people can protect themselves and our country can avoid unnecessary panic. It is only with knowledge that we will conquer this horrible disease.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TOSHIBA—A PATTERN OF BETRAYAL

Mr. HELMS. Mr. President, I have just been handed very disturbing news by the U.S. Embassy in Tokyo. The very efficient Tokyo Metropolian police have just learned that in fact, the Toshiba-Kongsberg sale of giant computer controlled milling machines was not a one time aberration but rather part of a larger pattern of betrayal.

Just before Prime Minister Nakasone visited Washington in late April we learned that Toshiba and Kongsberg, a Norwegian Government-owned defense contractor, had exported four giant milling machines to Russia.

I recall discussing this matter with Mr. Nakasone.

At the time we believed their highly sophisticated computer driven machines were to be used to make Soviet submarines quiet and hard to detect. The export of these machines took place in 1982 and 1983.

We now know, thanks to the Tokyo police, that these machines are to be used to make Soviet aircraft carriers faster and more maneuverable. The Soviets now have under construction their first large aircraft carrier, the *Leonid Brezhnev*.

More incredibly, we now know that Toshiba followed its first betrayal with at least one more. In 1984 the firm exported five axis milling machines to the Soviet Union. These machines are also to be used for finishing submarine propellers.

Mr. President, what we have here is a pattern of betrayal of the free world. This is a very serious matter affecting the strategic balance between the United States and the Soviet Union.

Toshiba and Kongsberg have put every Japanese citizen, every American citizen and every other free world citizen at peril.

Unfortunately, we cannot reach officials of Toshiba and Kongsberg with our criminal laws. However, we do have one asset, the largest open market in the free world. In my view, neither Toshiba nor Kongsberg are welcome here anymore.

The Senate Banking Committee has a provision in its portion on the trade bill barring Cocom violators from contracting with the U.S. Government. Senators GARN, HEINZ, and SHELBY have announced they will have a floor amendment limiting imports from Cocom violators.

When the bill reaches the floor I intend to address the question of compensation with more direct action. We have sustained a loss to Western defenses in the billions of dollars. Someone will have to pay and it should not be the American taxpayers. I will be discussing this further on the floor in the coming days.

Secretary Weinberger left for Japan yesterday for talks on this vital issue. Before he left a number of Senators and Congressmen joined me in a letter urging the Japanese Government to pursue this case vigorously. So far the Japanese Government is showing great determination. I congratulate the Tokyo police for pursuing this investigation with great thoroughness and tenacity. Without their strong sense of duty and integrity these revelations would never have come to light.

Mr. President, I ask unanimous consent that the following materials be printed in the RECORD at the conclusion of my remarks: A front-page news story published June 19, today, by Mainichi Daily News, Tokyo; a June 18 article by the same newspaper; and a June 16 article published by Yomiuri, also a leading newspaper in Tokyo; and, finally, my letter to Secretary Weinberger, dated June 16, and signed also by 10 of our colleagues and 22 Members of the House of Representatives.

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

TOSHIBA BROKE COCOM RULES IN 1984 ALSO

Toshiba Machine Co., now under investigation for exporting computerized machine tools to the Soviet Union in 1982 and 1983, violated COCOM regulations once more in 1984 with the sale of another type of sophisticated numerically-controlled propeller-making machine, the Mainichi Shimbun learned Thursday.

Toshiba Machine has been under fire for selling nine-axis-type numerically-controlled propeller-making machinery to the Soviet Union.

Now, it has been learned that the machine tool maker illegally exported four smaller-scale five-axis-type numerically-controlled propeller-making machines, known as the MF-4522, to the Soviet Union in the following year encouraged by the success it had with the export of the nine-axis machines.

The five-axis machines are capable of cutting propellers of 4.5 meters circumference, the second-largest of the propeller-making machines manufactured by Toshiba after the nine-axis machines, which can cut propellers measuring 11 meters across.

The illegal exports by the Japanese machine tool maker has had a serious impact on U.S.-Japan relations, since it is believed the devices have allowed the Soviets to make quieter and harder-to-detect submarine propellers.

While it was previously thought that the Soviets were using Toshiba's nine-axis machines to make submarine propellers, police now believe that the five-axis devices were used in the making of submarine propellers and the larger nine-axis devices were used for aircraft carriers.

The five-axis machines went to the same Leningrad shipyards as the nine-axis models, it is believed.

The latest revelation came from testimony given by Toshiba Machine officials involved in the illegal exports, including Ryuzo Hayashi, 52, already arrested on charges of COCOM violations.

Police said that the Soviets ordered MF-4522 machines from Toshiba while Toshiba Machine officials were in Moscow in April 1981, for negotiations on the shipment of the nine-axis devices.

They signed a new contract for the sale of the MF-4522 machines in April 1983, two months before the illegal shipment of larger-scale nine-axis devices was completed. Toshiba Machine exported two MF-4522 machines each from Yokohama Port in April and May in 1984, with the hope of C. Itoh and Co., a major trading firm in Japan.

In case of the nine-axis devices, Toshiba Machine is thought to have skirted COCOM regulations by first importing two-axis propeller-making machines from Norway's largest arms maker Kongsberg Vaapenfrabrikk and then assembling them into nine-axis machines in the Soviet Union. They obtained export permits from the Ministry of International Trade and Industry claiming that the machines for export were only two-axis machines, not in violation of COCOM.

Toshiba is said to have used the same method to obtain export permits for the illegal five-axis machines, but using machines originally manufactured by Toshiba.

COCOM, the Coordinating Committee For Export Control, prohibits the export of sophisticated high-tech machinery to countries of the communist bloc.

TOSHIBA MACHINE CARRIED OUT ILLEGAL EXPORTS IN 1984, TOO; FOUR "FIVE-AXIS" MACHINE TOOLS TO SOVIET UNION; MITI CHECKING INTO ADDITIONAL SANCTIONS

In the case of Toshiba Machine's violation of COCOM regulations, a new fact to the effect that, besides the "nine-axis" numerical control-attached large-size machine tools, which have already been disclosed, Toshiba Machine had also illegally exported a total of four large-size machine tools equipped with "five-axis" NC's, which are also a violation of COCOM, to the Soviet Union, in 1984, came to light on the 17th. This was discovered through the Metropolitan Police Board's investigations, and even though this case already comes under the statute of limitations (three years) of the Foreign Exchange Law, MITI started questioning Ito-Chu Shoji (head office in Osaka City), which acted as the export agent for Toshiba Machine, about the circumstances. At the same time, it also started checking into additional sanction measures against these two companies.

It became known through the depositions of Toshiba Machine Materials Department Foundry Section Chief Ryuzo HAYASHI (52 years old) and other persons concerned, who have already been indicted on charges of violation of the Foreign Exchange Law, that Toshiba Machine had also illegally exported "five-axis NC"-attached machine tools to the Soviet Union. They were also propeller-processing machines, called "MF-4522," and the maximum diameter of the propellers which these machines can cut and process is 4.5 meters. As a machine tool manufactured by Toshiba Machine, it is the second biggest after the nine-axis NC machine tools, capable of processing a maximum diameter of 11 meters, which were brought to light this time.

According to investigations, the Soviet side placed an order with Toshiba Machine for four "five-axis NC" machine tools, in the course of the business negotiations for "nine-axis NC" machine tools, which were held in Moscow in around April of 1981. With Ito-Chu Shoji acting as the export agent, in the same way, a formal contract was concluded with the Soviet aids in April, 1983, just two months before the completion of the illegal exports of the "nine-axis NC" machine tools. A total of four machine tools was shipped from Yokohama Port, two in April, 1984, and two in May of the same year.

In the case of the "nine-axis" machine tools, the NC equipment for them was imported from Norway's state-run machinery manufacturer "Kongsberg," and installed in the machines, in order to evade the COCOM restrictions. However, in the case of the "five-axis" machine tools, NC equipment, manufactured by Toshiba Machine itself, was used.

In the exporting of these machine tools, Toshiba Machine submitted false documents, in the same way as in the case of the "nine-axis" machines, saying that they were "CFC-2022's," which are equipped with a "two-axis" NC, and obtained the ITI Minister's export permission.

The Metropolitan Police Board attached importance to the fact that Toshiba Machine also exported "five-axis" machine tools, after it illegally exported four "nine-axis" machine tools from 1982 to 1983, and as a result of its questioning the persons concerned about the circumstances, it unearthed the fact that, as it succeeded in the exporting of the "nine-axis" machine tools, it also exported the "five-axis" machine tools at one stroke, right after the first exports.

It is said that the "five-axis" machine tools were also delivered to the Baltic Shipyard in Leningrad, in the same way as the "nine-axis" machine tools.

The COCOM violation case this time is causing ripples between Japan and the US, on the ground that it led to the raising of the performance of the screws of Soviet submarines, and that it has dealt a blow to the US Navy's ability to detect Soviet submarines. With the discovery of the fact that "five-axis" machine tools had also been exported to the Soviet Union, the Metropolitan Police Board has strengthened its view that these "five-axis" machine tools, which are just the right size for the processing of screws for submarines, were probably used. This is because a "nine-axis" machine tool is too big for the processing of screws for sub-

marines, and the possibility has become strong that the "nine-axis" machine tools, though they can also be used for the processing of screws for submarines, are being used for the processing of screws for ships which need bigger screws than those for submarines, such as aircraft carriers, for example.

ITO-CHU SHOJI, WHICH ACTED AS EXPORT AGENT, ALSO QUESTIONED ABOUT CIRCUMSTANCES

Toward MITI's inquiry into the circumstances of the exports of the "five-axis" machine tools, Toshiba Machine has completely admitted the fact of "illegal exports." Ito-Chu Shoji admitted that it acted as the export agent, although it asserts that "it did not know that they were illegal exports."

Toshiba Machine's General Affairs Department Vice Chief Hiroshi YAMAGUCHI says as follows: "The company itself has been indicted, and we cannot discuss the contents. As for the five-axis machine tools, no internal investigation has been made and I do not know about them."

HAD DESTROYED SECRET CONTRACTS; WHOLE COMPANY'S INVOLVEMENT IN ILLEGAL EXPORTS BY TOSHIBA MACHINE IS SUBSTANTIATED

In the case of the illegal exports to the Soviet Union by Toshiba Machine (Head Office in Chuo-ku, Tokyo), a top manufacturer of large-size machine tools, the Investigation Department of the Tokyo District Public Prosecutor's Office indicted the said Company, as a corporation, and two of the Company's staff members, namely Materials Business Department Foundry Section Chief Ryuzo HAYASHI (52 years old) and Machine Tools Businees Department Machine Tools 1st Technology Section Deputy Chief Hiroaki TANIMURA (50 years old), on the charges of violation of the Foreign Exchange Law, etc., on the 15th. Through the investigations of the Tokyo District Public Prosecutor's Office, it has become known that a report was submitted to the then President of Toshiba Machine, on the occasion of the company's deciding on the export of propellor surface-processing machines, which are COCOM contraband goods, to the Soviet Union in 1980, and that he knew that they were illegal exports. Still further, it was brought to light that they destroyed evidence, such as the destroying of secret contracts with the Soviet Union in April, 1985, centering on HAYASHI and others, in fear of being discovered, and substantiation has been obtained to prove that the Company as a whole was involved in the violation of COCOM.

According to the indictment, HAYASHI, who was an Office Chief in the Machine Tools Business Department in 1984, and TANIMURA, who was a Section Chief in the Machine Tools Export Department, exported to the Soviet Union, on around June 20, 1984, 12 cutter heads (equivalent to 23,370,000 yan at the time), which are parts for the nine-axis propellor surface-processing machines, without obtaining the approval of the ITI Minister, despite the fact that such approval was required. Still further, they illegally exported, in the same way, documents, including computer programs for the opertion of the processing machines, fitted with these cutter heads, on around July 1 of the same year.

Even before that, Toshiba Machine exported to the Soviet Union four processing machines (total amount of 4,125 million yen), from December, 1982 to June of the following year. However, the statute of limitations already applies to this case. However, when a proposition of exports to the Soviet Union was brought to Toshiba Machine by "Wako Koeki," a trading firm specializing in trade with the Soviet Union, in around 1979, Toshiba Machine took up this proposition also at a meeting to report to the President, at the time, and it concluded the business talks for these exports with the Soviet side in April, 1981. On that occasion, secret contracts, the contents of which were to guarantee the exports of nine-axis processing machines, which are banned by COCOM, were exchanged with the Soviet side's All-Soviet Technology and Machinery Import Corporation. However, HAYASHI and others, who sensed that a former Wako Koeki Moscow Branch Deputy Manager, who had resigned, was showing moves to report this COCOM violation to the Paris Headquaraters, destroyed related documents in April of the year before last. Still further, when they were questioned by MITI about the circumstances in February of last year and March of this year, they asserted to the last that "the processing machines which were exported were two-axis machines, which are outside the COCOM restrictions."

Of the payments of 4,125 million yen for the four processing machines, illegally exported, the amount received by Toshiba Machine was 3,722 million yen, and its rough profits amounted to as much as 2,287 million yen. Ito-Chu Shoji recieved 277 million yen, and Wako Koeki received 126 million yen as commission and charges for export procedures, etc. However, as regards Wako Koeki, as a corporation, and the seven Toshiba Machine employees, regarding whom papers have already been sent to the Public Prosecutor's Office, it is viewed that a decision for suspending the indictment will be reached soon.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 16, 1987.

Hon. CASPAR WEINBERGER,
Secretary of Defense,
Department of Defense,
Washington, DC.

DEAR SECRETARY WEINBERGER: During your visit to Japan later this month we hope you will vigorously raise the Toshiba/Kongsberg propeller milling technology diversion case. It is clear that this is one of the most serious losses to the defense posture of the Free World in this decade.

In our view there are three issues to this case. First, those who are culpable must be punished severely. The Japanese Government has made an excellent start on this with the arrest of two Toshiba Machine officials, and is pursuing severe administrative sanctions. Nevertheless, the Japanese Government should be encouraged to press the case to the fullest extent of Japanese law.

Second, the issue of compensation is still outstanding. It will be very expensive to raise the technological level of our anti-submarine warfare capability back to where it was before the diversion to the Soviets. Some one will eventually have to pay for this. We expect that before decisions are made to allow new U.S. Government contracts to either Toshiba or Kongsberg the entire question of compensation will be resolved.

Finally, we hope in your talks with the Japanese Government that you will receive satisfactory assurances that such cases will never happen again. The Japanese Government appears to be heading in the right direction. They should be encouraged to establish new procedures and add additional personnel if needed.

Sincerely,

Malcolm Wallop, John McCain, Jesse Helms, Chic Hecht, Steve Symms, James A. McClure, Jake Garn, Phil Gramm, Orrin G. Hatch, Kit Bond, John Heinz, Bob Dornan, Chris Smith, John G. Rowland, Ron Marlenee, Lynn Martin, Curt Weldon, Helen Delich Bentley, Charles Wilson, Phil Crane, Toby Roth, Duncan Hunter, David Dreier, Joel Hefley, Tom Lewis, Jack Davis, Jim Courter, Pat Swindall, John Hiler, Dan Coats, Ben Gilman, Jimmy Slattery, and James V. Hansen.

Mr. HELMS. Mr. President, I thank the Chair and I yield the floor.

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

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

NATIONAL CATFISH DAY

Mr. BYRD. Mr. President, I ask the distinguished acting Republican leader [Mr. HECHT] if Calendar Order No. 172 has been cleared for action on his side of the aisle.

Mr. HECHT. Mr. President, Calendar Order 172 has been cleared.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 172.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 178) designating June 25, 1987, as "National Catfish Day."

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the joint resolution.

The Senate proceeded to consider the joint resolution.

NATIONAL CATFISH DAY

Mr. HEFLIN. Mr. President, I am pleased to join with my colleagues in supporting this joint resolution declaring June 25, 1987, as National Catfish Day.

Alabama has seen a tremendous growth in the catfish industry over the past several years. Since 1965, the number of pond acreage has increased from 500 acres to over 13,000 acres in Alabama. Soil conservationists believe that this can multiply to 60,000 acres in the next 15 to 20 years. In monetary terms for Alabama, this would mean an industry of approximately $120 million.

In these times of economic crisis for the agricultural industry, fish is the only agricultural product in America where demand is greater than supply.

The per capita consumption of fish is estimated at 14 pounds. More people are eating fish for health reasons. It is one of the highest quality animal protein available, and freshwater fish is especially low in saturated fat. Approximately 90 percent of the world's fish is caught in the ocean, but the ocean producers have not been able to substantially increase their yield to meet the increased demand for fish. As America demands fresh, quality fish, the catfish will rise even more in popularity. It is certainly easy to see that this is a bright area of agricultural expansion. With this expansion the potential of catfish production in the South is unlimited.

Catfish farming has allowed much-needed diversification in the agricultural sector. With such an impressive economic résumé and a taste that is second to none, catfish is well on the way to becoming a national favorite.

The joint resolution (H.J. Res. 178) was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HECHT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LABOR RELATIONS ACT AMENDMENTS

Mr. BYRD. Mr. President, is there a House message at the desk on H.R. 281?

Mr. BYRD. Mr. President, I have been asked to initiate rule XIV as a mechanism for getting H.R. 281 on the calendar. On behalf of Mr. KENNEDY, I ask unanimous consent that the House message be read the first time.

The PRESIDING OFFICER. The clerk will read the bill for first time.

The assistant legislative clerk read as follows:

A bill (H.R. 281) to amend the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry.

Mr. BYRD. Mr. President, I ask unanimous consent for second reading of the bill, H.R. 281.

Mr. HECHT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be held over until the next legislative day for its second reading.

ORDER FOR RECORD TO REMAIN OPEN

Mr. BYRD. Mr. President, I ask unanimous consent that the RECORD remain open today until 5 o'clock for statements and the introduction of bills and resolutions.

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

AUTHORITY FOR COMMITTEES TO FILE REPORTS

Mr. BYRD. Mr. President, I ask unanimous consent that committees may have until 5 o'clock today to submit reports, and I also ask unanimous consent that the committees may have between the hours of 10 a.m. and 3 p.m. on Monday to submit reports on legislative or executive business.

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

THE 1988 WHEAT PROGRAM

Mr. BYRD. Mr. President, I understand that the distinguished acting Republican leader wishes to proceed with a resolution on behalf of the Republican leader. I yield the floor for that purpose.

Mr. HECHT. I thank the distinguished majority leader.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 237, a resolution Senator DOLE submitted this morning on wheat. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, there is no objection. This resolution has been cleared on this side of the aisle and we are ready to proceed.

Mr. HECHT. Mr. President, I ask unanimous consent that a list of resolution cosponsors be printed in the RECORD.

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

Senators Dole, Lugar, Melcher, Boschwitz, Boren, Pressler, Symms, Baucus, Burdick, Gore, Kassebaum, Karnes, Daschle, Evans, Cochran, Durenberger, Pryor, Nickles, Conrad, Bentsen, and Bond.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 237) to express the sense of the Senate that it is in the best interests of United States wheat producers to immediately receive the details of the 1988 wheat program and that the program should include no more than a 27½ percent acreage limitation level.

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, it seems an annual problem faced by our Nation's wheat producers is not knowing the details of the program in time to make necessary planting decisions.

Wheat producers were expecting a preliminary announcement June 1, but as of today, still have not received word of what the program provisions will be. This makes it very difficult to make sound management decisions.

I understand the problem is an internal debate within the administration regarding the level of the Acreage Reduction Program [ARP]. Some within the administration would prefer a 30-percent ARP, since it would save a little money.

However, I believe there are many of us in this body who would side with a smaller ARP level of not more than 27.5 percent. Exports are up this marketing year and for the first time in several years, demand will exceed domestic production.

It is simply not good policy to keep raising ARP's with such trends. Not only do high ARP levels reduce producer income, they also send the wrong signal to our competitors who increase their production to take advantage of the higher set-aside requirements U.S. producers face.

We should also keep in mind that the Conservation Reserve Program [CRP] will take additional wheat acreage out of production this year.

RESOLUTION

Several of my colleagues and I are offering a sense-of-the-Senate resolution encouraging the administration to announce the details of the 1988 wheat program and to include not more than a 27.5-percent ARP level as part of the announcement.

I urge adoption of the resolution by my colleagues.

The resolution (S. Res. 237) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 237

Whereas United States wheat producers are still awaiting the details of the program for the 1988 crop of wheat established under section 107D of the Agricultural Act of 1949 (7 U.S.C. 1445b-3);

Whereas demand for United States wheat, for the first time in several years, will exceed domestic production;

Whereas United States wheat exports will be up more than 10 percent during the current marketing year;

Whereas high acreage limitation (ARP) levels under the acreage limitation program established under section 107D(f) of such Act increase the per unit cost of producers and reduce farm income;

Whereas high ARP levels send the wrong signal to foreign competitors by encouraging them to increase agricultural production;

Whereas the Secretary of Agriculture has discretion to set the ARP level at 27½ percent for the 1988 crop of wheat; and

Whereas the National Association of Wheat Growers (NAWG) has recommended a program that includes no more than a

27½ percent ARP level: Now, therefore, be it

Resolved, That is the sense of the Senate that—

(1) it is in the best interests of United States wheat producers to immediately receive the details of the program for the 1988 crop of wheat established under section 107D of the Agricultural Act of 1949 (7 U.S.C. 1445b-3); and

(2) such program should provide for an acreage limitation program (as described in section 107D(f)(2) of such Act) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm reduced by no more than 27½ percent.

Mr. HECHT. I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader if the following nominations have been cleared on the other side of the aisle: The nominations beginning on page 2, under Equal Employment Opportunity Commission, and numbered as follows: Calendar Order Nos. 213, 214, and 215.

Mr. HECHT. They have been cleared, Mr. President.

Mr. BYRD. I thank the acting leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar Order Nos. 213, 214, and 215, that they be considered en bloc, agreed to en bloc, that the President be immediately notified of the confirmation of the nominees, and that the motion to reconsider be laid on the table.

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

The nominations considered and confirmed en bloc are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Evan J. Kemp, Jr., of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1987.

Evan J. Kemp, Jr., of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1992.

DEPARTMENT OF LABOR

Fred William Alvarez, of New Mexico, to be an Assistant Secretary of Labor.

NOMINATION OF FRED ALVAREZ TO BE ASSISTANT SECRETARY OF LABOR

Mr. BINGAMAN. Mr. President, I am pleased to support the nomination of Fred W. Alvarez to be Assistant Secretary of Labor.

Mr. Alvarez is currently serving as a Commissioner of the Equal Employment Opportunity Commission where he has complied an outstanding record of enforcement. He has been at the EEOC since his nomination in 1984.

Mr. Alvarez is an imminently qualified attorney. After receiving his juris doctor degree from Stanford University in 1975, Mr. Alvarez served as law clerk for the chief justice of the New Mexico Supreme Court. He then held a position with the National Labor Relations Board regional offices in Oakland and San Francisco, CA, for 4 years as a trial attorney responsible for investigations and enforcement of, the National Labor Relations Act. His legal ability, integrity, and dedication earned him the trust and respect of his fellow professionals, both within the National Labor Relations Board and those in private practice.

In 1980, Mr. Alvarez returned to New Mexico and entered private practice with Sutin, Thayer & Browne, a law firm in Albuquerque. In 1983, he became a director of the firm. Mr. Alvarez has concentrated in the area of employment and labor relations law. He has counseled private and public sector employers and trade associations on a full range of employment relations law and has engaged in administrative law practice before Federal and State government agencies and departments.

Mr. Alvarez is a member of the New Mexico and California Bar Association as well as the American Bar Association. He has also been a member of the Stanford Law School Board of Visitors.

While with the National Labor Relations Board, Mr. Alvarez was a faculty member for the Council on Legal Educational Opportunity at the University of Santa Clara Law School during the summer of 1979.

Mr. Alvarez is an extremely competent and dedicated individual who has distinguished himself, displaying the rare talent in this city of being able to get things done. His entire career is marked with success and accomplishment. His record at the EEOC, in particular, is truly remarkable. Mr. Alvarez has been responsible for increased litigation efforts, streamlined enforcement, the adoption of new policies for enhanced remedies, and more. His experience makes him extremely well qualified for the position of Assistant Secretary for Employment Standards where he will be responsible for overseeing programs that touch the lives of millions of American workers.

I urge my colleagues to support this nomination.

NOMINATION OF FRED W. ALVAREZ TO BE ASSISTANT SECRETARY OF LABOR FOR EMPLOYMENT STANDARDS

Mr. DOMENICI. Mr. President, it is very much an honor for me to support the nomination of Fred W. Alvarez to be Assistant Secretary of Labor for Employment Standards. Over the last 2½ years Fred has distinguished himself as a committed, able, and productive member of the Equal Employment Opportunity Commission.

During Fred's tenure on the Commission, equal employment opportunity enforcement efforts were significantly improved. Litigation and investigation activities were increased such that an unprecedented number of cases were brought before the Commission for litigation consideration. Fred played a very important part in making these valuable improvements. His impressive record of accomplishment at EEOC gives me great confidence in saying that he will make many fine contributions to employment conditions in this country at the Department of Labor.

Fred is a native of Las Cruces, NM, and he showed his great promise at a young age when he graduated from the New Mexico Military Institute with distinction. Fred went on to graduate from Stanford University with honors in economics and later earned his law degree from Stanford in 1975.

As a law student, and later as law clerk to the distinguished New Mexico Supreme Court Justice LaFel E. Oman, Fred began pursuing his interests in equal employment policy. There he gained valuable experience in employment and equal opportunity law, and achieved considerable respect for his work.

Before being appointed to the EEOC, Fred was a member of the prestigious law firm of Sutin, Thayer & Brown, where he continued his work in employment law. As an attorney in Albuquerque, Fred developed an excellent reputation within the New Mexico legal community.

I believe that Fred is an excellent choice as Assistant Secretary for Employment Standards. As Assistant Secretary, Fred will be responsible for affirmative action, wage and hour, and workers' compensation programs. His experience and proven dedication make him particularly qualified to assume this new post.

When Fred was nominated to become a member of the EEOC, I was pleased to be able to recommend him to the Congress, and it is very much a pleasure for me to again come before my colleagues in the Senate to recommend Fred to another important position in the administration. I have full faith in Fred and believe he will make an even greater contribution to our Nation as Assistant Secretary of Labor for Employment Standards.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader for his cooperation in expediting the business of the Senate.

CENTRAL AMERICAN COMMISSION

Mr. BYRD. Mr. President, this morning the able minority leader indicated that the Congressional Commission on Central American Negotiations which was mandated by last year's legislation on Contra aid, had not fulfilled its responsibility and should discontinue operation.

Mr. President, I must disagree with the distinguished minority leader on this matter. The money authorized for the Commission has not been expended and at least $200,000 is still available for conduct of Commission business. The Commission was authorized for fiscal year 1987 and its time of operation remains open ended.

Mr. President, the Congress continues to need the independent input which the Commission was created to provide. The issues of negotiations and Contra activity in Central America are not going to go away. Just yesterday the New York Times reported that the President told President Arias that he had serious reservations about Costa Rica's peace plan and that he remains fully committed to obtaining renewed funding for the Contras from Congress.

In his remarks this morning, the distinguished minority leader appeared to indicate that the Commission had failed to select a chairman because the two Democratic appointees had opposed three Democrats nominated by the Republican appointees. The minority leader also indicated that on the nomination of Secretary Kissinger, the Democratic appointees delayed their vote.

Mr. President, I think we need to set the record straight on this matter. The Democratic appointees nominated three distinguished Americans—former Secretary of Defense James Schlesinger, former NSC member, Mr. Robert Hunter, and former Senator Paul Tsongas. All of these nominations were opposed by the Republican appointees. And in the case of Secretary Schlesinger it took 9 weeks to get the Republican appointees to vote up or down on the nomination.

After Secretary Kissinger was nominated and offered the chair, nearly 2 weeks passed before he declined.

Mr. President, the Congress urgently needs the Commission to begin to function in its mandated role. Its time of operation is open ended and I propose that the congressional leadership appoint a chair for this important Commission so that it can get on with the work it was created for.

EXTRADITION OF MOHAMMED HAMADEI FROM WEST GERMANY

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I have just come from the Dirksen Building, room 124, and a news conference on the issue of extradition of Mohammed Hamadei from West Germany. This conference was attended by the distinguished Republican leader, Mr. DOLE, Senators D'AMATO, DIXON, DECONCINI, and myself. It concerned a joint resolution which has been consponsored by some 65 Senators under the leadership of Senator D'AMATO calling for the executive branch—the President and the Department of State—to act with immediate attention to bring Hamadei back to the United States for trial.

This news conference was also attended by Mr. and Mrs. Stethem, whose son Robert, was the victim of the brutal murder committed by Hamadei as disclosed by evidence, probable cause and a warrant of arrest issued by the U.S. District Court for the District of Columbia.

Mr. President, I believe that it is important to call this issue to the attention of our colleagues on the floor of the U.S. Senate today, and I advised my colleague, Senator D'AMATO, as I left the news conference a few moments ago, that I would do so.

I believe it is important to do this because there are very important considerations involved in this issue of the extradition of Hamadei. The fact that 65 U.S. Senators have cosponsored this resolution is an emphatic statement to the West German Government about the seriousness with which we view this issue.

The United States and West Germany have been partners on many important ventures and we share many of the same values. I believe that it is important to underscore for the West Germans how vital we consider the extradition of Hamadei to the United States. The case involves the hijacking of a TWA airliner, a U.S. plane and it involves the murder of a U.S. Navy man, Robert Stethem. Under international extradition laws, this case ought to be in the United States. We have primacy. The close nexus is here.

There is a strong undercurrent of suggestion that the West Germans are retaining Hamadei because of some sort of deal which either has been worked out or may be worked out for the trade of two West German businessmen who were taken hostage in retaliation for West Germany's detention of Hamadei on this American warrant of arrest.

It is very unfortunate that the West Germans were taken hostage, and I sympathize with the problems that West Germany faces in that regard. But it cannot undercut, in my judgment, their obligation to honor the extradition treaty to send Hamadei back to the United States for trial.

The entire issue of extraterritorial jurisdiction by the United States, Mr. President, is one of enormous importance. The Congress has asserted the importance of this extraterritorial jurisdiction in a variety of ways: In 1984 with the Omnibus Crime Control Act, we made it a violation of U.S. law for anyone, anywhere in the world, to take a U.S. citizen hostage or to hijack a U.S. aircraft.

On August 27, 1986 the President signed into law a provision which I introduced in the Senate which makes it a violation of U.S. law for a terrorist to assault, maim, or murder a U.S. citizen anywhere in the world. In that same bill, another provision which I introduced calls for the President to solicit our allies to seek a Nuremberg tribunal for the trial of terrorists in an international context. Such an international tribunal is obviously a way off, but the jurisdictional authority of the United States to try terrorists like Hamadei and other terrorists who hijack U.S. planes, take U.S. citizens hostage is a very, very important item.

Mr. President, the Hamadei case is of special concern at a time when international terrorism is rampant. Just yesterday another U.S. citizen, a former reporter for ABC Television, was taken hostage in Beirut. We have today, Mr. President, in the Persian Gulf, a confrontation developing between the United States and Iran; Iran may respond to the United States action in the Persian Gulf by increasing acts of terrorism. We do not know whether the abduction yesterday was or was not conspired by Iran, but there is cause to be concerned about what part Iran played in the murder of the 240 U.S. marines in Lebanon in October 1983. There is cause to be concerned about the part Iran is playing in the international conspiracy on terrorism that may touch the Hamadei case. If the West Germans are to be weakened in the international resolve to move against terrorism by failing to honor their extradition obligations to extradite Hamadei to the United States for trial, it is a very, very serious issue, especially with the kidnapping of another U.S. citizen yesterday and with the kind of problems which we face in the Persian Gulf.

I made the point in the news conference, Mr. President, that the U.S. Senate and the House will be watching very closely what happens in the Hamadei case. The West German Gov-

ernment has not yet officially announced their decision, although it is anticipated they will decline our request for extradition. The Congress will be watching the West German action very closely, because the United States is called upon to make enormous contributions to NATO in terms of manpower and money, and that is an issue which will inevitably be reassessed by the Congress, certainly by this Senator. I cannot speak for others, but on the issue of our shared values with West Germany, our determination to make Western Europe strong, our determination to resist potential Soviet aggression, our determination to wage war on international terrorism, we have to watch closely what the West Germans do in pursuit and furtherance of these important objectives and ideals.

I believe that West Germany can yet rectify this record by extraditing Hamadei to the United States where he ought to be tried. The matter has been investigated by a grand jury in Washington, DC. They have returned an indictment based on probable cause. There has been a warrant of arrest issued and based on that warrant of arrest we have sought extradition. If Hamadei can avoid the process of international law because West Germans are taken hostage in Lebanon, then it is an open invitation to terrorists around the world to take more hostages if they are going to be successful in thwarting justice and thwarting the extradition of Hamadei. The West Germans ought not to do that, nor should any of the Western democracies nor any nation in the world encourage terrorism by rewarding the terrorists who take others hostage.

Mr. President, these matters are of utmost concern. I have discussed my concerns with Ambassador Burt on a recent trip to Bonn. I had occasion to discuss these matters with West German officials there, with Secretary of State Hans Neusel. I have discussed these matters in the last few days with representatives of the State Department. I now wish to express these concerns in the strongest language to the West German Government in conjunction with the joint resolution signed by 65 United States Senators. We have great concern on this issue and we regard it most seriously.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

TRANS-ALASKA PIPELINE SYSTEM

Mr. STEVENS. Mr. President, my State of Alaska is celebrating an important anniversary. Tomorrow marks the completion of a decade of operation of the trans-Alaska pipeline system which we call TAPS. It was on June 20, 1977, that the first barrel of oil from the Prudhoe Bay oil field arrived at pump station 1 to begin its journey south.

Extending 800 miles from Alaska's North Slope, the trans-Alaska pipeline terminates at our port of Valdez, where Alaskan oil is loaded on tankers for a trip to what we call the lower 48.

This is the largest private construction venture ever completed. When the 5 millionth barrel of oil flowed through the pipeline last month, Prudhoe Bay became the most productive oil field in the U.S. history, surpassing even the giant east Texas field.

Oil is now flowing through our pipeline at a rate of 1.9 million barrels a day, more than the 1.8 million it was designed to carry. Actually, at times our Alaska pipeline has carried 2.8 million barrels of oil a day to the American economy.

We believe that Prudhoe Bay and TAPS have made an important contribution to Alaska and to our Nation during the last 10 years. In 1978, when the Iranian revolution brought a cut in oil production and threatened a new shortage, because TAPS was in place and oil was flowing, there was no threat to the United States oil supply. That is to be contrasted with what happened before TAPS was in place and we had the oil embargo.

Now one-fifth of the total United States domestic oil production comes from Alaska's North Slope. With our domestic production now only 8.5 million barrels a day and constantly falling, Alaska will be a major contributor to America's energy supply for many years to come.

However, Mr. President, to Alaskans, this is a bittersweet anniversary. While Prudhoe Bay has proven to be as prolific as the most optimistic commentators predicted, it is an oil field that we now should call middle aged. By the end of next year production will begin to decline at an annual rate of 10 to 12 percent. By the year 2000—just 13 years from now—North Slope production will be less than 600,000 barrels a day.

As production from Prudhoe Bay falls off, along with that from other domestic fields, our dependence on foreign sources of oil will increase. The most basic implication of increasing reliance on oil imports is instability and insecurity. Incremental increases in our level of imports mean increasing leverage for those who supply our energy.

We know what is in store for us if we fail to respond to this increasing threat. We know there is no single answer to America's energy needs. However, there are some basic steps we can take to improve the picture by increasing our domestic reserves.

The coastal plain of the Arctic National Wildlife Refuge is recognized as the best onshore prospect for new oil reserves in North America. By removing the barrier to exploration and production in this area which has existed for the last 7 years, we can take a positive step for America's energy future.

The history of the trans-Alaska pipeline is well worth recalling on its 10th anniversary.

First, I am sure most people would recall this pipeline was almost not built. As a matter of fact, here in the Senate there was a tie vote which was broken by the then Vice President, Spiro Agnew, the only vote he ever cast as Vice President.

The Department of the Interior prepared a massive environmental impact statement on the proposed pipeline. My good friend the late Roger S. Morton, then Secretary of the Interior, for many years a Member of Congress, made a decision in mid-1972 to grant the general right-of-way permit necessary to build this pipeline based upon that environmental impact statement. But extreme environmentalists filed suit in an attempt to block that construction, and they actually won the first case, based on a ruling that the Secretary did not have authority to grant a right-of-way wider than 50 feet, under the Mineral Leasing Act of 1920. But the environmental impact statement set forth that in order to protect the environment, it was necessary to have a right-of-way that was wider than 50 feet. This meant congressional action was necessary in the form of a grant of a right-of-way to build our pipeline.

During congressional consideration, again extreme environmentalists consistently attacked the Interior Department's decisionmaking process. They wanted to force the oil companies to abandon the pipeline by convincing Congress to order additional studies of alternatives, particularly the trans-Canadian pipeline route. These groups made dire predictions about our pipeline and its impact on wildlife, particularly the caribou.

It is good for all of us to remember that these are the same groups arguing before us now, and they said that if we built the pipeline and started development process at Prudhoe Bay, it would destroy the caribou. Today there are three times as many caribou in the Prudhoe Bay herd as when the pipeline was built. It is one of the largest caribou herds in the world.

Indefinite delay of North Slope energy development was the ultimate goal of the extreme environmental groups in responding to the TAPS proposal.

Unfortunately for them, the first signs of an energy crisis had already appeared by early 1973, and many Congressmen and Members of the

Senate were not sympathetic to the idea of delay for delay's sake.

In July 1973, after a week of intense debate, the Senate rejected an amendment that would have required further investigation of a trans-Alaska pipeline by a vote of 61 to 29. On the same day, a vote to recognize that the Interior Department's decisionmaking process had satisfied the requirements of the National Environmental Policy Act ended in the tie vote I mentioned. That was the significant vote in the process—had we complied with the National Environmental Policy Act in preparing the review and making the decision that the trans-Alaska pipeline should be built. The tie vote, as I said, was broken by the then Vice President Spiro Agnew; and we came close—that close—to not having in our economy over 5 billion barrels of oil so far, with at least another 5 billion barrels to come.

There is little doubt that if that vote on that day had gone the other way, the pipeline would not have been built, because there would have been additional delay and additional delay and additional delay. As a matter of fact, Congress, at my suggestion, took the extreme position of closing the courts of the United States to an appeal from that decision that the Environmental Policy Act had been complied with, an action very seldom taken, but within the power of Congress. There was no question then that there was an urgency so far as our Nation's energy future is concerned, and I doubt that anyone realizes how serious the energy situation is again today.

If the people who opposed our oil pipeline before had succeeded, today's domestic oil production reaching American markets would be only 7 million barrels a day. Our oil imports will be reaching almost 9 million barrels a day and increasing daily.

Now, Mr. President, we are striving to bring forward the congressional review of the Department of the Interior's recommendation that the Arctic National Wildlife Refuge Coastal Plain, 1.5 million acres, be leased to oil and gas exploration. This plain has been subject to extensive seismic review, based on an amendment offered by my late good friend, the Senator from Washington, Henry "Scoop" Jackson, that we have some information before we start exploration to justify the conclusion that there are structures in the area that are capable of producing substantial quantities of oil and gas.

I invite the Members of the Senate to read that record. It indicates substantial structures beneath the Arctic Wildlife Refuge Coastal Plain of the Saudi Arabian character. If there is oil in those structures, we have deposits that will exceed even the Prudhoe Bay, let alone the east Texas field.

I suggest to the Members of the Senate and others who may hear or read what I have said that we are hearing the same arguments, and in the days to come I am going to document those arguments. They are using exactly the same arguments now to say do not explore the national wildlife refuge as when they said do not build the trans-Alaska pipeline.

Fortunately, in that day, since it was exploration on State land, the extreme groups which opposed development could not block the exploration and actual discovery of the oil. Now, because the Federal Government owns the land and has received that land for a special purpose, these groups feel that they can actually block the exploration and development of probably the last great area for new discovery of oil on the North American continent.

Mr. President, finally, let me once again invite every Member of the Senate to come to Alaska this summer. I see my good friend the majority leader in the Chamber. I would be particularly pleased if he and his lovely wife would join Catherine and me and come to Alaska and see.

The trans-Alaska pipeline has the best environmental record in the history of the world. Yet, we are being attacked now, as we try, once again, to utilize our land to produce the energy that is necessary to keep the United States free of the pressures that will come from increased reliance on foreign oil.

Mr. President, these 10 years have escaped awfully fast, because I remember those debates on the floor of the Senate, and I remember who helped us get this pipeline started. I think it will be the tragedy of the 1980's if the Arctic National Wildlife Refuge is not explored. I intend to speak on that again and again on the floor of the Senate.

I yield the floor, and 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that during the afternoon I may from time to time speak on the subject of the U.S. Senate and that the RECORD show no interruptions of my speech.

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

Mr. BYRD. Mr. President, I will yield the floor at any time any other Senator wishes to have the floor and during the afternoon I shall probably have to from time to time leave the floor, but I will try not to impose on the Senate, the officers of the Senate, the pages, and the other employees of the Senate any more than I have to.

THE UNITED STATES SENATE

IMPEACHMENT

Mr. BYRD. Mr. President, the subject of my speech today is impeachment.

Mr. President, those of us who were Members of the Senate during the 99th Congress, and those new Senators who were Members of the House at the time, participated in a rare and historical event in the history of the Congress. That event was the impeachment and trial of Judge Harry E. Clairborne. I say it was rare because prior to 1986, the last time the Senate sat as a court of impeachment was in 1936, a half century earlier.

Impeachment is a very serious matter. It is perhaps the most awesome power of Congress, the ultimate weapon it wields against officials of the Federal Government. The House of Representatives is the prosecutor. The Senate Chamber is the courtroom. The Senate is the judge and jury. In the case of a Presidential impeachment trial, the Chief Justice presides. The final penalty is removal from office, and there is no appeal.

Impeachment was, for the English, the chief institution for the preservation of the government. By means of impeachment Parliament, after a long and bitter struggle, made ministers chosen by the King accountable to it rather than to the Crown—thus replacing absolutist pretentions by parliamentary supremacy. The first instance of impeachment occurred in 1376, when the House of Commons registered its opposition to the policies of Edward III by undertaking to prosecute before the Lords the most powerful offenders and the highest officers of the Crown. The crowning achievement of the 14th century, it has been said, was to devise impeachment as a procedure for trial of the King's ministers, who were otherwise not reachable. The impeachment of the Earl of Strafford in 1642 constitutes a great watershed in the English constitutional history, of which the Founding Fathers were very much aware. Strafford's downfall was rooted in a conflict between the view of Charles I that "the will of the prince. was the source of law," and that of Coke and his followers that law had an independent existence of its own, "set above the king as well as above his subjects." Strafford's impeachment may be regarded as the opening

gun in the struggle whereby the Long Parliament prevented the English monarchy from hardening into an absolutism of the type that was then becoming general in Europe.

Strafford was charged by the Commons with subverting the fundamental law and introducing an arbitrary and tyrannical government, thereby, the Commons intended to pass judgment on the system of government as well as the man, because to them, Strafford personified, more than any other, the injustice and misrule that they meant to end. Menacing as the acts of Strafford were, they did not amount to treason within the common understanding because they were not, in the strict sense, acts committed against the authority of the King: they had his tacit consent, if not encouragement. The offense, rather, was that Strafford had undermined the immemorial constitution of the kingdom by attacking its free institutions.

After the evidence had been placed before the Lords and Strafford had been heard in his own defense, what did Commons do? The Commons abandoned the impeachment and turned to a bill of attainder. The attainder proceeded on the identical charges contained in the impeachment. The shift from impeachment to attainder may have resulted from the inability of the Commons to prove the charges of treason, so they turned to an act of attainder, which did not require trial.

Sir Thomas Osbourne, the Earl of Danby, in 1678, was impeached for high treason. He was the chief minister of Charles II. After the articles of impeachment were delivered to the Lords, the Commons requested that Danby be committed to safe custody. At this juncture the King came into the House of Lords and stated that he had given Danby a pardon and that Danby had already been dismissed. A storm blew up, for as Sir Francis Winnington, late Solicitor General, said, "an impeachment is of no purpose when a pardon shall stop our mouths."

After Lord Danby was impeached in 1678, Charles II dissolved Parliament on February 3, 1679. Nonetheless, the proceedings continued in spite of the dissolution and the King's pardon, and the trial was stopped only because Danby surrendered and was imprisoned in the Tower. The issue of whether a prorogation, a break between parliamentary sessions, or a dissolution halted impeachment proceedings was a question of first impression in Danby's case. In 1673, the Lords had appointed a committee to determine if appeals to the upper House pending or not resolved in one session of Parliament continued in *statu quo* until the next session. The committee answered in the affirmative, and their report was confirmed by the entire House. The decision on impeachment in Danby's case was consistent with this general rule. After stating the charges against Danby, the House of Lords held that they were: "still in force to be proceeded on, and for considering of the State of the impeachment brought up from the House of Commons the last Parliament * * * they continue, and are to be proceeded on, in *status quo*, as thy stood at the dissolution of the last Parliament, without beginning *de novo;* and that the dissolution of the last Parliament doth not alter the state of the impeachment brought up by the Commons in that Parliament.

Insofar as the nature, theory, and purposes of impeachments are concerned, it is clear that the Founding Fathers had the English experience very much in mind. In fact, during the debates at the Constitutional Convention regarding the definition of impeachable offenses and the method of trial, references were made to the impeachment trial of Warren Hastings, the British Governor General of Bombay, India. The very terms "impeachment * * * treason, bribery, or other high crimes and misdemeanors" were lifted bodily from English law. Aware that numerous and dangerous excrescencies had disfigured the English law of treason, the Constitutional framers delimited and defined treason and, thereby, put it beyond the power of Congress to extend the crime and punishment of treason. They banned the bill of attainder and corruption of blood; they replaced an unimpeachable king with an impeachable president. Profitting from Charles II's pardon of the Earl of Danby, they withheld from the President the power to pardon an impeached officer. And of far-reaching importance, they separated impeachment from subsequent criminal prosecution so that political passions no longer could sweep an accused to his death.

Because "crimes and misdemeanors" are familiar terms of criminal law, it is tempting to conclude that "high crimes and misdemeanors" are simply ordinary crimes and midemeanors raised to the ninth degree. The phrase "high crimes and misdemeanors" is first met not in an ordinary criminal proceeding but in an impeachment, that of the Earl of Suffolk in 1386. Impeachment itself was conceived because the objects of impeachment, for one reason or another, were beyond the reach of ordinary criminal redress. It was essentially a political weapon, an outgrowth of the fact that from an early date the King and his Council were the court for great men and great causes. Before the Commons assumed the role of accuser late in the reign of Edward III (about 1376) of those charged with "treason or other high crimes and misdemeanors" against the State, private persons had been wont to turn to the Crown to institute proceedings before the High Court of Parliament when they were aggrieved by officers of the Crown in "high trust and power, and against whom they had no other redress than by application to Parliament."

At the time when the phrase "high crimes and misdemeanors" is first met in the proceedings against the Earl of Suffolk in 1386, there was in fact no such crime as a "misdemeanor." Lesser crimes were prosecuted as "trespasses" well into the sixteenth century, and only then were "trespasses" supplanted by "misdemeanors" as a category of ordinary crimes. As the word "trespasses" itself suggests, "misdemeanors" derived from torts or private wrongs. "High crimes and misdemeanors" were a category of political crimes against the state, whereas "misdemeanors" described criminal sanctions of private wrongs. Nor did either "high crimes" or "high misdemeanors" find their way into the general criminal law of England. As late as 1757 Blackstone could say that "the first and principal (high misdemeanors) is the mal-administration of such high officers, as are in the public trust and employment. This is usually punished by the method of parliamentary impeachment." Other high misdemeanors, he stated, are contempts against the King's prerogative, against his person and government, against his title, "not amounting to treason," in a word, "political crimes." Treason is plainly a "political" crime, an offense against the State; so too bribery of an officer attempts to corrupt administration of the State. Indeed, early in the common law bribery was sometimes viewed as high treason. In addition to this identification of bribery, first with "high treason" and then with "misdemeanor," the association, as a matter of construction, of "other high crimes and misdemeanors" with "treason, bribery," which are unmistakably political crimes, lends them a similar connotation under the maxim noscitur a sociis. (It is known from its associates, the meaning of a word may be known from the accompanying words.)

In sum, "high crimes and misdemeanors" appear to be words of art confined to impeachments, without roots in the ordinary criminal law and which had no relation to whether an indictment would lie in the particular circumstances. Impeachments are framed to execute the law where it is "not easily discovered in the ordinary course of jurisdiction by reason of the peculiar quality of the alleged crimes." What lends a "peculiar" quality to these crimes is the fact that they are not encompassed by criminal statutes or, for that matter, by the common law cases.

One may fairly conclude that indictability was not the test of impeachment of a Minister. Nor was it the test of impeachment of a Justice. The Jus-

tices were a very small "elite group," originally a part of the King's entourage, who accompanied him on his travels; only later did they come to rest at Westminister Hall and, like the ministers of the King, they were deemed triable only by the Lords.

Although English impeachments did not require an indictable crime they were nonetheless criminal proceedings because conviction was punishable by death, imprisonment, or heavy fine. The impeachable offense, however, was not a statutory or ordinary common law crime but a crime by "the course of Parliament," the lex Parliamentaria. The following charges drawn from impeachment cases disclose that impeachable misconduct was patently not "criminal" in the ordinary sense; they furnish a guide to the "course of Parliament;" and they give content to the phrase "high crimes and misdemeanors."

Duke of Suffolk (1450), treason and high crimes and misdemeanors: procured offices for persons who were unfit and unworthy of them.

Lord Treasurer Middlesex (1624), high crimes and misdemeanors: allowed the Office of Ordnance to go unrepaired though money was appropriated for that purpose; allowed contracts for greatly needed powder to lapse for want of payment.

Peter Pett, Commissioner of the Navy (1668). High crimes and misdemeanors: negligent preparation for the Dutch invasion: loss of a ship through neglect to bring it to mooring.

Then there are a group of charges which can be gathered under the rubric "corruption," as when Lord Treasurer Middlesex was charged with "corruption, shadowed under pretext of a New Year's-Gift," and with "using the power of his place, and countenance of the king's service, to wrest (from certain persons) a lease and estate of great value." So too, Middlesex, and much earlier the Earl of Suffolk, were charged with obtaining property from the King for less than its value. Lord Halifax was accused of "opening a way to all manner of corrupt practices in the future management of the revenues" by appointing his brother to an office which had been designed as a check on his own, the profits to be held in trust for Halifax. There were charges of betrayal of trust, as when Buckingham put valuable ships within the grasp of the French, and when Orford weakened the navy while invasion threatened. And there were charges against Orford, Somers, Halifax, Viscount Bolingbroke, the Earl of Strafford, and the Earl of Oxford of giving pernicious advice to the Crown.

Broadly speaking, these categories may be taken to outline the boundaries of the phrase "high crimes and misdemeanors" at the time the Constitution was adopted. The importance of these categories for American law derives from two facts: (1) when the Framers employed language having a common law meaning it was expected that those terms would be given their common law content; (2) they considered that the phrase had a "limited," "technical meaning."

The Framers of the Constitution had the English practice constantly before their eyes; doubtless they were aware that the Act of Settlement (1700) foreclosed the plea of pardon to an impeachment, though it remained open to the King to issue a pardon after conviction. Since the Framers were following the English pattern in important respects, it was the counsel of prudence to bar a pardon after impeachment and conviction, not withstanding that separation or removal from subsequent indictment and conviction had rendered it unnecessary.

The Founders' almost exclusive concern with impeachment of the President led them to speak of the "technical" phrase "high crimes and misdemeanors" in terms of "great offenses." Does it necessarily follow that the terms must be similarly restricted when applied to judges?

Judges were added to the impeachment provision at the last minute, presumably by inclusion in the words "all civil officers," without any reference whatsoever either to judges or to governing standards. There was no intimation that the restrictive standards deemed appropriate for removal of the President were likewise to apply on removal of judges. And there are good reasons for differentiating between the two.

Removal of the President must generate shock waves that can rock the very foundations of government. Removal of a district judge, or even of a single justice in the supreme court, does not have nearly the same impact. Then too, if the President brings disgrace upon his office by a lesser offense, for example, by openly associating with notorious corruptionists, the people can remove him at the polls. Judges are not thus removable; and their tenure "during good behavior" indicates that the Framers did not intend to shelter those who indulged in disgraceful conduct short of "great offenses."

'Twas ever thus; impeachment was "essentially a political (factional) weapon" from its inception in 1386; and so it continued to be when it was revived in the reign of James I in order to bring his corrupt and oppressive ministers to heel. What was the impeachment of Strafford, where the rising force of parliamentary government defeated Stuart absolutism, but "political"? Post-Restoration impeachments were unabashedly "political."

We need to recall that in the great English impeachments the charges were often the sheerest facade for a "politically" motivated proceeding. But be the motivation what it may, in this country impeachment must proceed within the confines of "high crimes and misdemeanors" as exhibited by the prior English practice. No judicial impeachment, it may be added, aroused anything like the furious factionalism exhibited in the impeachment of President Andrew Johnson, which also lacked the normal braking action of conviction by a two-thirds vote because of the overwhelming representation of Republicans in both Houses. The critical focus, in sum, should be not on political animus, for that is the nature of the beast, but on whether Congress is proceeding within the limits of "high crimes and misdemeanors" and affording a fair trial, as was emphatically not the case in the Johnson impeachment.

Why, one asks, did the Framers take up this factionridden mechanism, which long before the Hastings trial had seen its best days?—for with the achievement of ministerial accountability early in the eighteenth century, the prime purpose of impeachment had been accomplished, and thenceforth it found but infrequent use. Then too, the successful struggle for ministerial accountability to Parliament, as has been noted, was not really relevant to a system which set up three separate, independent departments and made Cabinet members responsible to the President, not to Congress.

The American Founders thought of the King as the Chief Executive and replaced him by the President. You cannot get rid of a King by a hostile vote in the legislature, and perhaps their minds stopped there. Thus they made sure to reach the topmost executive by impeachment. In setting up an independent President who was to serve for a term, and in making cabinet officers a part of the executive branch, the Framers surely were aware that a mere vote of no confidence could not, as in England, topple a Secretary. It was because the separation of powers left no room for removal by a vote of no confidence that impeachment was adopted as a safety valve, a security against an oppressive or corrupt President and his sheltered ministers.

In truth, the gaze of the Framers was concentrated on the struggle with royal oppression during the seventeenth century rather than on the system of parliamentary government fully achieved in the eighteenth. Like the Colonists, the Founders were haunted by the threat to liberty of illimitable greed for power. Before them marched a procession of ghostly despots, they were familiar with absolutist Stuart claims; many dreaded that a single Executive might tend to monarchy. Benjamin Franklin asked, "What was the practice before this in cases

where the chief Magistrate rendered himself obnoxious? Why recourse was had to assassination." Impeachment was preferable. Fear of presidential abuses prevailed over frequent objections that impeachment threatened a President's independence. "No point," said George Mason," is of more importance than that the right of impeachment should be continued."

It is true that the Framers had come to fear legislative excesses as a result of the states' post-1776 experience; and they fenced the Congress about with a number of restraints, for example, a presidential veto and judicial review. But the Colonial Assemblies-elected by themselves, not thrust upon them by a distant King, as were judges and Governors, had been the darling of the Colonists. At the end of the Colonial period the prevalent belief, said Corwin, was that " 'the executive magistracy' was the natural enemy, the legislative assembly the natural friend of liberty." To the radical Whig mind, a potent influence on Colonial thinking, "the most insidious and powerful weapon of eighteenth century despotism" was the "power of appointment to offices." The Executive, it was feared, could fasten his grip on the community by placemen scattered strategically over the nation. Such suspicions died hard; and when a choice had to be made the Framers preferred the Congress to the President, for as Madison explained in the Federalist, "in republican government, the legislative authority necessarily predominates."

One thing is clear; in the impeachment debate the convention was almost exclusively concerned with the President. The extent to which the President occupied center stage can be gathered from the fact that the addition to the impeachment clause of the Vice President and all civil officers only took place on September 8, shortly before the convention adjourned.

So grave is this power of impeachment, and so conscious is the Congress of this solemn power, that impeachment proceedings have been initiated in the House only sixty-one times since 1789. Only fourteen federal officers have been impeached: one president, one cabinet officer, one senator and eleven federal judges. Thirteen cases have reached the Senate. Of these, two were dismissed before trial because the individuals had left office, six ended in acquittal, and five in conviction. Each of the five Senate convictions has involved a federal judge.

In *Federalist* 65, Alexander Hamilton called impeachment a process designed "as a method of national inquest into the conduct of public men." Hamilton and his colleagues at the Constitutional Convention, who hammered out the provisions for impeachment, knew that the history of impeachment as a constitutional process dated from fourteenth century England, when the fledgling Parliament sought to make the King's advisers accountable. By the mid-fifteenth century, impeachmant had fallen into disuse in England, but, in the early seventeenth century, the excesses of the Stuart kings prompted Parliament to revive its impeachment power. Even as the Constitution's framers toiled in Philadelphia, the impeachment trial of Warren Hastings was in progress in London and avidly followed in America. Hastings, who was eventually acquitted, was charged with oppression, bribery and fraud as colonial administrator and first governor general in India.[1]

The American colonial governments and early state constitutions followed the British pattern of trial before the upper legislative body on charges brought by the lower house. Despite these precedents, a major controversy arose at the Constitutional Convention about whether the Senate should act as the court of impeachment. Opposing that role for the Senate, James Madison and Charles Cotesworth Pinckney asserted that it would make the president too dependent on the legislative branch. They suggested, as alternative trial bodies, the Supreme Court or the chief justices of the state supreme courts. Hamilton and others argued, however, that such bodies woud be too small and susceptible to corruption. In the end, after much wrangling, the Framers selected the Senate as the trial forum.[2] To Hamilton fell the task of explaining the Convention's decision. In *Federalist* 65, Hamilton argued:

> The Convention . . . thought the Senate the most fit depository of this important trust. Where else than in the Senate could have been found a tribunal sufficiently dignified, or sufficiently independent? What other body would be likely to feel confidence enough in its own situation, to preserve unawed and uninfluenced the necessary impartiality between an individual accused, and the representatives of the people, his accusers?[3]

There was also considerable debate at the convention in Philadelphia over the definition of impeachable crimes. In the original proposals, the president was to be removed on impeachment and conviction "for mal or corrupt conduct," or for "malpractice or neglect of duty." Later, the wording was changed to "treason, bribery, or corruption," then, to "treason or bribery" alone. Contending that "treason or bribery" were too narrow, George Mason proposed adding "mal-administration," but switched to "other high crimes and misdemeanors against the state" when Madison said that "maladministration" was too broad. A final revision defined impeachable crimes as "treason, bribery or other high crimes and misdemeanors."[4]

The Constitution's provisions on impeachment are found in Article I, Sections 2 and 3; Article II, Sections 2 and 4; and Article III, Section 2. To the House is given the "sole power of impeachment." To the Senate is given "the sole power to try all impeachments." Impeachments may be brought against "the President, Vice President, and all civil officers of the United States." Conviction is automatically followed by "removal from office."

While the framers very clearly envisaged the occasional necessity of initiating impeachment proceedings, they put in place only a very general framework, leaving many questions open to differences of opinion and many details to be filled in. Despite the openendedness, as Peter Charles Hoffer and N.E.H. Hull note in their recent book *Impeachment in America 1635-1805*, thanks to the framers:

> A tool used in Parliament to curb kings and punish placemen was molded into an efficient legislative check upon executive and judicial wrongdoing. The power of the English House of Commons to impeach anyone, for almost any alleged offense, was restrained; the threat of death and forfeiture upon conviction was lifted; and the interference of the Commons and the House of Lords with the regular courts of justice was limited. American impeachment law shifted, at first inadvertently and then deliberately, from the orbit of English precedent to a native republican course. Federal constitutional provisions for impeachment reflected indigenous experience and revolutionary tenets instead of English tradition.[5]

Throughout the Congress' two hundred years, several major questions have dogged impeachment proceedings. One concerns resignations. In general, the resignation of an official puts an end to impeachment proceedings because the primary objective, removal from office, has been accomplished. This was the case in the impeachment proceedings begun against President Nixon. However, resignation has not always been a foolproof way to preclude impeachment, as Secretary of War William Belknap found out in 1876. Belknap, tipped off in advance that a House committee had unearthed information implicating him in the acceptance of bribes in return for lucrative Indian trading posts, rushed to the White House and tearfully begged President Grant to accept his resignation at ten o'clock on the morning of March 2, 1876. Around three o'clock that afternoon, representatives, furious at both the president and Belknap for thwarting them, impeached Belknap by voice vote anyway. The Senate debated the question of its jurisdiction, in light of Belknap's resignation, and decided by a vote of 37 to 29 that he could be impeached. But at the end of Belknap's sensational trial in the summer of 1876, he was found not guilty of the charges, not because the senators believed him innocent—most did not—but because most had decided they in

fact had no jurisdiction over Belknap, then a private citizen.[6]

Another question, the one that is debated most hotly by members of Congress, defense attorneys, and legal scholars from the first impeachment trial to the most recent, concerns the issue of what exactly is an impeachable offense. The task of definition left to future legislators by the Framers has proved perplexing. Treason and bribery, the two constitutionally designated impeachable crimes, were clear cut. But what were "high crimes and misdemeanors?" Were misdemeanors lesser crimes, or merely misconducts? Did a high crime or misdemeanor have to be a violation of written law? Over the years, "high crimes and misdemeanors" have been about anything the prosecutors have wanted them to be. In an unsuccessful attempt to impeach Justice William O. Douglas in 1960, then-Representative Gerald Ford declared: "An impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history." That phrase is the subject of continuing debate, pitting broad constructionists, who view impeachment as a political weapon, against narrow constructionists, who regard impeachment as being limited to offenses indictable at common law.[7]

Narrow constructionists won a major victory when Justice Samuel Chase was acquitted in 1805, using as his defense the argument that the charges against him were not based on any indictable offense. President Andrew Johnson won acquittal with a similar defense in 1868. But the first two convictions in this century, those of Judge Robert Archbald in 1913 and Judge Halsted Ritter in 1936, neither of whom had committed indictable ofenses, made it clear that the board constructionists still carried considerable weight. The debate continued in 1974 with the investigation into the conduct of President Nixon, with the staff of the House Judiciary Committee arguing for a broad view of "high crimes and misdemeanors" while Nixon's defense attorneys understandably argued for a narrow view.[8]

I shall now turn to an examination of the specific impeachment cases that have come to the Senate for trial and set the precedents so recently exercised. I shall discuss the first three of these cases in some detail because they touch on several of the themes I have just mentioned, and because I think we tend to forget just what hurly-burly, partisan times those first years of the Republic were. The factiousness of these first cases is, I think, most instructive.

The first impeachment case reached the Senate in 1799. It concerned one of the Senate's own members, William Blount, the only senator ever to be impeached. On July 3, 1797, President John Adams, a staunch Federalist, sent to the Congress a letter from Senator Blount to James Carey, an interpreter to Cherokee Nation. In the letter, Blount imprudently spelled out plans to launch an attack by Indians and frontiersmen, aided by the British fleet, against Louisiana and Spanish Florida to achieve their transfer to British control. The letter was referred to a select Senate committee, which recommended his expulsion for "a high misdemeanor, entirely inconsistent with his public trust and duty as a senator." Blount's grandiose plotting was so distasteful to his fellow senators that they expelled him on July 8, 1797, by a 25 to 1 vote.

Federalist leaders in the House, however, were not content with Blount's expulsion and, in January 1798, initiated impeachment proceedings against him, eventually adopting five articles. On the surface, this impeachment of Blount, a former North Carolina Federalist turned Tennessee Republican, by Federalists at the height of their power in Congress, seems an open and shut case of a partisan vendetta. There were certainly this element in it, but the significance of the case runs deeper. If removal of Blount was all the Federalists could expect after an impeachment trial and Blount was already out of office, what could be the point of impeachment? Embedded in the passion of the Federalist managers of Blount's impeachment lay a broader, more covert political motive. If Blount, an elective office holder, could be impeached and disqualified for *misconduct*, not for any actual crimes, all Republicans in Congress could be threatened as long as Federalists controlled both houses. Blount's case was an opening gambit in this Federalist strategy, which, had it been successful, would have politicized the impeachment process to its core. What had at first seemed an open and shut case of one man's reckless cupidity now grew into a highly technical case with broad repercussions.

At first, Blount seemed a perfect target for this large objective. He was an unscrupulous, chronically overextended landjobber, and he had undeniably plotted turmoil among the United States, Britain and Spain. But did private plotting amount to an impeachable offense? Blount had acted in no official capacity. And neither his mania for land nor his meddling in foreign affairs was uncommon or indictable in regular court. Nevertheless, by great leaps of imagination, the House Federalists managed to stretch Blount's harebrained scheme into a genuine peril: treason, a clearly impeachable offense spelled out in the Constitution.

Blount did not attend his trial in the Senate. The ex-senator remained in Tennessee, furious and frightened. His counsel opened by arguing that Blount was a private citizen, that he could be tried only by a regular court of law, and that he had committed no crime. Despite their partisan advantage in Congress, the Federalist House managers of the prosecution knew they had their work cut out for them. Federalists also dominated the upper house, but the managers could not rely solely on political allegiances. The Senate could be expected to act as a brake upon the House, demanding sound grounds for conviction. If Blount's was a political case in the House, the Senate could still be expected to demand doctrinal arguments. Even more difficult, the prosecution had to convince senators that, like their former colleague Senator Blount, they, too, were liable to impeachment by their rivals for power in the lower house.

This last point, more than all the eloquent rhetoric of either side, was the crux upon which Blunt's fate rested. In the end, the Senate voted 14 to 11 to refuse jurisdiction in Blount's case. Among the naysayers were a near majority of the Senate's Federalists, who feared that senators would become targets of political reprisal. Blount's case was an object lesson to both Federalists and Republicans. There was no hope for politicizing impeachment law without broad revision or extension of the doctrine of impeachment, and any new doctrine would have to be consonant with the language of the Constitution. In the end, Blount, the vehicle for a larger partisan campaign, caused its abrupt demise. Within a few years, however, Republicans would try their own hand at the game of political impeachment.[9]

By 1803, the Republicans were riding the high tide of popular support. Now it was time for the Fedealists to tremble, as Republicans looked to impeachment as a way to root out entrenched opponents. Their targets were Federalist judges, for the Federalists' greatest remaining strength lay in the judiciary. The Republicans were merely waiting for the right case to which to apply the doctrine of political impeachment themselves.

The first case to present itself concerned an inebriated, half-mad federal judge, John Pickering of New Hampshire. Though elected to the Continental Congress, Pickering had refused to go, as he suffered from a phobia of crossing water on a boat. When Pickering became chief justice of New Hampshire in 1790, his general mental imbalance became evident. Pickering's erratic behavior led the state legislature to vote to remove him from office in 1794, but the governor, a political friend of Pickering's, allowed the bill to languish. Meanwhile, for loyal service to the Federalist party, Pickering was elevated to the federal bench, put-

ting him within the grasp of hungry Republicans in Congress.

In 1803, Pickering's bizarre behavior brought him to the attention of the House of Representatives. He was impeached that fall by a vote of 45 to 8—with all the dissenting votes cast by Federalist. The four articles of impeachment grew out of a ship confiscation case, and the precise terminology of the charges was significant. Madness was not the offense. Instead, it was Pickering's violation of a statute, and acting "wickedly, meaning and intending to injure the revenues of the United States."

Federalists and Republicans in the Senate followed the Pickering impeachment as it unfolded in the House. The Federalists sought a strategy to prevent the headlong rush to trial of the impeachers, while a group of Republicans was anxious to begin the general housecleaning of opposition judges. Finally, in March 1804, the Senate convened as a court of impeachment, and Pickering was summoned to attend. His response was predictable. The old judge received the summons in high dudgeon, demanded "trial by battle," and challenged President Jefferson to a duel. There was no question of his coming to the capital.

After Pickering was publicly called three times and did not appear, President of the Senate Aaron Burr informed the court that he had received a petition from Pickering's son, Jacob. When read, it proved to be a piteous plea by a son for a father. Jacob Pickering claimed the judge was "insane, his mind wholly deranged," and begged the Senate not to proceed, since Pickering was incapable of defending himself or of appointing counsel to defend him. The debate over whether the Senate could try an insane man raged for days. Hoping to stall for time, Federalists proposed to postpone the trial until Pickering was sane enough to come or to name counsel, an unlikely prospect. The senators thrashed out the proposal behind closed doors, and it was defeated 19 to 9. After a series of related votes, the end result was clear. A two-thirds majority of the Senate stood ready to regard Pickering's conduct as culpable, whether or not it met a strict standards of "high crimes and misdemeanors." Federalists knew that their case was lost. The entire House demanded entry to the Senate chamber when the vote was to be taken and were somehow squeezed in. The Senate found Pickering guilty on all counts, making him the first individual to be removed from office by the Senate.[10]

The Federalists were badly frightened by the Pickering votes. Senator John Quincy Adams concluded that any "trivial error" could become grounds for impeachment. The irony of the Federalists' fears is that they drew the wrong conclusion from the Pickering verdict. The reluctance of many Republicans to take an active part in the trial and the stated feeling of many that something simply had to be done with Pickering because he was incapable of carrying on, indicated that the judge's politics were not the issue of prime importance. Pickering was removed because there was no other way to replace him. Despite decades of debate in trying to find a better solution to the problem of the removal of Federal judges—a debate that was renewed recently with the Claiborne case—there is still no other way to remove them save impeachment and conviction by the House and Senate. While some Republicans had plans for additional political prosecutions, Pickering's was not an entirely partisan case. It was actually the Federalists in the Senate who had thrown up a shield around one of their own and voted as a bloc. They themselves had politicized Pickering's case.[11]

It was easy to see why the Federalists were alarmed. Even while the Senate was removing Pickering from office, the House impeached another Federalist judge. This time the Republicans rested their arguments on what they termed "popular will," a doctrine that declared that impeachable offenses might be anything a lower house construed into a "high crime and misdemeanor." This doctrine, however, could not be used against any but the most unpopular Federalists; too many Republicans had proved loyal to a more moderate course in the Pickering case. The target for the Republicans' next test would be the virulently partisan, arrogant, and imposing Federalist Supreme Court Justice Samuel Chase.

Chase's career on the Federal bench had been marked not only by political controversy, but by a series of tumultuous circuit sessions. Even the Federalist district judges who sat with Chase found him short-tempered, harsh and mercurial. He showed Republican defendants, counsel and witnesses no mercy, and, unlike a number of his Federalist brethren, he refused to trim his sails after the Republican victories in 1800 and 1802. Chase's outspokeness finally got him into trouble in 1803, when one of his partisan charges to a grand jury was taken down and sent to President Jefferson. The President passed it on to the Republicans in the House, which initiated the process that led to Chase's impeachment. Federalists immediately shouted that the accusations were general, "not confined to any specific charge," as Senator William Plumer rightly argued. John Quincy Adams warned that a season of judge-hunting was upon them. In effect, Adams and Plumer were demanding that impeachment be above the very politics that their judges had practiced at the federal courts for so long.

After bitter floor fights, Chase was impeached and his case sent to the Senate, in December, 1804. On January 4, 1805, Chase responded to the charges at the bar of the Senate, but was interrupted so often by presiding officer Aron Burr that he seemed to sink in weakness and despair. He pleaded for a three-month delay to obtain further evidence. The Senate granted him one month. During that one month, in the boardinghouses and bars of Washington, Republicans crowed over their new doctrine that blatant partiality, plus irregular conduct, provided sufficient motive for impeachment.

On February 4, 1805, defendant, counsel, and House managers trooped into the Senate chamber. The small public galleries overflowed. In his opening remarks, Chase did not dispute the essential facts in the charges but claimed that the concept of impeachment itself was at issue. He made it clear that his removal would be for strickly political reasons since, in his view of the law of impeachment, his acts did not show criminality necessary for conviction. For almost a month, the House managers, led by Virginian John Randolph, who had made the impeachment of Chase a personal crusade, hammered away at the increasingly infirm Chase.

When the vote on the Chase impeachment was taken on March 1, it followed party lines, but with significant exceptions. Enough Republicans deserted their party to prevent a two-thirds vote on any one of the eight articles. To the Federalists' surprise, Chase's victory was resounding. Undoubtedly the destitute, frail man that Chase had become was a more sympathetic figure than Chase in full cry on the bench. His contribution to the winning of independence, added to the humiliation of the impeachment, might have strengthened the case against his removal. Also, according to John Quincy Adams, Randolph had alienated many Republicans by his bluster and incompetence. Others have argued that the moderate Republicans simply could not permit Randolph and his faction to dominate the party and dealt him this blow. Indeed, Jefferson, who detested the spitefulness of the gangling Virginian, made it plain that he did not count the vote on Chase as a test of loyalty to himself.

Eight days after the Chase verdict, John Quincy Adams informed his father that the Republicans' frontal attack upon Federalists in the judiciary was over. Adams gloated that a precedent had been established that only claims warranted impeachment. Adams, however, overstated his case. Chase's acquital did not erase the precedents set by Pickering. Other impeachments for incompetence and noncriminal offenses would follow.[12]

After the flurry of partisan impeachments, almost thirty years passed before the House, in 1830, brought a single article of impeachment against federal district judge of Missouri James Peck. Peck was officially impeached for imprisoning an attorney for contempt, but, in fact, the case arose out of the highly charged issue of land grants in which the federal courts had become embroiled. Opponents in the House of Peck's land rulings had tried on two previous occasions to impeach him, and it was only after three years of consideration and after their numbers had increased that in 1830 they finally succeeded. There was no suggestion that Peck had violated any criminal statute. Instead, the issues raised at Peck's trial concerned wrongful intent and whether the judge had exceeded the authority granted by the Judiciary Act of 1789. After nearly a two-month trial in the Senate, where sentiment over land grant policy was not so fevered, Peck was acquitted.[13]

Thirty more years passed before another federal judge, West Humphreys of the District of Tennessee, was impeached and tried in the Senate in 1862. Humpreys had accepted a judicial appointment in the Confederacy without resigning his Union judicial assignment. Seven articles of impeachment were adopted, charging Humphreys with, among other things, inciting revolt and rebellion against the government of the United States and aiding in the organization of an armed rebellion. Humphreys could not be served with the impeachment summons because he had fled Union territory. He neither appeared at his Senate trial nor contested the charges. In a one-day trial, the shortest ever, the Senate convicted Humpheys on all charges except one and removed him from office.[14]

The bitter animosities growing out of the Civil War gave rise to the most famous of all impeachment trials, that of President Andrew Johnson. The only presidential impeachment in American history—indeed, the only serious move towards presidential impeachment before the Nixon presidency—occurred in 1868. At the heart of the Johnson case, just as in the cases of Pickering and Chase, lay issues far larger than the individuals involved. The Johnson case revolved around the crisis of Reconstruction after the War.

As I have spoken of the Johnson impeachment trial in a previous address, I will summarize it only briefly here. When Johnson succeeded to the presidency in 1865, his ideas for a mild reconstruction of the Southern states clashed with the wishes of a majority of the Congress, controlled by Radical Republicans who favored much stronger action. Throughout 1866, Johnson and Congress were locked in battle.[15]

The Tenure of Office Act, the violation of which was to be the legal basis for impeachment, was passed over Johnson's veto on March 2, 1867. It forbade the president to remove civil officers appointed with the consent of the Senate without the approval of the Senate. Despite the certain consequences, Johnson decided to rid himself of Secretary of War Edwin Stanton, an ally of the Radicals. On December 12, 1867, Johnson suspended Stanton, an act that enraged the Radicals and set in motion events that led the House to vote eleven articles of impeachment against the president.[16]

Johnson's Senate trial began on March 5, 1868, with the defense immediately claiming the necessity of an indictable offense for impeachment. On May 16, after weeks of venomous argument, the Senate took a test vote on Article XI, a catch-all charge thought by the House managers most likely to produce a vote for conviction. The drama of the vote has become legendary. With 36 "guiltys" needed for conviction, the final count was guilty, 35; not guilty, 19. Seven Republicans joined the 12 Democrats in supporting Johnson. Stunned by the setback, the Radicals postponed voting until May 26, when votes on Articles II and III produced identical 35-19 votes. To head off further defeats, the Radicals moved to adjourn *sine die*, and the motion was adopted 34-16, abruptly ending the impeachment trial of President Andrew Johnson.[17]

The next Senate impeachment trial was that of former Secretary of War William Belknap in 1876. As I noted earlier, Belknap had hastily resigned one morning and was impeached by the House that afternoon for selling appointments. Even though he was no longer in office, Belknap's case was brought to trial in the Senate. Despite much damning evidence, Belknap was acquitted on every count because enough senators believed that the Senate lacked jurisdiction due to Belknap's prior resignation.[18]

Florida District Judge Charles Swayne was impeached in 1905. He was accused of filing false travel vouchers, improper use of private railroad cars, unlawfully imprisoning two attorneys for contempt, and living outside his district. Swayne's trial consumed two and a half months before it ended on February 27, 1905, when the Senate voted acquittal on each of the twelve articles. There was little doubt that Swayne was guilty of some of the offenses charged against him. Indeed, his counsel admitted as much, though calling the lapses "inadvertent." The Senate, however, refused to convict Swayne because its members did not believe his peccadilloes amounted to high crimes and misdemeanors.[19]

It was during the long Swayne trial that the initial suggestion that a Senate committee, rather than the Senate as a whole, receive impeachment evidence was made. Senator George F. Hoar of Massachusetts proposed that the presiding officer should appoint such a committee. While Hoar's proposal would eventually be embodied in Rule XI of the Senate's impeachment rules, in 1905 the resolution was referred to the Rules Committee, which took no action.[20]

The next impeachment trial was that of Judge Robert W. Archbald of the Commerce Court in 1913. Archbald was charged with numerous and serious acts of misconduct stretching over many years, including using his office to obtain advantageous business deals and free trips to Europe. As in the Swayne case, not one of the thirteen articles charged an indictable offense. Yet, apparently because of the seriousness and extent of his crimes, many of which he acknowledged, Archbald was convicted on five of thirteen articles. Archbald's counsel noted that the decision "determined that a judge ought not only to be impartial, but he ought so to demean himself, both in and out of the court, that litigants will have no reason to suspect his impartiality; and that repeatedly failing in that respect constituted a 'high misdemeanor'." After the Archbald impeachment, Alexander Simpson, Archbald's counsel, again suggested that impeachment evidence be taken by a Senate committee. Simpson argued that many senators were not in attendance when evidence was taken before the full Senate and thus relied on the printed RECORD.[21]

In 1933, the House Judiciary Committee recommended censure, rather than impeachment, for federal judge Harold Louderback of California. A minority of the committee, however, took the issue to the floor of the House where they persuaded that body to adopt five articles of impeachment, charging Louderback with favoritism and conspiracy in the appointment of backruptcy receivers. Louderback's Senate trial consumed nearly all of May 1933. A long parade of witnesses, including a faith healer who had to be brought into the chamber on a stretcher, filed through to testify. Democrats charged Republicans with using the trial to delay a banking reform bill, a charge Republicans denied. Tempers in the Senate frayed as witness after witness cast doubt on the charges. When the Senate finally voted on May 24, 1933, Louderback was acquitted on all five articles. Only on the fifth and last charge, a summation of the preceding four, did the vote even reach a majority, still eight votes short of the two-thirds needed for conviction.[22]

The trial of Judge Louderback again brought to the fore the problem of attendance at impeachment trials. After the trial, Representative Hatton Sum-

ners of Texas, one of the House managers, recalled the scanty attendance: "At one time only three senators were present, and for ten days we presented evidence to what was practically an empty chamber." In 1934, Senator Henry Ashurst of Arizona, chairman of the Judiciary Committee, offered the resolution that became Rule XI after its adoption the following year. The key words of Rule XI, so prominent in the most recent impeachment trial, provide:

That in the trial of any impeachment, the Presiding Officer of the Senate, if the Senate so orders, shall appoint a committee of senators to receive evidence and take testimony at such times and places as the committee may determine . . . .[23]

Rule XI was not used in the next impeachment trial, that of Florida District Judge Halsted Ritter in 1936. Ritter was charged with a wide range of improprieties that included practicing law while a judge, filing false income tax returns, extortion, and an omnibus charge of misconduct. Ritter's counsel argued that the judge had committed no offense that could be labeled a high crime or misdemeanor and was guilty only of exercising "poor judgement." In fact, Ritter was found "not guilty" by narrow margins on each of first six charges. On the seventh, however, the omnibus article combining the previous six, Ritter was found guilty by exactly the required two-thirds vote of bringing, by his combined actions, "his court into scandal and disrepute." Said *The New York Times* of the decision: "The Senate is putting judges on notice that they will be removed if the sum total of their crimes shows unfitness for the bench regardless of whether a specific high crime or misdemeanor could be established under ordinary rules of evidence." [24]

This brings us to the most recent impeachment trial, that of Judge Claiborne. The Claiborne trial last year was the first in which Rule XI was put into practice. It was also the first impeachment trial in half a century, but in the summer of 1974 it looked very much as though there might soon be an impeachment trial for a President of the United States, Richard Nixon. I have spoken in a previous address about the Senate and Watergate, so I will note only briefly that the events of those weeks precipitated a more thorough scrutiny of the Senate's impeachment rules that they had ever undergone.

I was then a member of the Rules Committee and privy to the long hours of serious reflection about the solemn duty we believed we might be called upon to perform. In July 1974, the Senate adopted my resolution directing the Rules Committee to review the existing impeachment rules and precedents and recommend revisions. We worked feverishly through the first days of that hot August. We were meeting on August 8, when President Nixon announced that he would resign the next day. Nevertheless, we continued with our work because we had a mandate from the Senate to file a report by september 1. The report contained our recommendations, which were for primarily technical changes in the rules that had been adopted in 1868 for another Presidential impeachment, that of Andrew Johnson, as I have already indicated. With the resignation of President Nixon, no further action was taken. The recommendations, however, were resurrected in the summer of 1986, and they helped inform the debates on how to conduct the trial of Judge Claiborne.[25]

Mr. President, I will not go into the Claiborne case at length. It is too recent. Federal Judge Harry E. Claiborne of Nevada became the only official to be unanimously impeached by the House, by a vote of 406 to 0, on July 22, 1986. The only sitting federal judge ever to be imprisoned, Claiborne was then serving a two-year prison term for tax evasion. During September 1986, a twelve-man committee took testimony and gathered evidence and presented their findings to the Senate. On October 9, after trial before the full Senate, Judge Claiborne was convicted on three of the four articles by votes of 87 to 10, 90 to 7, and 89 to 8. Judge Claiborne thus became the fifth person convicted by this body.

Mr. President, it is always a sad day for this nation when a Federal official is disgraced and impeached. But, as I hope this examination of the history of this procedure makes clear, each impeachment trial demonstrates once again the genius of the checks and balances system crafted two hundred years ago, which protects the independence of each branch of government but affords a mechanism for dealing with the rare rogue official, any one of whom in the past could have spared himself the humiliation and the disgrace of impeachment and conviction had he but read the Constitution and believed in this great system that provides for checks and balances.

Mr. President, I ask unanimous consent that Notes to "Senate and the Power of Impeachment" be included in the RECORD at this point.

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

NOTES TO "SENATE AND THE POWER OF IMPEACHMENT"

[1] Philip Kurland, "Watergate, Impeachment, and the Constitution," *Mississippi Law Journal*, 45 (May 1974), 531-540; Peter Hoffer and N.E.H. Hull, *Impeachment in America, 1635-1805* (New Haven: 1984), 1-41, 113-115.

[2] Kurland, 540.

[3] Hoffer and Hull, 57-96; U.S. Congress, 99th Congress, 2nd sess. S. Rep. 99-401, "Amending the Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials," 2.

[4] Hoffer and Hull, 96-106.

[5] Ibid., xi.

[6] Congressional Quarterly, *Guide to Congress* (Washington: 1982), 243-46.

[7] Hoffer and Hull, 116; Kurland, 550-557; George Haynes. *The Senate of the United States* (Boston: 1938), Vol. II, 857-862.

[8] *Guide to Congress*, 246.

[9] Hoffer and Hull, 151-163.

[10] Ibid., 208-220; *Annals of Congress*, 8th Congress, 1st sess., 319-364; Haynes, Vol. II, 849-850.

[11] Hoffer and Hull, 219-220.

[12] Ibid., 228-255.

[13] U.S. Congress, 21st Congress, 1st sess., H.R. 325, 345, 359, and 385; 21st Congress, 2nd sess., S. Doc. 12 and S. Doc. 27.

[14] *Congressional Globe*, 37th Congress, 2nd sess., 2953; Kurland, 553.

[15] Michael Les Benedict. *The Impeachment and Trial of Andrew Johnson* (New York: 1973), 1-25.

[16] Benedict, 89-125.

[17] Benedict, 126-180; *Trial of Andrew Johnson, President of the United States, On Impeachment, By the House of Representatives For High Crimes and Misdemeanors* (New York: 1970, reprint of 1868 ed.), Vol. 2.

[18] Haynes, Vol. 2, 565-66, 875.

[19] Kurland, 556; Haynes, Vol. 2, 861; U.S. Congress, 58th Congress, 3rd sess., S. Doc. 133 and 194.

[20] Haynes, Vol. 2, 875; *Congressional Record*, 99th Congress, 2nd sess., 16350-53.

[21] Haynes, Vol. 2, 861, 875-877; U.S. Congress, 62nd Congress, 3 sess., S. Doc. 1140.

[22] *New York Times*, May 17, 18, 19, 21, 23, 24, 25, 1933; Haynes, Vol. 2, 875-877; U.S. Congress, 73rd Congress, 1st sess., S. Doc. 38 and 73.

[23] *Congressional Record*, 99th Congress, 2nd sess., 16352.

[24] Haynes, Vol. 2, 861-862; *New York Times*, April 18, 1936.

[25] "Floyd M. Riddick: Senate Parliamentarian," Oral History, Senate Historical Office, 284-343.

The PRESIDING OFFICER (Mr. SANFORD). The Chair recognizes the Senator from Michigan.

Mr. LEVIN. I thank the Chair.

THE UNITED STATES HAS BOTH INTERESTS AND OBLIGATIONS IN THE PERSIAN GULF

Mr. LEVIN. Mr. President, the United States has both interests and obligations in the Persian Gulf region. It is essential that we avoid confusing the two. I believe that is precisely what the administration's proposal to reflag and escort Kuwaiti tankers would do, confuse our obligations with our interests, to the detriment of the latter.

First, let's look at our obligations in the gulf region.

The clearest obligation of our Government in the Persian Gulf is to take reasonable measures to protect American lives and United States-owned property in the region. We have been doing that by escorting truly American-owned vessels in the gulf since the so-called "tanker war" began, and not a single truly American-owned vessel has been attacked by Iran.

Nothing obligates us to protect Kuwaiti shipping. In the absence of such an obligation, the decision to protect Kuwaiti shipping should be made solely on the basis of our interests in the gulf.

But what are our interests in the Persian Gulf?

Our primary national security interests in the Persian Gulf region are to ensure that the friendly Gulf States

remain secure, and that Western access to the oil resources of the Persian Gulf States be maintained.

What threatens those primary interests?

Two potential threats exist: Iranian hegemony in the region and a significant increase in the Soviet military presence in the Persian Gulf.

I know of nobody in this body who wants to see either of these two threats realized.

What is not clear, at least to this Senator, is how either of those two threats is addressed by the administration's plan to reflag 11 Kuwaiti oil tankers, and escort them with United States naval vessels past Iranian missile sites and speed boats manned by fanatical revolutionary guardsmen.

For this Senator the fictional nature of this reflagging exercise sums up just how confused and ill-advised the administration's plans are.

I believe administration spokesman Assistant Secretary of State Armacost did not accurately represent the very important ownership issue to the Senate Armed Services Committee last week. He created the clear impression last Thursday that the owners of the holding company for the tankers as well as its parent corporations would be American. I do not believe that is the case. I believe the Kuwaitis will remain the effective de jure owners of these ships, and I believe that Iranians will treat those ships that way.

Indeed, if nobody else believes they are truly American-owned vessels, why should the Iranians?

I draw only one conclusion from these events: the administration must believe that we make our friends in the gulf more secure by tilting toward Iraq in the Iran-Iraq war. For that is precisely what we are doing by reflagging Kuwaiti tankers, and then escorting them with our Navy.

Kuwait is not impartial in the Iran-Iraq war. Kuwait clearly supports Iraq, and has supplied Iraq with billions in cash and has transshipped arms to Iraq. Thus, Kuwaiti ships headed for and leaving Kuwaiti ports are viewed by the Iranians as legitimate targets.

We know, and the world knows, that Iran has, in fact, been treating Kuwaiti ships as enemy ships, while they have been leaving our ships alone.

The question then becomes, will these tankers lose their character as Kuwaiti ships simply by being reflagged through a paper process organized by the United States Government?

I do not think they will in too many nations' eyes.

The tankers in question are now Kuwaiti-owned, they now carry Kuwaiti oil exports out of the gulf, and they are now attacked by the Iranians.

It is my understanding, despite the administration statements to the Senate Armed Services Committee I previously referred to, that those tankers will still be effectively Kuwaiti-owned after the reflagging. In Iranian eyes, they will still be Kuwaiti-owned. Is there any good reason to believe they will not still come under attack, or that Iran will not find some other way to attack us for so clearly siding with her enemy during war?

I am afraid not.

I think the Iranians will perceive our reflagging and escort operation as a clear American shift toward Iraq. We will be seen as riding shotgun on the Iraqi payroll stagecoach, although the stagecoach itself will have the emblem of the Chesapeake Shipping Co. painted on the side and the American flag flying overhead. But I believe Chesapeake will be owned by Kuwaitis—no matter how American its name sounds.

We are engaging in what most of the world will perceive as a fiction—and a fiction engaged in to tilt toward Iraq. And that bothers me Mr. President. It bothers me because I do not believe tilting toward Iraq in this way is in our interest.

It could well widen both the war and the Soviet military presence in the region to the detriment of our security interests. The administration's plan may well lead to an Iranian attack on United States persons and property. Such an attack would surely lead to an American retaliation against Iran.

Radical Shiites in the other friendly Gulf States will rejoice at the political windfall of such an American retaliation. The Soviets could profit greatly from an Iranian attack on us, our retaliation against Iran, and from political unrest in the GCC States.

If Kuwait were leasing United States tankers—that would be one thing. That would be significantly different from our Government pushing through a reflagging fiction. The former could result in our proper protection of American citizens and property. The latter is a figleaf that merely creates the fiction of U.S. ownership, when the reality is vastly different.

Mr. President, I yield the floor.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from North Carolina.

EXPLORE PEACE IN NICARAGUA

Mr. SANFORD. Mr. President, the President of Costa Rica, Mr. Arias, was here yesterday talking to a great many Members in both Houses. I think he made a tremendous impression by his sincerity of purpose and by the fact that he has shown the initiative to attempt to bring to a conclusion the strife that we have seen for so long in Central America.

It is never easy to achieve peace. There are always doubts. There are always questions of what comes first. It is always difficult to have a cease fire or to stop hostilities.

But here is the President, the leader of one of the four democratic nations—in fact, the leader of the most firmly democratic nation in Central America—putting his own political reputation on the line and saying, as difficult as it is, "We think it can be done."

The only thing lacking right now, as I see it, is the proper level of support from the United States. The administration has grave reservations as to whether or not the Sandinistas can be trusted to convert to a democratic structure or even to open up the society to any extent, and, consequently, would like to see elections held and a new government in Nicaragua before we take any action to cease the flow of support to the Contras.

President Arias, on the other hand, argues convincingly that we must trust the Sandinistas, but only up to a point. If, indeed, they prove untrustworthy, we can then isolate them. The world will then know them for what they are, and whatever assistance they were to have gotten will be suspended. But somebody has to take the risk; somebody has to make the first move. As a neighbor in peril, more so than we are, he is willing to champion a plan and to take that risk in the hope that he can bring about peace in his region.

I would hope that the administration would give him the kind of confidence and support needed if we are to see a solution to the problems of Central America. Of course, it will require on our part not a heavy hand, not a demand that something be done, but it will require, as in most diplomatic endeavors, a very delicate touch; and, along with the delicate touch, a firm resolve that we should give this our very best try.

In the New York Times of June 18, is an editorial entitled "Explore Peace in Nicaragua." I ask unanimous consent that this editorial be printed in the RECORD.

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

EXPLORE PEACE IN NICARAGUA

If President Reagan wanted an honorable and sensible resolution of conflicts in Central America, he would grab for the peace plan put forward by Costa Rica's President, Oscar Arias. Mr. Reagan's own policy of backing the Nicaraguan rebels and driving the Sandinistas out of Nicaragua is at a dead end. The Arias plan, whatever its flaws, has promise and wide support.

Mr. Reagan even felt compelled to issue a statement after his meeting with President Arias yesterday stressing their agreement on "objectives." But that's not enough. If the Arias plan is to get off the ground, the postponed Central American leaders' meeting to discuss it must be rescheduled. That means Washington must put its full weight behind the initiative. Otherwise, after Mr.

Reagan's years of lip service to negotiations, suspicions will rightly linger about his sincerity.

Mr. Arias proposes cease-fires and regional elections, the restoration of civil liberties and the beginning of talks between governments and their "unarmed internal opposition." Nicaragua would "democratize" and the United States would stop aid to the contras.

Outwardly, the differences boil down to timing, Mr. Arias wants Washington to stop; aid to the contras at the same time the Sandinistas commit themselves to democratization. President Reagan insists on continuing to arm the rebels until Nicaraguan freedoms have been established. To Mr. Reagan, helping the contras is the best way to insure democratization. To Mr. Arias, the rebels are no solution; they are the problem, giving the Sandinistas cause for foreign sympathy and a pretext for repression.

Behind the jockeying lies Mr. Reagan's deeper reluctance for any kind of compromise that leaves the Sandinistas in power. That reluctance has doomed past peace initiatives from even being explored. There is no evidence even now that he has changed his mind.

Yet there are stirrings that encourage the plan's supporters. The Administration has been rocked by the Iran/contra affair; future aid for the contras is chancy. Pragmatists have gained in a White House staffed by Howard Baker.

Additionally, the Soviet Union has sharply cut oil shipments to Nicaragua. The difference will probably be made up by Mexico and Venezuela, giving them leverage. Since Nicaragua is nearly broke, it has an incentive for compromise, providing—and this is the catch—that Mr. Reagan is willing to end aid to the contras.

The Sandinistas have long said they are ready to ban foreign bases and accept policing of frontiers. But they adamantly rule out direct dealings with the contras and have long refused to accept an election process that jeopardized their power.

Much as Nicaragua's neighbors fear the Sandinistas, they are at least equally repelled by the contras. Mr. Reagan has so far refused to acknowledge this unpalatable truth, putting all his chips on the contras, an increasingly bad bet. If he wants to rescue his barren Central American policy, he'd better begin soon, by breathing life into the only plausible peace plan around.

Otherwise, Americans are bound to conclude that his real aim is not to explore peace but to pass an undeclared war on to his successor.

Mr. SANFORD. 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 role.

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

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

20-MINUTE RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate recessed at 1:40 p.m. until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROCKEFELLER).

MAKING A MOCKERY OF U.S. TRADE LAWS

Mr. HOLLINGS. Mr. President, next week the Senate will turn its attention to major trade legislation. It is high time. The fact is, our Nation is in the fourth quarter of a game for all the marbles. And we're not talking touch football here. We're talking about a bare-knuckles international competition for jobs, for standard of living, and for national security.

Looking ahead to that crucial trade debate, Mr. President, I ask unanimous consent that an article titled "Shell Game at the Docks," from the June 29, 1987, issue of Forbes magazine, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HOLLINGS. Mr. President, this article presents additional dramatic evidence of the pervasive flouting of U.S. laws by our so-called trade partners in order to seize illegal shares of the American domestic market. It documents the various shell games and subterfuges employed by other countries on a routine basis to export illegally to the United States.

Mr. President, the fact is, our Government's ability to control the flow of illegal imports is about on par with its ability to control the stream of illegal aliens coming across the Rio Grande. In the textile industry, alone, the Customs Service estimates that a whopping $5.5 billion in unreported imports slip across our borders each year. The total injury from all illegal imports is even more shocking: $3 billion in lost customs duties, $19 billion in lost sales by U.S. firms, $8 billion to $12 billion in lost national output, and nearly a half million lost jobs.

Many times I have taken the floor, Mr. President, to speak out about the textile industry, about how it is being eroded and, indeed, destroyed by the predator trading practices of our competitors. The most recent trade figures, for the month of April, show an acceleration of the assault on U.S. textiles. The textile trade deficit for April was $1.83 billion—a disastrous 34-percent increase over the same period last year. For the first 4 months of 1987, the textile trade deficit stood at $7.6 billion—a 21-percent increase over the first 4 months of last year.

Mr. President, we are not talking here about an industry of antiquated factories and overpaid workers. On the contrary, the Office of Technology Assessment has determined that the U.S. textile industry, measured in terms of output per person-hour, is among the most productive in the world. It has remained in the forefront of technology and innovation.

Mr. President, we have numerous bilateral trading agreements with our trading partners, agreements designed to create an orderly market for textile and apparel products. These arrangements were entered into freely. But they have been neither respected by our competitors nor enforced by our own Government. This situation has outraged and bewildered the hard-working men and women of the American textile industry. With good reason, they wonder whose side our Government is on. How many more factories, how many more jobs is the administration willing to sacrifice on its altar of so-called free trade?

Mr. President, I will have much more to say on this subject in the debate that lies ahead. In the meantime, I urge my colleagues to read the Forbes exposé. It is a refreshing antidote to our national naivete, our tendency to assume that other nations share our sense of fair play and our respect for the rules of the game. This is simply not the case.

As a simple matter of national pride and dignity, the time has come to draw the line. We should not slam the door on legitimate trade. But neither should we continue as doormat of the world trading community.

EXHIBIT 1

SHELL GAME AT THE DOCKS

(By Gary Slutsker)

Washington is talking tough these days with its trading partners, but so what? Foreigners are becoming so adept at sidestepping antidumping restrictions enforced by the overworked and understaffed U.S. Customs Service as to render the rules toothless. From steel to textiles, from paint brushes to copper sheets, imported goods keep pouring in at their old, low prices, unburdened by punitive duties.

Take steel, which is covered by voluntary restraint agreements enacted by Japan and the U.S. in 1984. Imports from Japan have declined sharply from their alltime high in 1976. But plenty of Japanese-made goods are being transshipped through Canada, whose steel exports to the U.S. have nearly doubled since 1982, and in the first quarter of 1987 stood neck and neck with Japan's.

Steelmakers from Japan and other countries ship the goods to Canada, where enough "value" is added to the product that it then technically qualifies as Canadian steel. [Adding value can involve as much transformation as turning steel into cars, or as little as putting a bend in galvanized steel sheets.] Either way, the exporters defeat the whole point of the dumping restrictions—which is to keep unfairly low-priced goods out of the U.S.

Japanese pipe manufacturers are using the same sort of gimmick, shipping industrial pipe first to Thailand where it is threaded, then on to the U.S. free of import quotas enacted in 1985 on the Japanese product. Customs officials have even counted into official import statistics steel from Nepal, which does not have the capacity to produce steel.

It's the same story in other markets, as well. After new trade restrictions on copper alloy sheet went into effect last December, imports immediately went down from countries covered by the new rules, including France, Italy and Brazil. But imports from Switzerland and Argentina—neighboring countries which do not happen to be covered by the trade restrictions—went up dramatically.

Normal market reaction? Not according to Joseph Mayer, president of the Copper & Brass Fabricators Council. Says he: "That is totally inconsistent with what we know of their capacity and their commercial dealings. That kind of switch doesn't happen in that amount of time."

An alternative to the transshipment ploy involves getting an exemption from an antidumping order. If a company covered by such a rule sells at fair market value for two years, it can then often get an exemption from the Commerce Department by pledging not to go back to dumping in the future. The convenient thing about an exemption is that the Commerce Department doesn't normally review exempted companies to see if they are honoring their word.

"Everybody knows the game plan," says James Conner, executive vice president of American Yarn Spinners Association, a Gastonia, N.C.-based trade group. "You get the exemption and then start dumping all over again—and no one checks up on you."

All this is happening for a simple reason: The U.S. Customs Service, which is charged with enforcing more than 1,000 trade laws, duties and quotas at the nation's ports and gateways, doesn't have enough people or money to do the job. Between 1980 and 1986 the staff at Customs, including inspectors and import specialists, dipped slightly, from 13,820 to 13,552, while total U.S. merchandise imports rose 50%, from $250 billion to $368 billion.

"We don't pretend to investigate every shipment—there's no need to," says John O'Loughlin, director of trade operations for U.S. Customs. In fact, Customs focuses most of its attention on shipments of goods covered by some sort of import restriction, with textiles and steel at the top of the list.

That kind of hit-or-miss approach hardly inspires confidence in executives in industries seeking protection from foreign dumpers. "You can win an antidumping case in court, then lose everything if you don't have proper enforcement of the dumping order by government," says David Hartquist, partner at Collier Shannon Rill & Scott, a Washington law firm with a large international trade practice. "The first thing we do after we win a case is go to Customs and tell them they can expect efforts to circumvent duties."

To get action, more companies are thus hiring private investigators to dig up evidence of dumping, then handing over the research to the government for prosecution. But even when fraud is uncovered, there is no assurance that the Justice Department, which is also overworked and understaffed, will act decisively on the information.

Explains trade law attorney John Greenwald, partner at Wilmer, Cutler & Pickering in Washington, D.C.: "Customs fraud is not high on most U.S. attorneys' priorities. They have other criminal activities that attract much more attention."

Let's face it: Beating U.S. trade barriers just doesn't rank with drug running, money laundering or even insider trading as a crime against humanity. So don't look for anything like fanatical enforcement. One more argument against reliance on trade barriers to keep the U.S. competitive.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:56 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 86. Joint resolution to designate October 28, 1987, as "National Immigrants Day."

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 281. An act to amend the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry; and

H.J. Res. 284. Joint resolution designating the week beginning June 21, 1987, as "National Outward Bound Week."

MEASURES REFERRED

The following joint resolution was read the first and second time by unanimous consent, and referred as indicated:

H.J. Res. 284. Joint resolution designating the week beginning June 21, 1987, as "National Outward Bound Week"; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 281. An act to amend the National Labor Relations Act to increase the stability of collective bargaining in the building and construction industry.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 18, 1987, the following reports of committees were submitted on June 18, 1987, during the adjournment of the Senate:

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1394. An original bill to authorize appropriations for fiscal year 1988 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes (with additional views) (Rept. No. 100-75).

By Mr. CHILES, from the committee of conference:

Report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 93) setting forth the congressional budget for the United States Government for the fiscal years 1988, 1989, and 1990 (Rept. No. 100-76).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD (for Mr. LEAHY), from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 512, to promote the export of United States agricultural commodities and the products thereof, and for other purposes (with additional views). (Rept. No. 100-77)

By Mr. GLENN, from the Committee on Governmental Affairs:

Report to accompany S. 328, 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 (with additional views). (Rept. No. 100-78)

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. HECHT (for himself, Mr. PROXMIRE, Mr. BAUCUS, Mr. COHEN, Mr. HEINZ, Mr. HUMPHREY, Mr. MITCHELL, Mr. REID, and Mr. WIRTH):

S. 1395. A bill entitled "The Nuclear Waste Transportation Act of 1987"; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. 1396. A bill to amend the Unfair Competition Act of 1916 and Clayton Act to provide for private enforcement of the Unfair Competition statute in the event of unfair foreign competition, and to amend title 28 of the United States Code to provide for private enforcement of the Customs fraud statute; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. THURMOND, Mr. NUNN, Mr. DOLE, Mr. EXON, Mr. COHEN, Mr. MCCAIN, Mr. ADAMS, Mr. ARMSTRONG, Mr. WARNER, and Mr. STEVENS):

S. 1397. A bill to recognize the organization known as the Non-Commissioned Officers Association of the United States of America; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 1398. A bill to amend title 10, United States Code, to clarify the authority of the Secretary of the Air Force to permit female members of the Air Force to receive fighter

pilot training; to the Committee on Armed Services.

By Mr. SHELBY:

S. 1399. A bill to prohibit the importation of products of the Toshiba Corporation, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE:

S. 1400. A bill to suspend the duty on cultured pearls until January 1, 1991; to the Committee on Finance.

By Mr. DECONCINI (for himself, Mr. PRYOR, Mr. ADAMS, Mr. BUMPERS, and Mr. SIMON):

S. 1401. A bill to restore, on an interim basis, certain recently amended procedures for determining the maximum attorney's fees which may be charged for services performed before the Secretary of Health and Human Services under the Social Security Act and to require a report by the Secretary of Health and Human Services regarding possible improvements in such procedures; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. HARKIN, Mr. MITCHELL, Mr. MATSUNAGA, Mr. WEICKER, Mr. STAFFORD, Mr. INOUYE, Mr. SIMON, and Mr. BURDICK):

S. 1402. A bill to amend title VIII of the Public Health Service Act to establish programs to reduce the shortage of professional nurses; to the Committee on Labor and Human Resources.

By Mr. MCCONNELL:

S.J. Res. 166. A joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, Presidential, and State elections; 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. DOLE (for himself, Mr. LUGAR, Mr. MELCHER, Mr. BOSCHWITZ, Mr. BOREN, Mr. PRESSLER, Mr. SYMMS, Mr. BAUCUS, Mr. BURDICK, Mr. GORE, Mrs. KASSEBAUM, Mr. KARNES, Mr. DASCHLE, Mr. EVANS, Mr. COCHRAN, Mr. DURENBERGER, Mr. PRYOR, Mr. NICKLES, Mr. CONRAD, Mr. BENTSEN, Mr. BOND, and Mr. THURMOND):

S. Res. 237. A resolution to express the sense of the Senate that it is in the best interests of United States wheat producers to immediately receive the details of the 1988 Wheat Program and that the program should include no more than a 27½ percent acreage limitation level; considered and agreed to.

By Mr. D'AMATO (for himself Mr. DIXON, Mr. DECONCINI, Mr. HATCH, Mr. DOLE, Mr. TRIBLE, Mr. SPECTER, Mr. MOYNIHAN, Mr. SARBANES, Ms. MIKULSKI, Mr. KASTEN, Mr. MITCHELL, Mr. NICKLES, Mr. WILSON, Mr. REID, Mr. MCCAIN, Mr. BOND, Mr. MCCONNELL, Mr. ARMSTRONG, Mr. PRESSLER, Mr. KARNES, Mr. THURMOND, Mr. HECHT, Mr. MURKOWSKI, Mr. SYMMS, Mr. GRASSLEY, Mr. BOSCHWITZ, Mr. HELMS, Mr. HEINZ, Mr. COHEN, Mr. STEVENS, Mr. DOMENICI, Mr. QUAYLE, Mr. WEICKER, Mr. BUMPERS, Mr. BINGAMAN, Mr. DODD, Mr. SIMPSON, Mr. COCHRAN, Mr. WARNER, Mr. BREAUX, Mr. RUDMAN, Mr. HUMPHREY, Mr. DURENBERGER, Mr. PROXMIRE, Mr. HOLLINGS, Mr. LEAHY, Mr. WALLOP, Mr. JOHNSTON, Mr. INOUYE, Mr. STAFFORD, Mr. ROCKEFELLER, Mr. CRANSTON, Mr. HEFLIN, Mr. CONRAD, Mr. DANFORTH, Mr. KERRY, Mr. BENTSEN, Mr. MATSUNAGA, Mr. NUNN, Mr. HARKIN, Mr. SHELBY, Mr. GRAMM, Mr. GARN, Mr. CHILES, and Mr. LAUTENBERG):

S. Con. Res. 62. A concurrent resolution expressing the insistence of the Congress on the extradition of Mohammed Hamadei to the United States for trial in connection with the murder of Navy Diver Robert Stethem and the opposition of Congress to any trade of Mohammed Hamadei for West German nationals being held hostage; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HECHT (for himself, Mr. PROXMIRE, Mr. BAUCUS, Mr. COHEN, Mr. HEINZ, Mr. HUMPHREY, Mr. MITCHELL, Mr. REID, and Mr. WIRTH):

S. 1395. A bill entitled the "Nuclear Waste Transportation Act of 1987;" to the Committee on Environment and Public Works.

NUCLEAR WASTE TRANSPORTATION ACT

Mr. HECHT. Mr. President, today I am introducing a bill to give direction to the Department of Transportation, and other affected Federal agencies, regarding the transportation of high level nuclear waste. I am pleased to be joined by Senators PROXMIRE, BAUCUS, COHEN, HEINZ, HUMPHREY, MITCHELL, REID, and WIRTH in this effort.

Under the provisions of this legislation, Mr. President, once nuclear waste leaves commercial nuclear powerplants, where it is generated, it will go directly to a monitored retrievable storage facility or a permanent repository.

Either way, this waste will be passing through most of the States of this country, and therefore the transportation issue should concern every Senator. When Congress passed the Nuclear Waste Policy Act of 1982, little attention was given to the transportation issue. We now realize that the transportation aspects of the nuclear waste issue may actually hold the greatest potential risk to the public health and safety.

My bill, the Nuclear Waste Transportation Act of 1987, takes a positive approach to the two major problem areas of the transportation issue.

First, the bill contains provisions to improve the safety of the packages used to carry nuclear waste. It provides for improved standards and testing for the casks that will carry nuclear waste. The bill directs that tests of cask design be actual tests, not computer simulations, tests with scale models, or mathematical analyses. Public health, and public confidence, require us to carry out full-scale tests on these waste containers. If we wish to assure our citizens that these containers are safe, we need to be able to "kick the tires."

Second, my bill mandates important steps to give local governments a more significant role in nuclear waste transportation. It makes it easier for local governments to route waste shipments to avoid our cities. It provides for the training of local public safety officials so they can effectively deal with any incidents that might take place involving nuclear waste transportation. Finally, the bill enhances the ability of local governments to stay informed about the timing of nuclear waste shipments.

Mr. President, the time has clearly come for our country to seriously debate how we want nuclear waste transported. We cannot sit back and wait until a monitored retrievable storage facility is built or a repository has been chosen. The Department of Energy is already exploring designs for waste containers.

If we, the representatives of the American people, want to be able to influence the transportation of nuclear waste, we should take action during this Congress. I therefore encourage my colleagues to support the bill I have introduced today, so we can start moving on this important issue.

I would like to offer my special appreciation to Senator PROXMIRE and Ruth Fleischer of his staff for their able assistance in drafting and promoting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my statement.

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

S. 1395

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

SECTION 1. SHORT TITLE.

This Act may be known as the "Nuclear Waste Transportation Act of 1987".

SEC. 2. AMENDMENT TO THE HAZARDOUS MATERIAL TRANSPORTATION ACT.

The Hazardous Materials Transportation Act (49 U.S.C. 1801) is amended by inserting the words "subtitle A—Hazardous Materials" after section 103, and by inserting the following new subtitle after section 115:

"SUBTITLE B—TRANSPORTATION OF HIGH LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

SEC. 119. SHORT TITLE.

This Act may be known as the "Nuclear Waste Transportation Act of 1987".

SEC. 120. DEFINITIONS.

For purposes of this Act—

(1) The terms 'high level radioactive waste', 'Indian tribe', 'State', 'repository', 'spent nuclear fuel', and 'test and evaluation facility', have the same meaning given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101);

(2) the term 'corridor' means the area or route traversed by a particular mode of transportation; and

(3) the term 'person' includes a government entity.

TRANSPORTATION PACKAGES

SEC. 121. ACTUAL TESTS REQUIRED.

A package design shall be certified by the Nuclear Regulatory Commission and adopted by the Secretary of Energy and the Secretary of Defense only after it has been proven in actual tests on full-scale packages, not simulated tests, tests on scale models, or engineered analyses.

SEC. 122. REPORT TO CONGRESS.

The Secretary of Energy shall review the packages used by other nations, and report to the Nuclear Regulatory Commission and the Congress within one year of the date of enactment of this Act as to any case where the design standards directed under this Act, or additional standards recommended by the Secretary, are less safe than those imposed by other nations. The Secretary's report shall explain how the foreign standard is safer, and recommend whether that standard should be adopted for packages to be used in the United States. If the Secretary concludes that safer foreign standards need not be adopted in the United States, the report shall explain his reasoning in this regard.

SEC. 123. PACKAGE LICENSING.

As of the date of enactment of this Act, no high level radioactive waste or spent nuclear fuel may be transported by or for the Secretaries of Energy, Defense, or Transportation except in packages that have been certified for such purposes by the Nuclear Regulatory Commission.

SEC. 124. DESIGN STANDARDS.

Within 180 days of the date of enactment of this Act the Nuclear Regulatory Commision shall conduct public hearings on the adequacy of the design standards and tests for packages used in the transportation of high level radioactive waste and spent nuclear fuel.

TRANSPORTATION PROCEDURES

SEC. 130. MODES OF TRANSPORTATION

In selecting routes for the shipment of high level radioactive waste and spent nuclear fuel the Secretary of Transportation is encouraged to give preference to rail transportation, unless another mode is determined by the Secretary to be safer.

SEC. 131. TRANSPORTATION LICENSING.

(a) The Secretary of Transportation, after providing opportunity for public comment, shall establish a licensing program for all persons involved in the transportation of high level radioactive waste or spent nuclear fuel. Persons must satisfy the requirements of this licensing program before transporting spent nuclear fuel or high level radioactive waste.

(b) A license may be granted by the Secretary under this section upon application made in accordance with this section. Each application shall include—

(1) an emergency response and mitigation plan as provided in subsection c;

(2) a hazard/risk assessment of the corridor assessing the physical impacts that affect the risk of transporting in that corridor;

(3) an environmental analysis, if required by the Secretary;

(4) an analysis of alternate corridors including a comparison of risks and hazards;

(5) evidence that a notice of application has been sent to corridor States and affected tribes, and that such States and tribes have been consulted on corridor selection;

(6) sufficient information to determine the need for the shipment of waste or spent fuel; and

(7) proof of financial responsibility.

(c) Each application for a license to transport high level radioactive waste or spent nuclear fuel shall include an emergency response and mitigation plan outlining procedures to be taken in the event of a release or potential release or radioactive waste. Such procedures shall include—

(1) emergency tactics for investigation and monitoring;

(2) emergency medical and hospital procedures;

(3) containment and decontamination procedures for an accidental release of radioactive waste to the environment;

(4) decontamination procedures for public and emergency response personnel;

(5) cleanup procedures;

(6) coordinated response procedures with affected States, tribal, and local entities; and

(7) resource identification and accessibility. (d)(1) Prior to issuing a license to transport high level radioactive waste or spent nuclear fuel, the Secretary shall prepare an environmental analysis which shall include a detailed statement of the basis for the Secretary's decision and the probable impacts. Such an environmental analysis shall include, at a minimum—

(A) a comparison of the relative hazards and risks of alternative routes, modes, and timing of transportation;

(B) an evaluation of the emergency preparedness of States, local communities, and affected Indian tribes along the selected corridor;

(C) a description of the physiographic features along the selected corridor, especially those which might hinder recovery, containment, and cleanup of an accident involving the transportation of waste; and

(D) an evaluation of the environmental and human health effects of a release of high level radioactive waste during transport.

(2) To the extent necessary to protect public health and safety and the environment, the Secretary shall impose reasonable and prudent restrictions on the shipper based on the environmental analysis, which will either minimize the risk of an accident or enhance the containment and cleanup of an accident, or both.

SEC. 132. ROUTING THROUGH URBAN AREAS.

(a) The Secretary of Transportation shall not approve a route for the transportation of high level radioactive waste or spent nuclear fuel through an area designated by the Bureau of the Census as an urbanized area, if the Governor of the affected state, at the request of an affected local government, recommends to the Secretary a significantly safer route. The local government need not demonstrate that exceptional circumstances or unique physical conditions exist, only that an alternate route is significantly safer.

(b) For purposes of this section, a significantly safer route is one which is determined by the Secretary of Transportation to be characterized by a statistically significant lower probability of an accident occurring which would result in personal injury or property damage. Differences in travel time, time of day of travel, population size, physical condition of the routes, emergency response capabilities of the affected jurisdictions, and the frequency of changes in modes of transportation, must be taken into account in analyses intended to compare the safety of various routes.

(c) The Secretary of Transportation shall simultaneously work with all State and local jurisdictions along a transportation corridor to develop the best overall route and to most efficiently address the effect of an alternate route proposed by one jurisdiction on the route contemplated through adjacent jurisdictions.

SEC. 133. FEDERAL RESPONSIBILITY TO LOCAL GOVERNMENTS.

(a) The Secretary of Transportation shall provide training for public safety officials of units of general local government through whose jurisdiction the federal government plans to transport high level radioactive waste or spent nuclear fuel. Training will cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations.

(b) Unless the Governor of the affected State certifies to the responsible federal agency that he does not desire the prenotification of local governments provided by this subsection, the responsible federal agency shall provide notice to the designated public safety official of units of general local government through whose jurisdiction the federal government plans to make unclassified shipments of high level radioactive waste or spent nuclear fuel, as follows:

(1) Initial written notice indicating the approximate date of transportation through the local government's jurisdiction is to be provided no less than 7 days prior to the date of transportation; and

(2) Final written notice indicating the date and approximate time of transportation through the local government's jurisdiction is to be provided no less than 72 hours prior to the approximate time of transportation.

(c) The Secretary of Energy and the Secretary of Defense shall abide by regulations of the Nuclear Regulatory Commission regarding advance notification of state and local governments prior to transportation of high level radioactive waste or spent nucler fuel.

SEC. 134. RIGHTS OF STATES AND INDIAN TRIBES.

States and Indian tribes may impose regulations for—

(a) implementation of inspection, surveillance, and enforcement permits;

(b) establishing fees designed to pay the cost of nuclear safety transportation programs;

(c) accident and incident reporting;

(d) advance notification of shipments;

(e) development or designation of alternate routes;

(f) identification of safe havens;

(g) driver certification requirements; and

(h) monitoring, containment, cleanup, and decontamination procedures.

SEC 135. PROMPT RESPONSE TO LICENSE APPLICATIONS.

The Secretary of Transportation shall—

(a) not later than 45 days after the receipt of an application for a license undr section 131 of this Act, notify the applicant whether such application is complete; and

(b) not later than 120 days after notifying the applicant involved that an application for a license under Section 131 of this Act is complete, issue such a license or notify such applicant that such application is rejected.

SEC. 136. FUNDING.

Funds for the work performed by federal agencies under this Act shall be derived from available appropriations from the Nuclear Waste Fund.

Mr. PROXMIRE. Mr. President, I am pleased to join with Senator HECHT in introducing new legislation regulating nuclear waste transportation. This bill is a modification of S. 1008 which I first introduced in 1985. In addition, our new bill adds sections on transportation package safety, preference for rail transport over other modes and preferences for nonurban routes as long as such routes are significantly safer.

Our bill amends the Hazardous Materials Transportation Act [HMTA] and creates an effective Federal-State scheme of transportation regulation in an increasingly important area. The current Federal system of nuclear transportation doesn't measure up, yet the hazardous Materials Transportation Act and Atomic Energy Act preempt States from acting themselves. As a result, there is often no regulation at all.

Why am I concerned with this subject? Wisconsin has had unique exposure to nuclear waste transportation. Fully 45 percent of all the nuclear waste transported by truck in the United States moved through Wisconsin. The State also hosted the largest rail shipments by volume yet sent, the 30 shipments of spent fuel which travelled from Northern States Power in Monticello, MN to interim storage in Morris, IL. These recently completed rail shipments point out the need for new legislation on both the State and Federal level.

Although Wisconsin wanted to impose a limited list of health, safety, and environmental protection measures on the utility and its carrier, a Federal court ruled that the Hazardous Materials Transportation Act and the Atomic Energy Act effectively eliminated a role for the State.

This restriction makes no sense. State, not Federal agencies, bear the emergency response burden should accidents occur. And States traditionally are responsible for local transportation health and safety regulation under their police powers. In contrast, the Federal Rail Administration has only a few dozen inspectors for all hazardous cargo nationwide and almost no special nuclear safety regulations. Even worse, because the Interstate Commerce Commission denied the rail industry request for a special nuclear waste tariff, railroads seldom use dedicated trains, the simplest safety measure.

While the United States has not yet suffered any major accidents from highly radioactive cargo, this may be more a result of luck and the relatively small volume of shipments than of an inherently safe transportation system. Within the last year a truck with a nuclear cargo fell into the Snake River in Idaho and a train car carrying nuclear waste was briefly lost in Ohio. Even worse, last October there was an apparent attempt to sabotage one of the trains involved in the Wisconsin shipments.

This bill beefs up Federal regulation of highly radioactive nuclear cargoes while providing a greater role for the States. It places primary responsibility for regulation of nuclear waste transportation in the Department of Transportation as part of the Hazardous Materials Transportation Act while giving significant new powers to the Nuclear Regulatory Commission.

The bill has several parts. First, the lead agency licenses shipments of high-level nuclear materials or spent fuel after analysis of: Relative hazards and risks of alternative routes and transportation modes; evaluation of emergency preparedness; environmental features of the route; factors affecting site cleanup; potential health and safety affects; and need for the shipments.

Second, the bill sets out the rights of States to regulate nuclear shipments. Under its terms, States and Indian tribes can implement requirements for: accident reporting; inspection; fees; advance notice of shipments; cleanup procedures; and other requirements which insure local health, safety, and environmental protection. Narrow interpretations of existing Department of Transportation requirements under the HMTA severely limit States from imposing these kinds of regulations.

Third, the bill requires actual testing of shipping packages and a report to Congress on package standards.

Finally, the bill makes significant changes regarding mode of transportation and routing through urban areas.

Shipments will increase as utilities run out of storage space for spent fuel and the Department of Energy gears up under Nuclear Waste Policy Act. The United States cannot afford to ignore this problem any longer.

● Mr. BAUCUS. Mr. President, the bill that we are introducing today takes a positive approach to the transportation of nuclear waste across our country to safe disposal sites. The transportation of high-level radioactive waste and spent nuclear fuel could potentially affect most States. This legislation provides for more attention to be paid to the transportation of this waste prior to the increase in the number and size of shipments that will occur in the foreseeable future. Aspects of this legislation may serve well as a model in addressing the transportation of other hazardous materials across our States.

This legislation, the Nuclear Waste Transportation Act of 1987, recognizes the potential threat to public health and the environment from the transportation of nuclear waste from its point of origin to either a monitored retrieval storage facility or to a permanent repository. While this activity is inescapable, it can be managed to better safeguard our metropolitan areas.

Current law permits the Federal Government to compel local governments to allow transportation through urban areas unless the local governments can demonstrate that unique physical conditions or exceptional circumstances exist. This is a heavy burden to impose on our cities and towns. This legislation simply requires local government to identify a safer route than the one selected by the Federal Government. Federal agencies are called upon to cooperate with local governments in planning these alternative routes around metropolitan areas.

Local governments will be provided with notice prior to the shipment of high level radioactive waste or spent nuclear fuel unless the Governor certifies that he does not want prenotification. The legislation also calls for the transportation of this waste by rail instead of by truck when possible. Training will be provided to local governments through whose jurisdiction the Federal Government plans to transport these wastes. This training would cover procedures for safe, routine transportation and procedures for dealing with emergency response situations.

Finally this legislation provides States, local governments and Indian tribes with the right to implement permits for inspection and enforcement and the right to establish fees designed to pay the cost of nuclear safety transportation programs.

Within the next several months, more waste material will be transported as the Department of Energy ships material from Washington and Idaho to the waste isolation pilot project in New Mexico. This is an important time for the Federal Government to be sensitive to State and local governments in planning alternative routes around high population centers.

Nuclear and other radioactive wastes travel through Montana. Interstates 90 and 94 are the routes most commonly used in transporting these materials. Billings, Butte, and Missoula are therefore the metropolitan areas where this legislation would have the greatest impact. This legislation gives States the opportunity to work with the Federal agencies to select alternative routes for transporting these hazardous materials. This is an important step in allowing States to play a vital role in protecting public health and environment.

Montanans, as well as all Americans, have a right to know about the hazardous materials that are being transported through their States. States also have a right to a vote in selecting the preferable transportation route in their own metropolitan areas.●

By Mr. SPECTER:

S. 1396. A bill to amend the Unfair Competition Act of 1916 and Clayton Act to provide for private enforcement of the Unfair Competition statute in the event of unfair foreign competition, and to amend title 28 of the United States Code to provide for private enforcement of the customs fraud statute; to the Committee on the Judiciary.

UNFAIR FOREIGN COMPETITION ACT

Mr. SPECTER. Mr. President, I am today introducing a bill which would give American industries direct access to Federal courts to halt promptly the injurious imports of products which are dumped, subsidized, or in violation of our customs laws, and to recover monetary damages for such abuses.

The bill I am introducing today expands upon S. 361, which I introduced on January 21, 1987. S. 361 would provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or customs fraud. The version I introduce today revises the subsidy provision to include a private right of action to allow injured American parties to sue in Federal court for injunctive relief against, and monetary damages from, foreign manufacturers and exporters who receive subsidies, and any inporter related to the manufacturer or exporter. This bill would provide a comprehensive approach to address three of the most pernicious unfair export strategies used by foreign companies against American companies: dumping, subsidies, and customs fraud.

The concept upon which this bill is based benefits from thorough consideration by the Senate. I introduced similar legislation to create a private right of action in the 97th Congress as S. 2167, in the 98th Congress as S. 418, in the 99th Congress as S. 236 and S. 1655, and most recently, in the 100th Congress as S. 361. I also introduced S. 1104 on April 28, 1987, which would amend the Antidumping Act of 1916 to enhance the act's private right of action provision.

I introduce this bill today to provide continuity to prior efforts to obtain a private right of action. Introduction of this legislation also is in preparation for my likely offering of the bill as an amendment to S. 490, the omnibus trade bill.

The need for enactment of this legislation is greater than ever before. The huge trade deficit is intolerable, domestic companies are suffering increasing injury, and thousands of American jobs are lost to illegal imports each year.

This is an effective remedy because it does not address the problem after the fact. It stops goods from coming into this country before they can displace American products and American jobs.

The current regulatory scheme rarely imposes retroactive duties; it merely restricts future dumping. This bill would allow domestic companies to recover damages for injuries sustained when injunctive relief cannot be timely provided or is otherwise inadequate.

We desperately need the vigorous private enforcement this bill would spur if we are to successfully chart a course between the grave dangers of increased protectionism and the certain peril which would result from unabated illegal foreign imports. Accordingly, I urge my colleagues to join me in supporting this bill.

I ask unanimous censent that the bill be printed in the RECORD.

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

S. 1396

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

SECTION 1. PRIVATE ACTIONS FOR RELIEF FROM UNFAIR FOREIGN COMPETITION.

(a) CLAYTON ACT.—Section 1 of the Clayton Act (15 U.S.C. 12) is amended by inserting "section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (39 Stat. 798; 15 U.S.C. 72);" after "nineteen hundred and thirteen;".

(b) ACTION FOR DUMPING VIOLATIONS.—Section 801 of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72) is amended to read as follows:

"SEC. 801. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) such article is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673, et seqq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section—

"(1) Each of the terms 'United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(2) If—

"(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

"(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph),

the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.".

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(c) ACTION FOR SUBSIDIES VIOLATIONS.—Title VIII of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72 et seqq.) is amended by adding at the end thereof the following new section:

"SEC. 807. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) the foreign country, any person who is a citizen or national of the foreign country, or a corporation, association, or other organization organized in the foreign country, is providing (directly or indirectly) a subsidy with respect to the manufacture, production, or exportation of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 705 of the Tariff Act of 1930 (19 U.S.C. 1671d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671, et seq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section, each of the terms 'subsidy' and 'material injury' have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(d) ACTION FOR CUSTOMS FRAUD.—

(1) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1586. Private enforcement action for customs fraud

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) A manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud.".

SEC. 2. ACCORDANCE WITH GATT.

It is the sense of the Congress that the provisions of this section are consistent

with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. THURMOND, Mr. NUNN, Mr. DOLE, Mr. EXON, Mr. COHEN, Mr. MCCAIN, Mr. ADAMS, Mr. ARMSTRONG, Mr. WARNER, and Mr. STEVENS):

S. 1397. A bill to recognize the organization known as the Non Commissioned Officers Association of the United States of America; to the Committee on the Judiciary.

NON COMMISSIONED OFFICERS ASSOCIATION

Mr. CRANSTON. Mr. President, it is with great pleasure that, as the chairman of the Veterans' Affairs Committee, I introduce legislation, S. 1397, to grant a Federal charter to the Non Commissioned Officers Association of the United States of America [NCOA]. I am delighted to be joined on the bill by the ranking minority member of the Veterans' Affairs Committee, Senator MURKOWSKI, two of our committee members, Senators DECONCINI and THURMOND, who also serve on the Judiciary Committee to which the bill will be referred, and our other colleagues, Senators NUNN, DOLE, EXON, COHEN, ADAMS, MCCAIN, and ARMSTRONG.

Since its inception in 1960, NCOA has grown to become one of the largest organizations in the United States representing current and former enlisted personnel. Included in its more than 170,000 members are active, retired, reserve, and veteran noncommissioned and petty officers of the Army, Navy, Marine Corps, Air Force, Coast Guard, and National Guard.

NCOA is a patriotic, fraternal, and benevolent association, organized into nearly 300 chapters in all 50 States as well as 6 other Nations around the world. These chapters are involved in a wide range of activities, including scholarship and national defense foundations, medical trust funds, and veterans employment assistance programs. In my home State of California, the NCOA chapters are deeply involved in a wide range of activities, including civic activities such as working with the Special Olympics.

The NCOA veterans' service program—which includes accredited national service officers—is one of the largest in the Nation. This program assists thousands of veterans each year as well as many thousands of dependents and survivors in applying for benefits and services from the Veterans' Administration and other Federal and State agencies.

The NCOA has an active scholarship program under which nearly $50,000 in scholarships will be awarded this year to the children of noncommissioned and petty officers.

NCOA is also active in employment matters. For example, the association will host 20 job fairs in the United States and Europe during this year to assist veterans and in-service military personnel in obtaining postservice employment. Last year NCOA held a special job fair for handicapped veterans at the U.S. Department of Labor.

Mr. President, NCOA is a most worthy organization which serves not only its members but also the general public. I urge my colleagues to join me in cosponsoring this legislation, and I look forward to working with my colleagues on the Judiciary Committee as that committee considers this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1397

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

CHARTER

SECTION 1. The Non-Commissioned Officers Association of the United States of America, Incorporated, a nonprofit corporation organized under the laws of the State of Texas, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The Non Commissioned Officers Association of the United States of America, Incorporated (hereinafter in this Act referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for servicemembers, veterans, and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. Except as provided in section 8, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and inconformity with the laws of the State in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

NONDISCRIMINATION

SEC. 8. In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

RESTRICTIONS

SEC. 9. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

LIABILITY

SEC. 10. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 11. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 12. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following new paragraph:

"(73) The Non Commissioned Officers Association of the United States of America, Incorporated.".

ANNUAL REPORT

SEC. 13. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 14. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 15. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 16. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

EXCLUSIVE RIGHT TO NAMES

SEC. 17. The corporation shall have the sole and exclusive right to use the names "The Non Commissioned Officers Association of the United States of America", "Non Commissioned Officers Association of the United States of America", "Non Commissioned Officers Association", and "NCOA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section shall be construed to conflict or interfere with established or vested rights.

TERMINATION

SEC. 18. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

By Mr. DECONCINI:

S. 1398. A bill to amend title 10, United States Code, to clarify the authority of the Secretary of the Air Force to permit female members of the Air Force to receive fighter pilot training; to the Committee on Armed Services.

FIGHTER PILOT TRAINING FOR FEMALE MEMBERS OF THE AIR FORCE

● Mr. DECONCINI. Mr. President, it has come to my attention that there exists within this Nation's Armed Forces a situation of unfair and unequal treatment of the sexes. This is a situation which needs to be addressed and rectified at the earliest possible opportunity.

At Shepherd Air Force Base in Wichita Falls, TX, the United States is involved in training NATO Air Force personnel as fighter pilots. The purpose of the Euro-NATO Joint Jet Pilot Training Program is to train the best pilots in the tactics and skills necessary to be effective fighter pilots. These pilots are from every member nation in the NATO alliance and supposedly represent the best that each country has to offer.

In December last year, the program graduated a very special student pilot from the Netherlands. Her name is Nelly Speerstra and she is a lieutenant in the Dutch Air Force. According to the December 18, 1986 issue of the Los Angeles Times, Lieutenant Speerstra completed the yearlong program with over 300 hours of flying time in T-37 and T-38 trainers. She became NATO's first woman combat fighter pilot and a shining example to young women around the free world of the new heights to which women can aspire and achieve. She stated that, upon graduation, she planned to return to the Netherlands to train in the ultra-sophisticated F-16 jet aircraft.

Unfortunately, Mr. President, while Lieutenant Speerstra has become an example for the young women in Europe, her example cannot be followed here in the United States because Federal law prohibits women from entering fighter pilot training programs at Shepherd AFB's Jet Pilot Training School or other schools around the country. Today I am proposing to correct that inequity.

I am introducing legislation which will clarify the authority of the Secretary of the Air Force to permit female members of the Air Force to receive fighter pilot training. With the great advances which women have made in the Armed Forces, and especially in this Nation's space program in the past decade, it is unfortunate that we still inhibit women's growth in certain areas which remain under the rubric of "males-only territory."

Sally Ride, Judith Resnick, and Christa MacAuliffe became synonomous with the U.S. aerospace program and were initimately involved in all of the rigorous aspects of the space shuttle program. Similarly, recently retired rear admiral, Grace Hopper, of the U.S. Navy, proved her skill and dedication to the Navy and the growth of nuclear naval forces at a time when the role of women was limited to the home and certain clerical positions in the office.

In Arizona today, there exists a graduate of Arizona State University—a cadet in the Air Force ROTC Program at that institution—who is attempting to enter the Euro-NATO Joint Jet Training Program. She writes convincingly and eloquently of her desire to become a fighter pilot in the U.S. Air Force.

She cites this program as an important step in achieving her goal of becoming a space shuttle pilot. She wants to serve her country in the Air Force as a pilot and to serve her sex as yet another ground breaker for equal opportunity. This legislation may come too late to assist her in her effort. She may ultimately be found to be ill suited to this particular program, but I strongly feel that she—and others like her—should not be denied the chance to test herself and prove herself.

I wish to clarify certain issues at this point, before I ask unanimous consent that the bill and certain other items be printed following the completion of my statement. I want it understood that I continue to believe that women should not be placed in combat situations and that they should not be drafted.

I also am not seeking changes in the manner in which students are chosen for this type of training. If a women wishes to enter the program, she must qualify for the program and meet all the requisite requirements before she begins her training. This is meant to maintain the high standards of the program and the integrity of the applicants. I repeat that no special allowances are being sought through this legislation.

If a woman qualifies for the fighter pilot training program, satisfactorily completes her training and graduates, what—one might ask—comes next? If she is barred from combat, how shall she use her skills? My ultimate hope is that no graduates of these programs ever have to use their skills in actual combat situations. She would not use her skills in combat, but they could be put to use training other qualified pilots—both men and women. And I am certain there are other creative and practical uses for skilled fighter pilots of both sexes.

Mr. President, let us remove yet another hurdle impeding the advancement of women who wish to serve their Nation. Other nations, both NATO and non-NATO, allow women to answer the call to serve. Why should this nation limit the opportunities available to all citizens to serve their country. I ask unanimous consent that the bill, an article from Los Angeles Times and two letters from constituents in Arizona be printed at this point in the RECORD.

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

S. 1398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8549 of title 10, United States Code, is amended by adding at the end the following new sentence: "However, nothing in this title shall be construed to prohibit female members of the Air Force from receiving fighter pilot training.".

[From the Los Angeles Times, Dec. 18, 1987]

NATO PILOT JUST ONE OF THE GUYS

"I don't feel very special. I just did everything the guys did," said Lt. Nelly Speerstra, 23, of Holland. And what the guys did was to complete the yearlong Euro-NATO Joint Jet Pilot training program at Shep-

pard Air Force Base in Wichita Falls, Tex. Speerstra, who collected more than 300 hours of flying time in T-37 and T-38 trainers, received her wings at the base, becoming the North Atlantic Treaty Organization's first woman combat fighter pilot. "I love to fly," she said, "especially the low-level flying with sharp turns," She will soon return to the Netherlands, where she will receive a year of training in the ultra-sophisticated F-16 jets. The shy, soft-spoken woman said she had a few problems in cracking into one of the world's most exclusive men's clubs. "From the very beginning, the other students totally accepted me," she said.

TEMPE, AZ,
January 30, 1987.

Hon. DENNIS DECONCINI,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR DECONCINI: I am an AFROTC cadet at Arizona State University. After receiving my commission as a second lieutenant in the United States Air Force, I will attend pilot training at one of six bases in the United States. At the present time, US Air Force female pilot candidates are allowed to attend pilot training at only five of the six bases. These bases train pilots through a program called Undergraduate Pilot Training (UPT). The sixth is Shepherd AFB in Texas. It is the home of Euro-Nato Joint Jet Pilot Training (ENJJPT). I would like the opportunity to be assigned to this base if I am qualified.

ENJJPT's mission is to train officers from the United States, Europe, and other NATO countries to be fighter pilots. Our country's laws about women in the military prohibit female pilot candidates from attending ENJJPT and becoming fighter pilots. The United States has been a world leader in giving its women opportunities to serve and excel in the military. However, ENJJPT's first female graduate last December was from the Netherlands and not the United States.

The opportunity to fly for the United States in a military capacity is one I do not take lightly. My goals are to be the best officer, leader, and pilot that I am capable of being. If given the opportunity, I could be a great ENJJPT graduate. If not ENJJPT, then a great UPT graduate. Without breaking any of the Federal Laws prohibiting women from combat, I believe that women could successfully serve as instructor pilots in fighter aircraft and/or aggressor pilots. Aggressor pilots fly fighter aircraft in mock air combat against regular USAF squadrons in dissimilar air combat training. I would very much like the opportunity to fly in either of these roles.

I so deeply believe in these goals that I would give up an active duty assignment after graduating from pilot training to fly with an Air Force Reserve unit. At the present time, the Air Force is looking for AFROTC cadets to transfer into the Reserve or Air Guard to save money. Although the Reserve and Guard units are bound by the same laws as the Regular Air Force, there still lies the possibility of becoming fighter instructor pilot. I would seriously consider taking this option if I could be assigned to a fighter unit.

Serving my country as an Air Force Officer and future pilot will be a great honor for me. The opportunity to serve is a committment I take very seriously. To serve means to take orders from those lawfully appointed over me and if it is in the best interests of our country that my service is in a support role flying transports and tankers, then I will do my duty and provide that support. Please consider giving me and other women the opportunity to attend ENJJPT, become fighter pilots, and/or aggressor pilots. If I am too late for myself, please pave the streets of opportunity for future aspiring and dedicated young women.

Very respectfully,

JAMIE E. CONTES,
Cdt. Lt. Col. AFROTC.

June 7, 1987.

DEAR SENATOR DECONCINI: I saw on television last Sunday an Air Force Combat Fighter Pilot Instructor Lt. Sheila O'Grady. Before becoming a Combat Fighter Pilot Instructor she was a test pilot for General Dynamics. After being rejected by the Air Force Academy twice she was finally admitted and finished at the top of her class.

But I was infuriated beyond belief when I found out that she was being held back from becoming a combat fighter pilot herself because she is a woman.

How long must this Stone Age mentality continue? She obviously is a better pilot than the man she is training. This is a gross injustice to Lt. O'Grady and a deliberate waste of American womanpower.

I can understand that no woman is presently allowed combat rolls in the Army because many situations require the brute physical strength of a man's body, such as pushing a stuck jeep out of mud in a combat zone. But flying F-16s in combat requires brains, not strength. Lt. O'Grady has already flown F-16s as a civilian. It is absolutely insane to hold back this woman and other woman pilots from combat fighter pilot status.

I am sure that many Americans would be outraged if they knew of the unfair roadblock against Lt. Sheila O'Grady. Other nations, such as the Soviet Union, Israel, and now Holland have proven that womanpower is equal to manpower in many ways. Please use all of your influence in Congress to end this injustice to American women who aspire to serve their country as combat fighter pilots.

Most sincerely yours,

DON JORDAN●

By Mr. SHELBY:

S. 1399. A bill to prohibit the importation of products of the Toshiba Corp., and for other purposes; to the Committee on Finance.

TECHNOLOGY TRANSFER ENFORCEMENT ACT

Mr. SHELBY. Mr. President, over the past several days, we have learned of a serious threat to our national security.

Since 1979, a Japanese company, the Toshiba Machine Co., and a Norwegian Company, Konsberg have engaged in the diversion of submarine propeller quieting technology to the Soviets. This technology, has enabled the Soviet Union to equip their submarines with propellers allowing them to operate virtually undetected.

Mr. President, this illegal sale has caused irreperable harm to our national security.

Our submarine superiority, to date, has been the cornerstone of our Navy's maritime strategy of forward deployment. Mr. President, this illegal sale undermines this strategy immeasurably. As a member of the Armed Services Committee, I have received testimony this year regarding Soviet submarine forces. The Soviets have made a top military priority, improvement of their submarine fleet. The Soviets have produced 7 new attack submarine classes and 3 new strategic submarine classes in the past 10 years. This signifies remarkable advances for the Soviets.

And now, with these quieter propellers, Soviet submarines will be able to patrol within the United States 12-mile territorial limit undetected. This places Soviet missiles within 10 minutes flying time to United States targets.

Mr. President, to counter the Soviet advances made possible by these sales, the United States would be obliged to spend millions of dollars—money we just do not have.

The United States Government has abided by the principles of Cocom, the Coordinating Committee of Export Control, made up of NATO and Japan. Under Cocom's charter, sales of high technology equipment to Communist nations are restricted. Further sales of restricted technology will increase the challenge to U.S. security, and Cocom seems helpless to prevent them.

Mr. President, I am appalled that these Western companies would compromise the military superiority and security of the West for the sake of just one more sale; one more dollar.

Mr. President, today I am introducing legislation that would prohibit the importation to the United States of products manufactured by the Toshiba Corp. or by any of its direct affiliates or subsidiaries. Likewise, my bill would also prohibit the Secretary of Defense from entering into contracts or subcontracts with the Toshiba Corp. or the Norweigan trading company, Kongsberg.

The American people are outraged. Just last night I learned that a corporation in my home State of Alabama, in reaction to these illegal sales, has canceled all future contracts with the Toshiba Corp. I commend this company's display of patriotism.

And Mr. President, I commend my colleagues who have also expressed similar outrage, as the Senator from North Carolina [Mr. HELMS] did earlier today. I urge them and all of my colleagues to cosponsor this legislation and deal swiftly and firmly with this situation.

By Mr. CHAFEE:

S. 1400. A bill to suspend the duty on cultured pearls until January 1, 1991; to the Committee on Finance.

SUSPENSION OF DUTY ON CULTURED PEARLS

● Mr. CHAFEE. Mr. President, today I am introducing a bill to suspend the duty on the importation of cultured

pearls. Cultured pearls are not produced in the United States, and thus this duty is not necessary to protect a domestic industry. Indeed, continuation of the duty is causing additional expenses for domestic industries, specifically the jewelry manufacturers, which use cultured pearls. The jewelry manufacturing industry accounts for over 75 percent of the imports of cultured pearls.

As we are well aware, although the downward trend in the value of the dollar has generally been good for our balance of trade, domestic industries which depend on imports have been hurt by the devaluation of the dollar. While suspending the duty on cultured pearls will not totally compensate for the drop in the value of the dollar, suspension would be an ameliorating factor and not exacerbate the problem for the domestic jewelry industry which is using these imported cultured pearls.

In 1986, the value of imported cultured pearls was $191 million. The four major supplying countries were Japan, $160.9 million; Hong Kong $11.1 million; China, $4.2 million, and Australia, $3.3 million. Japan's share of the total has declined from a high of 91.5 percent in 1983 to 84.5 percent in 1986. Imports from Japan have been declining in recent years primarily in response to the changes in the exchange rate between the dollar and the yen.

Cultured pearls are formed by a physiological reaction occurring when an irritating foreign substance becomes imbedded in the tissues of an oyster or other mollusk. This foreign body is coated with many layers of nacreous material emitted by the oyster and in time becomes a pearl. The only difference between natural and cultured pearls is that the nucleus of a cultured pearl becomes imbedded as an accident of nature. The cultured pearl is the result of an artificial "seeding" process developed in Japan in 1893.

There are many types of mollusks which emit nacre, but only the pearl oyster, the white and blacklip oysters, and a few other species form pearls valued for use in jewelry. It takes 2 to 3 years for the pearl to develop to a marketplace size—about 3 millimeters in diameter.

Although there is no commercial production of cultured pearls in the United States, the irritant used to form cultured pearls is found in the United States. Bits or pieces of the pig-toe mussel shell, found mainly in the waters of the Mississippi and Wabash Rivers are used as the nucleas for pearls by the Japanese cultivators. These shells are desirable because they are a pure form of calcium carbonate which is white in color.

In 1986, pig-toe mussel shells valued at $14 million were exported by US firms. Of this total, 83 percent went to Japan. However, exports of these marine shells declined for the first time in 1986, largely as a result of a 17-percent drop in sales to Japan. An increase in the export of pig-toe mussel shell may also be a welcome by-product of this legislation.

In summary, the duty suspension I am proposing today is warranted because there are no U.S. firms producing cultured pearls, and there are domestic industries which face increased costs as a result of the duty. Industries which are dependent upon imports are already facing higher costs as a result of the devaluation of the dollar. We do not need to continue unnecessary duties which add to their expenses.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD immediately following these remarks.

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

S. 1400

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

SEC. 1. CULTURED PEARLS.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"912.40	Cultivated pearls and parts thereof (provided for in item 741.06, part 6B, schedule 7).	Free	No change	On or before 12/31/90".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.●

By Mr. DECONCINI (for himself, Mr. PRYOR, Mr. ADAMS, Mr. BUMPERS, and Mr. SIMON):

S. 1401. A bill to restore, on an interim basis, certain recently amended procedures for determining the maximum attorney's fees which may be charged for services performed before the Secretary of Health and Human Services under the Social Security Act and to require a report by the Secretary of Health and Human Services regarding possible improvements in such procedures; to the Committee on Finance.

SOCIAL SECURITY ATTORNEYS' FEES

● Mr. DECONCINI. Mr. President, on March 31, 1987, the Social Security Administration's Office of Hearing Appeals issued new policy guidelines regarding the processing of attorneys' fees requests for representatives of Social Security claimant's. The Office of Hearing Appeals bases the proposed change upon the Office of Inspector General report, dated January 14, 1987. The recommendations contained therein support restricting the amount of attorneys' fees to be awarded to successful appellants by the administrative law judges [ALJ's]. Specifically, an internal memorandum of March 31, 1987, from Associate Commissioner Eileen Bradley to all regional and hearing ALJ's, reduces the authority hearing level ALJ's have to award from $3,000 to $1,500. Under the new policy, fees in excess of $1,500 must be sent to the regional ALJ. Also, a $75 per hour guideline has been established as a reasonable fee.

I am deeply concerned that this new policy violates the general intent of Congress when it amended the attorneys' fee regulations of the Social Security Act in 1968 to encourage competent counsel to represent disability claimants. Further, this new restrictive policy violates the specific intent of more recent amendments in 1984 which prohibited the Social Security Administration from the continued application of unconscionable policies with respect to these claims of individuals, many of whom have neither the educational or emotional capacity to adequately represent themselves.

The ultimate question we are faced with is whether this attempt to curb potential abuse of the current attorneys' fee process is genuine, or whether the Office of Hearings Appeals is seeking to deny elderly and disabled individuals a fair hearing of their claims for benefits by reducing their ability to retain adequate legal representation in an attempt to reduce the number of successful claimants. I regret to report that the evidence presented to date shows, as many courts have found, that the Social Security Administration has apparently determined to effect economies by systematically denying disability benefits to those that are entitled to them. Therefore, I must conclude, unless otherwise shown, that this new policy with respect to the review or requests for attorneys' fees is tainted by the continued indifference to these disadvantaged individuals.

Mr. President, prior to the March 31 policy memorandum, there was no guideline as to how much could be charged per hour. If the attorneys' services were concluded at the ALJ level, the fee petition was submitted to the ALJ. The ALJ had no restriction on the amount of attorneys' fee that could be authorized per hour, but the maximum attorney's fee that the ALJ could authorize was $3,000. If the attorney requested a fee in excess of $3,000, the ALJ would forward the request to the regional administrative law judge for ruling.

Virtually all attorneys' fee petitions requested fees of $3,000 or less because either, first, 25 percent of the past-due benefits were less than $3,000; or second, even though 25 percent of the past-due benefits exceeded $3,000, the

attorney would petition $3,000 which represented the maximum of the ALJ's authority in these types of cases. Most, if not all, fee petitions not exceeding $3,000 were summarily granted, including a few that may have been excessive, but were approved by an overworked ALJ that did not have the time to fully review the fee request. Yes, the possibility for abuse existed, but the current policy change is an unsubstantiated overreaction to that threat. The system wasn't perfect and could be improved upon, but it wasn't broke.

Mr. President, immediate action is required to prevent the virtual elimination of the few attorneys that continue to represent elderly, physically disabled and mentally impaired claimants. There is evidence that these new guidelines have already begun to have an effect on the willingness of attorneys around the country to represent SSDI and other Social Security beneficiaries. My office has been contacted by numerous lawyers, Social Security advocates and administrative law judges, all of whom indicate that the new fee guidelines threaten to drive attorneys specializing in Social Security claims into other areas of legal work.

Furthermore, the arguments in support of these changes in policy contradict the very rationale for their implementation. The proposed changes will likely cost more than the imagined savings to claimants. First, there can hardly be any savings to an unsuccessful claimant that couldn't afford or find a competent legal representative to represent them, even though the claim could have been easily and successfully handled by an experienced attorney. Second, the changes necessitate duplication of review for all fee requests exceeding $1,500, and remove the authority to approve the request from the person most likely to have the best and most complete information as to the quality of representation and reasonableness of the fee requested, the ALJ which favorably ruled on the appeal of the claimant. Hence, the financial base upon which to pay all benefits is reduced due to redundancy and unwise delegation of authority to a level too far detached from the basic service level.

Last, I am aware of more than one constitutional challenge which is currently being prepared by various opponents of the policy change. Ironically, the Social Security Administration will very likely be required to reinstate the former policy, and pay thousands of dollars in attorneys' fee to defend itself and pay to the prevailing parties as well as the damages sustained as a result of its' delayed payment of attorneys' fees.

Mr. President, given the apparent satisfaction with the prior guidelines, it defies logic to make such a drastic change in the current system without the benefit of a thorough examination of whether or what kind of changes are actually needed.

The bill my colleagues and I are introducing today would prohibit the implementation of the March 31 policy order. Further, the bill would impose a moratorium on the issuance of new regulations in this area for 1 year, and mandate a study by the Secretary of Health and Human Services of the issues relating to compensation for claimants' representatives, and last, require a report of the findings of that report to the Senate Finance and House Ways and Means Committees. I believe these modest steps will ensure that, pending further investigation, claimants will retain their present rights to secure competent representation and, therefore, a full and fair hearing on their appeals for Social Security benefits.

This bill is virtually identical to a recent measure introduced by Congressman BARNEY FRANK in the House of Representatives, H.R. 2312. I commend Representative FRANK for his leadership in the area. The Senate version expands the scope of the study to be conducted to assure consideration of other alternative methods of payment, such as direct payment of the full retroactive benefits to the attorney and client, and the qualifications and methods of payment for nonattorney legal representatives of Social Security claimants.

Mr. President, I also applaud the leadership of Representative ANDY JACOBS who had the foresight to hold an oversight hearing on this very issue over a month ago. The testimony given before his Ways and Means Subcommittee on Social Security was unanimously in opposition to the March 31 policy memorandum guidelines. This hearing served to educate and mobilize a vast array of senior citizen advocates, and greatly facilitated the development of this most important piece of legislation.

I urge my distinguished colleagues to cosponsor this bill, and the Finance Committee leadership to expedite consideration to prevent further erosion of the rights of Social Security applicants to a full and fair hearing on their claims.

Mr. President, I ask unanimous consent that the full text of the bill be placed in the RECORD.

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

S. 1401

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

SECTION 1. INTERIM RESTORATION OF PROCEDURES FOR ESTABLISHING MAXIMUM FEES FOR SERVICES RENDERED BY REPRESENTATIVES OF CLAIMANTS BEFORE THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) REPEAL OF NEW RULES.—

(1) IN GENERAL.—The provisions of the memorandum of the Associate Commissioner of Social Security, dated March 31, 1987 (relating to revised delegations of authority for administrative law judges to determine fees of representatives) which amend sections 1-220 through 1-226 of the Office of Hearings and Appeals Staff Guides and Programs Digest (commonly referred to, and hereinafter in this Act referred to, as the OHA Handbook) and Interim Circular No. 122 (relating to the determination authority regarding fees for representation of claimants) are hereby null and void.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to determinations of fees made on or after March 31, 1987.

(b) INTERIM RESTORATION OF OLD RULES.—

(1) IN GENERAL.—Determinations of fees for representatives of claimants made pursuant to section 206(a) of the Social Security Act on or after March 31, 1987, and before 90 days after the date of the submission of the report required under section 2 shall be made in accordance with the provisions of—

(A) sections 1-220 through 1-226 of the OHA Handbook,

(B) Interim Circular No. 122 (referred to in subsection (a)(1)), and

(C) all other sections of the OHA Handbook to the extent they relate to fees for representation of claimants determined pursuant to such section 206(a),

as such provisions were in effect on March 30, 1987.

(2) RECONSIDERATION.—Any determination made by or under the Secretary of Health and Human Services on or after March 31, 1987, and on or before the date of the enactment of this Act which was made contrary to the requirements of paragraph (1) shall be immediately reconsidered in accordance with such requirements.

SEC. 2. STUDY RELATING TO POSSIBLE IMPROVEMENTS IN PROCEDURES FOR ESTABLISHING MAXIMUM FEES FOR SERVICES RENDERED BY REPRESENTATIVES OF CLAIMANTS BEFORE THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) STUDY BY THE SECRETARY OF HEALTH AND HUMAN SERVICES.—As soon as possible after the date of the enactment of this Act, the Secretary of Health and Human Services shall undertake a thorough study with respect to the procedures for establishing maximum fees for services rendered by representatives of claimants before the Secretary pursuant to section 206(a) of the Social Security Act. In conducting the study, the Secretary shall solicit comments from attorneys who have served as such representatives.

(b) MATTERS TO BE STUDIED.—(1) In carrying out the study provided for in this section, the Secretary of Health and Human Services shall address, analyze, and report specifically on—

(A) possible changes in the fee authorization and payment processes under section 206(a) of the Social Security Act which—

(i) would produce fees which are more fair, equitable, and consistent and which both protect the economic security interests of claimants and fairly compensate attorney and nonattorney representatives for their services, and

(ii) would simplify such processes to ensure more timely reimbursement for quality services provided by representatives, and

(B) any other matters which the Secretary considers would be relevant and useful to the Congress in considering legislation relating to such processes.

(2) The possible changes to be addressed by the Secretary under paragraph (1)(A) include (but are not limited to)—

(A) withholding the fees of nonattorney representatives from past-due benefits in the same manner in which the fees of attorneys are withheld from such benefits (as described in the fourth sentence of section 206(a) of the Social Security Act), and

(B) issuing reimbursement checks that require the endorsement of the claimant and the representative (and other alternative reimbursement mechanisms).

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the findings of the study provided for in this section, together with any recommendations the Secretary considers appropriate.

● Mr. PRYOR. Mr. President, I am proud to join the distinguished Senator from Arizona [Mr. DECONCINI] and others in sponsoring legislation designed to maintain access to legal representation for Social Security disability claimants. This is an issue of great concern to me, and I urge my colleagues to join in our efforts.

Since the early 1980's I have been concerned about the manner in which the reviews of Social Security disability cases have been conducted. In 1984 the Congress took steps to reform the continuing disability review process, and that legislation is beginning to be implemented by the Social Security Administration [SSA]. Reviews are beginning to come through the pipeline, and in the coming months we will begin to get a better feel for the effectiveness of the changes we legislated.

However, a new concern has arisen with respect to the payment of attorneys' fees for Social Security cases; I believe this issue must be addressed if claimants are to be assured the right to due process throughout the benefit appeals process.

Over the years SSA has made several attempts to alter the attorneys' fees award process. By law SSA holds back up to 25 percent of past due benefits in order to ensure some payment will be available to the attorney. In addition (under current law), an administrative law judge [ALJ] may authorize up to $3,000 in fee payments for a claimant's representative. All petitions over $3,000 until recently were referred to the regional chief ALJ's office for review.

In August 1986 the Department proposed in the Federal Register that SSA be permitted to review attorneys' fee petitions on its "own motion" if there appeared to be an error of fact of improper application of the statute or regulations. There was widespread opposition to this proposal—many saw it as an opportunity for SSA to review and reject attorneys' fee petitions on an ad hoc basis and to further discourage claimant representation. SSA never implemented the change.

In January 1987, the Health and Human Services [HHS] Inspector General issued a report critical of the current attorney fee process. The IG cited problems with inadequate administrative law judge review of fee petitions and excessive fee awards. In response to the report, the SSA Associate Commissioner for Hearings and Appeals issued revised procedures for the handling of attorneys' fees effective March 31, 1987, which limited fee awards to $1,500; anything over $1,500 must be reviewed by a regional chief ALJ. In addition, recommendation was made that fee rates not exceed $75 per hour, the amount stipulated as the maximum Government payment under the Equal Access to Justice Act. These changes were implemented without the benefit of public notice and comment opportunity in the Federal Register.

In testimony before the House Social Security Subcommittee, Associate Commissioner of the Office of Hearings and Appeals Eileen Bradley stated that these changes were "interim" in nature—that the Department was reviewing the attorneys' fees process thoroughly with the goal of publishing proposed regulations by the end of the summer. Associate Commissioner Bradley testified that the IG's proposals do not adequately address the concerns about the fee approval process.

Bradley's testimony raises an important question. If the Department is not satisfied with the IG's recommendations and intends to overhaul the attorneys' fees process, why implement unacceptable "interim" changes? If the Department is not ready, as yet, to deal with this area in a comprehensive manner, why not wait until the prolems can be thoroughly addressed? The Department's action will only serve to further discourage attorneys from representing claimants.

In fact, it is my understanding that a major problem with attorneys' fees in these cases is that the final approval and awarding of a fee takes months beyond resolution of the case. With the imposition of a lower fee threshold for regional office review, even more fee petitions will be subject to review than in the past, further clogging the pipeline for resolution of these cases.

The legislation we are introducing today would take modest steps toward the resolution of the attorneys' fees problem. First, it would prohibit the implementation of the March 31 policy change. In addition, HHS would be prohibited from issuing new regulations regarding claimants' attorneys' fees for 1 year, and the Department would be required to report back to the Ways and Means and Finance Committees a study on issues related to compensation for claimants' representatives.

I believe enactment of this legislation essential to the preservation of claimants' right to adequate representation and a fair review of their cases until such time as the claimants' representatives fee issues can be satisfactorily resolved. I urge my colleagues to join in suport of this action.●

● Mr. ADAMS. Mr. President, I rise in support of this legislation. This is one more chapter in an on-going struggle between the Social Security Administration and Congress over the Social Security Administration's handling of its benefit programs. Congress decided many years ago that the Social Security programs we have today were good public policy. The Social Security Administration does not exist as an entity to save money, or cut costs. It exists to ensure that Government benefits are distributed to eligible recipients as quickly and fairly as possible.

Unfortunately, the Social Security Administration has acted in recent years as if its mission in life is to singlehandedly eliminate the entire Federal deficit by slashing its rolls and making it as difficult as possible for qualified elderly and disabled Americans to receive benefits. Previous attempts to do so have been met with swift congressional resistance. However, the Social Security Administration is regrettably nothing but persistent, and once again Congress is forced to respond.

On March 31, The Social Security Administration's Office of Hearings and Appeals [OHA] issued guidelines limiting allowable attorneys' fees in successful benefit appeals. Under current rules, administrative law judges who presided over a case could award a successful attorney up to $3,000 in fees. Under the recent OHA order, however, allowable attorneys' fees by the ALJ who hears the case would be limited to an amount equal to no more than $75 per hour worked by that attorney up to a limit of $1,500.

I believe that as a result of this rule, many attorneys who do these kinds of cases, which are hardly lucrative at the present time, will no longer be able to do so. This means that claimants, who often have disabilities which limit their functioning, will be forced to make their way through a tortuous application and appeal procedure without assistance. I believe that in many cases persons eligble for benefits will not receive them.

Social Security has every right to make decisions about how persons who represent Social Security claimants should be compensated for their work. Given, however, that Social Security

has designed its application process so that eligible claimants will often not receive the benefits to which they are entitled by law unless they retain qualified representation, modification of the representative compensation rules should be subject to public and congressional scrutiny.

This legislation, I believe, is offered in the spirit of cooperation that should exist between Congress and the Social Security Administration. It does not tell Social Security how to structure its representative compensation process. The legislation merely rescinds an arbitrary internal decision, and asks for a study and report to Congress on this important issue.

One side issue I would like to briefly discuss concerns the matter of compensation of representatives who are not attorneys. The bill directs the Secretary to consider the possibility of withholding the fees of nonattorney representatives from past-due benefits in the same manner in which the fees of attorneys are withheld under current law. At this time this is the only distinction that the official Social Security Federal regulations make between attorney and nonattorney claimant representatives. Nonattorneys can represent claimants, they can charge contingency fees for their services, they can collect the same amount of money as attorneys' the only difference is that they have to collect their fees directly from their indigent clients.

I believe that this entire issue is ripe for reexamination. While there is no substitute for trained legal counsel in any legal or quasi-legal setting, properly trained nonattorneys are capable of providing competent representation in this particular situation. I am aware of several excellent organizations in my State who provide assistance to claimants who are unable to find an attorney.

Under current regulations, all fee awards are approved by either the administrative law judge who heard the case, or one of their supervisers. Because these awards are made mostly by persons with direct experience with the quality of the representative's work, I believe there are sufficient safeguards in place to ensure that fees are awarded only to people who have earned them. There is no reason, therefore, why nonattorney representatives should be forced to go to their former clients for compensation, with all the difficulty and animosity that entails, when Social Security has a withholding mechanism in place.

In addition to the issue of compensation, I am concerned that the regulations as written allow for totally unskilled persons to act as claimant representatives. I encourage the Social Security Administration to use the study mandated in this act as an opportunity to consider methods of ensuring that representatives must be able to demonstrate the minimum skills neccessary for effective representation.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. HARKIN, Mr. MITCHELL, Mr. MATSUNAGA, Mr. WEICKER, Mr. STAFFORD, Mr. INOUYE, Mr. SIMON, and Mr. BURDICK):

S. 1402. A bill to amend title VIII of the Public Health Service Act establish programs to reduce the shortage of professional nurses; to the Committee on Labor and Human Resources.

NURSING SHORTAGE REDUCTION ACT

● Mr. KENNEDY. Mr. President, today I am introducing legislation to address the national nursing shortage, which has reached crisis proportions. This shortage is threatening the quality of health care in our Nation. New initiatives are necessary to improve working conditions for nurses in acute and long-term care settings. Moreover, without intensive recruitment efforts, the problem will only increase.

The legislation proposes demonstration projects to improve the working conditions in hospitals, enhance the links between academic nursing programs and long-term care settings, and develop regional recruitment centers to increase enrollment in our nation's nursing programs.

BACKGROUND

Recent reports from health care facilities and organizations have indicated that our Nation is currently experiencing a nurse shortage more severe and widespread than any previously reported. A recent study from the American Organization of Nurse Executives reports that our Nation's hospitals are having great difficulty with recruiting both new and experienced nurses to fill vacant positions. The vacancy rate for RN's more than doubled between 1985 and 1986, from 6.3 percent to 13.6 percent. In some regions of the country, notably the New England and Middle Atlantic regions, hospitals are reporting recruitment periods in excess of 90 days. Almost one-quarter of our Nation's hospitals reported vacancy rates in excess of 15 percent. Vacant registered nurse positions were more likely to occur in our Nation's largest hospitals, those settings which are most likely to need the most sophisticated or highly educated nurses. In fact, 87 percent of the hospitals reported extreme difficulty with recruitment of nurses to work in intensive care units or coronary care units.

These figures, although startling, do not tell the entire story. In the past, policymakers attempting to deal with nursing shortages have considered attempts to entice nonpracticing nurses who have left nursing to return to the health care system as health care providers. However, today, our Nation's nurses are more likely to be employed than ever. The employment rate of nurses stays high at all ages, with significant decline only occurring at the age when most working individuals seek retirement. Therefore, any legislative initiatives aimed at reentry into practice will likely not address the problem at hand. Of the 1.8 million nurses in this country, 1.5 million are currently employed in nursing.

Of even greater concern for the future of health care are the current projections related to nursing school enrollments. The American Association of Colleges of Nursing reports that in the last year, enrollments in baccalaureate nursing programs decreased by 12.6 percent. Moreover, from 1984 to 1986, nursing school enrollments decreased by 17.6 percent.

A recent study completed at the University of California, Los Angeles, projects even greater drops in the next few years. The study has identified career choice trends of entering college freshmen. In the last 2 years, the number of first-time, full-time freshmen desiring to be nurses has decreased by 33 percent. This figure projects even greater declines in actual nursing school enrollments in the next few years.

The solutions are complex because the issues causing the problems are complex. Nurses work in settings that require round the clock coverage. Financial rewards are not commensurate with the responsibilities required of nurses; opportunities for upward mobility are lacking; nurses have insufficient authority and autonomy in the work setting; work demands are increasing because of rising severity of illness; and nurses do not participate in management decisions regarding the practice standards or support services necessary for high quality care.

The result has been declining interest in nursing as a career choice. To entice more individuals to choose nursing as a career, the problems identified above must be addressed.

LEGISLATIVE PROPOSAL

I am proposing matching demonstration projects to support creative hospital nursing practice models designed to reduce nurse vacancies and make the hospital nursing role more attractive as a career option. Demonstrations would include ways to restructure the clinical nurse role, and test innovative wage structures and benefits for nurses. Two million dollars would be spent to conduct these demonstrations.

There is a clearly projected need for more nurses to care for the elderly, so I am also proposing long-term care practice demonstrations to demonstrate liaisons between practice and education to increase quality of care and recruitment of nurses in home health care and nursing home care.

Two million dollars would be authorized for this purpose next year.

The final initiative in this legislation would establish one to five regional model professional nurse recruitment centers to recruit individuals into professional nursing education. Programs would be targeted at four groups: First, 12 to 14 year olds, second, high school students, third, college students with an undeclared major, and fourth, adult learners desiring to enter nursing. Activities of the centers will include:

Developing and compiling resource materials to be disseminated to groups such as community and professional organizations, career and guidance counselors in educational institutions, hospitals, and the public media;

Identifying potential applicants for nursing education and providing information on the role of the nurse and nursing education programs; and

Assisting groups in establishing nurse mentorships that link potential nurse applicants with nurse role models.

Proposed authorization for this program would be $1 million for fiscal year 1988.

To ensure quality of care in our Nation's health-care system, we must address problems facing the nursing profession today. This legislation is a step in that direction. I urge my colleagues to join me in this endeavor, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nursing Shortage Reduction Act of 1987".

ESTABLISHMENT OF PROGRAM

SEC. 2. Title VIII of the Public Health Service Act is amended by adding at the end and thereby the following new part:

"PART D—INITIATIVES TO REDUCE NURSING SHORTAGES

"ADVISORY COMMITTEE

"SEC. 861. The Secretary shall establish a special advisory committee to develop a comprehensive plan which specifies long-term solutions to the problems experienced by hospitals and other health care institutions in recruiting and retaining professional nurses. Such committee shall consist of representatives of professional nursing organizations, other health care professional organizations, hospitals and other health care providers, and experts in rural health care.

"INNOVATIVE HOSPITAL NURSING PRACTICE MODELS

"SEC. 862. (a) The Secretary shall make a grant to a nonprofit private entity with a demonstrated record in supporting innovative health initiatives for a project to demonstrate and evaluate innovative hospital nursing practice models designed to reduce vacancies in hospital nursing positions and to make the hospital nursing position a more attractive career choice. Models demonstrated and evaluated under a grant under this section shall include initiatives to—

"(1) restructure the role of the hospital nurse, through changes in the composition of hospital staffs, in order to ensure that the particular expertise of nurses is efficiently utilized and that nurses are engaged in direct patient care during a larger proportion of their work time;

"(2) test innovative wage structures for nurses in order to—

"(A) reduce vacancies in work shifts during unpopular work hours; and

"(B) provide financial recognition based upon experience and education; and

"(3) evaluate the effectiveness of providing benefits for nurses, such as pensions, sabbaticals, and payment of educational expenses, as a means of developing increased loyalty of nurses to health care institutions and reducing turnover in nursing positions.

"(b) The Federal share of the costs of the project supported with a grant under this section shall not exceed 50 percent.

"(c) For a grant under this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1988, 1989, and 1990.

"LONG-TERM CARE NURSING PRACTICE DEMONSTRATION

"SEC. 863. (a) The Secretary shall make grants to or enter contracts with public and nonprofit private collegiate schools of nursing for projects to demonstrate and evaluate innovative nursing practice models with respect to the provision of long-term managed health care services and health care services in the home or the provision of health care services in long-term care facilities. Models demonstrated and evaluated with grants and contracts under this section shall be designed to increase the recruitment and retention of nurses to provide nursing care for individuals needing long-term care and to improve nursing care in home health care systems and nursing homes.

"(b) For grants and contracts under this section, there are authorized to be appropriated $2,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.

"NURSE RECRUITMENT CENTERS

"SEC. 864. (a) The Secretary shall make grants to and enter into contracts with public and nonprofit private entities to develop, establish, and operate at least one and not more than five regional model professional nurse recruitment centers for the purpose of recruiting individuals to enter education programs to train professional nurses.

"(b) Each center developed, established, or operated with a grant or a contract under this section shall—

"(1) conduct nursing recruitment programs directed towards—

"(A) individuals between the ages of 12 and 14 years of age;

"(B) individuals who are enrolled in high schools;

"(C) individuals enrolled in colleges and universities who have not declared a major field of study; and

"(D) adults who are not in school and who may desire to enter nursing;

"(2) develop and compile resource materials concerning professional opportunities in nursing, and disseminate such materials to appropriate individuals and groups, such as community and professional organizations, hospitals, career and guidance counselors in educational institutions, and the print and broadcast media;

"(3) identify potential applicants for nursing education programs and provide information to such potential applicants on the role of the nurse and nursing education programs; and

"(4) assist individuals and organizations to establish mentor relationships between professional nurses and potential applicants for nursing education programs.

"(c) For grants and contracts under this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.

"APPLICATION REQUIREMENTS

"SEC. 865. No grant may be made and no contract may be entered into under this part unless an application therefor is submitted to the Secretary at such time, in such form, and containing such information as the Secretary may prescribe.".

● Mr. HARKIN. Mr. President, I rise today to join my distinguished colleague from Massachusetts, Mr. KENNEDY, in the introduction of the Nursing Shortage Reduction Act of 1987, a bill to address the critical problem of the shortage and recruitment of nurses.

We face a grave problem in our health care system due to the nursing shortage. Today patients in our hospitals are sicker than ever before, requiring more nursing care. This problem is compounded by a lack of nurses to care for these patients.

Nationwide, the vacancy rates for registered nurses in hospitals more than doubled between 1985 and 1986, up from 6.3 percent to 13.6 percent. A recent findings by the American Hospital Association found that 83 percent of hospitals reported registered nurse vacancies in 1986, compared with 65 percent in 1985.

In my own home State of Iowa, the Iowa Association of Colleges of Nursing estimates there are two to three times as many hospital nursing positons open nationally as there were a year ago. This shortage is not contained to a specific region either, it is a national problem.

The nursing shortage is not expected to improve either in the next few years, due to declining enrollment for nursing schools. From 1983 to 1985 there has been a 13-percent decline in enrollment in nursing school's nationally. In Iowa, schools of nursing reported a 24- to 50-percent decrease in admissions in the past year.

This dilemma poses a serious threat to the quality of health care services. The ratio of patients to nurses is much too high to care for patients safety and adequately. Nurses also face serious problems in their work environment. The pressure on nurses in hospitals today is tremendous. They are caring for critically ill patients in technologically complex environments, facing earlier discharage problems and coping with chronic staffing problems. They have been underpaid, and have historically not been recognized for

the knowledge they contribute to the health care process. If measures are not taken now to correct the shortage and recruitment problem, it will only exacerbate the problem; discouraging nurses from remaining in nursing and others from entering the profession.

This legislation is a significant step toward addressing these problems. It would establish an advisory committee to develop a long-term comprehensive plan to deal with these problems, and demonstration grant money to develop innovative nursing practice models designed to make nursing an attractive career choice. It also addresses the needs of long-term care facilities in relation to the nursing shortage.

I commend this legislative initiative and hope my fellow colleagues will join me in supporting this legislation.●

● Mr. SIMON. Mr. President, I am proud to join my distinguished colleague and chairman of the Labor and Human Committee as a cosponsor of the Nursing Shortage Reduction Act of 1987. I thank Senator KENNEDY and his staff for their fine efforts.

Recent surveys by both the American Nurses Association and the Institute of Medicine confirm that we are experiencing a nursing shortage that is likely to become increasingly serious. The vacancy rate for registered nurses [RN's] in U.S. hospitals has gone from 6.3 percent in 1985 to 13.6 percent in 1986. Enrollment in nursing schools is down, resulting in an estimated 15 percent decline in graduation from 1986 to 1990. Particularly as a result of the changing nature of health care, the demand for nurses with bachelors, masters, and doctoral degrees is predicted to exceed the supply in the 1990's. We must be doing all that we can to encourage nursing as a profession.

As we seek ways to reduce the cost of health care while improving the quality of care, we simply cannot overlook the role of nurses as primary care providers. The December 1986 OTA report on quality and cost-effectiveness of nurse practitioners [NP's], certified nurse midwives [CNM's] and physician assistants [PA's] noted that in addition to providing care of equivalent quality, the NP's and CNM's are more adept than other health-care workers at providing services that depend on communication with patients and preventive actions.

I am supportive of cost containment. I am concerned, however, that as we continue to send this message of "cut at all costs" that we are sacrificing both quality and access. My reading of the OTA report is that by better utilizing nurses, we can contain costs and improve care quality.

Professional nursing care must be seen as a economical approach to servicing the health of the population at large. With primary prevention, health promotion can become the norm, ultimately saving health-care dollars.

This legislation is a step in the right direction and I am pleased to support it.●

NURSING SHORTAGE REDUCTION

● Mr. BURDICK. Mr. President, I am pleased to join my colleagues in offering the Nursing Shortage Reduction Act of 1987. There is a developing shortage of nurses in various locations throughout the country. The problem will only worsen as States such as North Dakota continue to see enrollments in their schools of nursing decline. Many nurses who graduate from nursing shools in North Dakota tend to leave the State and practice elsewhere across the country making North Dakota a provider State of nurses for other States. However, as schools in North Dakota and those across the country experience declining numbers in admissions and subsequent enrollments, the quality of health care in North Dakota and other States will be adversely affected.

Initially, some health care facilities may be able to absorb a small number of vacant positions. However, if a hospital in a rural town such as Northwood Deaconess Hospital in Northwood, ND, a 25 bed hospital, loses two or three nurses, a nursing shortage exists. The decline in enrollments compounded by problems with retention of nurses in health care facilities have far-reaching implications for both rural and urban settings. Moreover, we are losing adequate numbers of professional nures at the very time when health care delivery is exhibiting increasing complexity. This increasing complexity requires very knowledgeable and highly skilled nurses in the provision of patient care.

The increase in health care sophistication makes nursing practice more demanding than ever before. Yet it has been noted that college educated nurses often earn less than the average hospital maintenance worker. The tremendous responsibility dealing with minute-by-minute needs of very sick patients coupled with expectations to work overtime in the absence of adequate numbers of nurses and salaries that frequently are uncompetitive with other disciplines lead to talented men and women opting for other career paths. That is a loss that the health care system cannot afford.

The Nursing Shortage Reduction Act of 1987 is a comprehensive initiative that will address problems related to both nursing school enrollments and retention of nurses in health-care settings. Furthermore, the bill targets the special needs for nurses exhibited in long term and home health care settings. Important to rural areas, the bill will establish an advisory committee which will include rural health care experts.

The committee will be responsible for determining greatly needed long term solutions to the nursing shortage crisis unique to rural and urban settings. With these extremely important components in place, I firmly believe this legislation can help the health-care system maintain its supply of one of the most important health professionals in our country—nurses.

I would urge my Senate colleagues to join me in supporting this effort to minimize the increasingly adverse effects of the nursing shortage on the recipients of health care.●

ADDITIONAL COSPONSORS

S. 104

At the request of Mr. INOUYE, the names of the Senator from New Mexico [Mr. DOMENICI], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 104, a bill to recognize the organization known as the National Academies of Practice.

S. 328

At the request of Mr. BYRD, his name was added as a cosponsor of S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 567

At the request of Mr. DECONCINI, the names of the Senator from Montana [Mr. MELCHER], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 567, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 604

At the request of Mr. PRYOR, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 604, a bill to promote and protect taxpayer rights, and for other purposes.

S. 979

At the request of Mr. EVANS, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 979, a bill to provide that political candidates meet certain requirements in advertising.

S. 997

At the request of Mr. PELL, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 997, a bill to require the Director of the National Institute on Aging to pro-

vide for the conduct of clinical trials on the efficacy of the use of tetrahydroaminoacidine in the treatment of Alzheimer's disease.

S. 1199

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Alaska [Mr. STEVENS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 1199, a bill to prevent suicide by youth.

S. 1203

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1203, a bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

S. 1207

At the request of Mr. DURENBERGER, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1207, a bill to amend title XVIII of the Social Security Act to establish a program of grants, funded from the Federal hospital insurance trust fund, to assist small rural hospitals in modifying their service mixes to meet new community needs and in providing more appropriate and cost-effective health care services to Medicare beneficiaries.

S. 1220

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from North Dakota [Mr. BURDICK], the Senator from Utah [Mr. HATCH], the Senator from South Carolina [Mr. THURMOND], the Senator from Vermont [Mr. STAFFORD], the Senator from Connecticut [Mr. WEICKER], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1234

At the request of Mr. CHAFEE, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1234, a bill to amend title 38, United States Code, to ensure eligibility of certain individuals for beneficiary travel benefits when traveling to Veterans' Administration medical facilities.

S. 1242

At the request of Mr. HUMPHREY, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1242, a bill to prohibit the use of Federal funds for abortions except where the life of the mother would be endangered, and to prohibit the provision under title X of the Public Health Service Act of Federal family planning funds to organizations that perform or refer for abortions, except where the life of the mother would be endangered, and for other purposes.

S. 1247

At the request of Mr. MCCAIN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1247, a bill to designate the area of Arlington National Cemetery where the remains of four unknown service members are interred as the "Tomb of the Unknowns."

S. 1280

At the request of Mr. QUAYLE, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1280, a bill to increase the sale of United States-made auto parts and accessories to Japanese markets for original and after-market equipment in Japan, in the United States and in third markets, and for other purposes.

S. 1333

At the request of Mr. MCCONNELL, the names of the Senator from Texas [Mr. GRAMM], the Senator from South Dakota [Mr. PRESSLER], the Senator from Nevada [Mr. HECHT], the Senator from California [Mr. WILSON], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1333, a bill to allow the 65 miles per hour speed limit on highways that meet interstate standards and are not currently on the National System of Interstate and Defense Highways.

At the request of Mr. NICKLES, the names of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1333, supra.

S. 1351

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1351, a bill to amend the Clean Air Act to establish new requirements for areas that have not yet attained the health-protective ambient air quality standards, to provide new deadlines for such attainment, to delay the imposition of sanctions, and for other purposes.

S. 1365

At the request of Mr. GRAHAM, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1365, a bill to amend title 38, United States Code, to establish presumptions of service connection for certain diseases of former prisoners of war.

S. 1371

At the request of Mr. MOYNIHAN, the names of the Senator from Illinois [Mr. DIXON], the Senator from Michigan [Mr. LEVIN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1371, a bill to designate the Federal building located at 330 Independence Avenue SW, Washington, District of Columbia, as the "Wilbur J. Cohen Federal Building."

SENATE JOINT RESOLUTION 26

At the request of Mr. PELL, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Missouri [Mr. BOND], the Senator from Indiana [Mr. QUAYLE], the Senator from Missouri [Mr. DANFORTH], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 26, 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 106

At the request of Mr. BINGAMAN, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 106, a joint resolution to recognize the Disabled American Veterans Vietnam Veterans National Memorial as a memorial of national significance.

SENATE JOINT RESOLUTION 109

At the request of Mr. DURENBERGER, the names of the Senator from Utah [Mr. GARN], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 109, a joint resolution to designate the week beginning October 4, 1987, as "National School Yearbook Week."

SENATE JOINT RESOLUTION 121

At the request of Mr. TRIBLE, the names of the Senator from Indiana [Mr. QUAYLE], the Senator from Oregon [Mr. PACKWOOD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Missouri [Mr. BOND], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 121, a joint resolution designating August 11, 1987, as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 122

At the request of Mr. METZENBAUM, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Mississippi [Mr. STENNIS], the Senator from New Mexico [Mr. DOMENICI], the Senator from Washington [Mr. ADAMS], the Senator from Georgia [Mr. FOWLER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Oklahoma [Mr. BOREN], the Senator from California [Mr. WILSON], the Senator from Kansas [Mr. DOLE], and the Sen-

ator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Joint Resolution 122, a joint resolution to designate the period commencing on October 18, 1987, and ending on October 24, 1987, as "Gaucher's Disease Awareness Week."

SENATE JOINT RESOLUTION 136

At the request of Mr. HUMPHREY, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 136, a joint resolution to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week."

SENATE JOINT RESOLUTION 142

At the request of Mr. WEICKER, the names of the Senator from Montana [Mr. BAUCUS], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 142, a joint resolution to designate the day of October 1, 1987, as "National Medical Research Day."

SENATE JOINT RESOLUTION 148

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. GLENN], the Senator from Colorado [Mr. WIRTH], the Senator from Florida [Mr. CHILES], the Senator from Texas [Mr. BENTSEN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 148, a joint resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 154

At the request of Mr. PELL, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Ohio [Mr. GLENN], the Senator from Georgia [Mr. NUNN], the Senator from Florida [Mr. CHILES], the Senator from Utah [Mr. HATCH], the Senator from Michigan [Mr. RIEGLE], the Senator from Georgia [Mr. FOWLER], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Illinois [Mr. SIMON], the Senator from South Dakota [Mr. PRESSLER], the Senator from Montana [Mr. BAUCUS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from California [Mr. CRANSTON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. STENNIS], the Senator from North Dakota [Mr. BURDICK], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 154, a joint resolution to designate the period commencing on November 15, 1987, and ending on November 22, 1987, as "National Arts Week."

SENATE JOINT RESOLUTION 155

At the request of Mr. MCCAIN, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Hawaii [Mr. INOUYE], the Senator from Michigan [Mr. RIEGLE], the Senator from Vermont [Mr. STAFFORD], the Senator from California [Mr. WILSON], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KASTEN], the Senator from New York [Mr. D'AMATO], the Senator from Wyoming [Mr. WALLOP], the Senator from Virginia [Mr. WARNER], the Senator from Washington [Mr. EVANS], the Senator from California [Mr. CRANSTON], the Senator from Maryland [Ms. MIKULSKI], the Senator from Connecticut [Mr. DODD], the Senator from Missouri [Mr. DANFORTH], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Indiana [Mr. QUAYLE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Oklahoma [Mr. BOREN], the Senator from Massachusetts [Mr. KERRY], the Senator from Florida [Mr. GRAHAM], the Senator from Arizona [Mr. DECONCINI], the Senator from Colorado [Mr. WIRTH], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 155, a joint resolution to designate the period commencing on September 13, 1987, and ending on September 19, 1987, as "National Reye's Syndrome Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. DECONCINI, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 161, a joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation.

SENATE JOINT RESOLUTION 162

At the request of Mr. JOHNSTON, the names of the Senator from Georgia [Mr. NUNN], the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. INOUYE], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 162, a joint resolution to designate the month of August 1987, as "Cajun Music Month."

SENATE CONCURRENT RESOLUTION 15

At the request of Mr. HATCH, his name was added as a cosponsor of Senate Concurrent Resolution 15, a concurrent resolution expressing the sense of the Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital inpatients, under the Medicare Program should be made until reports required by the 99th Congress have been received and evaluated.

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. DECONCINI, the names of the Senator from Utah [Mr. HATCH], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Concurrent Resolution 29, a concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

SENATE CONCURRENT RESOLUTION 56

At the request of Mr. DURENBERGER, the name of the Senator from New Mexico [Mr. DOMENICI], was added as a cosponsor of Senate Concurrent Resolution 56, a concurrent resolution expressing the sense of Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital inpatients, under the Medicare Program should be made until reports required by the 99th Congress have been received and evaluated.

SENATE CONCURRENT RESOLUTION 230

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mr. CRANSTON], was added as a cosponsor of Senate Resolution 230, a resolution to call upon the Federal Aviation Administration to immediately implement the priority 1, urgent recommendation of the National Transportation Safety Board in connection with our air traffic control system.

AMENDMENT NO. 272

At the request of Mr. EVANS, the name of the Senator from South Dakota [Mr. DASCHLE], was added as a cosponsor of amendment No. 272 intended to be proposed to S. 2, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

SENATE CONCURRENT RESOLUTION 62—RELATING TO THE EXTRADITION OF MOHAMMED HAMADEI TO THE UNITED STATES

Mr. D'AMATO (for himself, Mr. DIXON, Mr. DECONCINI, Mr. HATCH, Mr. DOLE, Mr. TRIBLE, Mr. SPECTER, Mr. MOYNIHAN, Mr. SARBANES, Ms. MIKULSKI, Mr. KASTEN, Mr. MITCHELL, Mr. NICKLES, Mr. WILSON, Mr. REID, Mr. MCCAIN, Mr. BOND, Mr. MCCONNELL, Mr. ARMSTRONG, Mr. PRESSLER, Mr. KARNES, Mr. THURMOND, Mr. HECHT, Mr. MURKOWSKI, Mr. SYMMS, Mr. GRASSLEY, Mr. BOSCHWITZ, Mr. STEVENS, Mr. HELMS, Mr. HEINZ, Mr.

COHEN, Mr. DOMENICI, Mr. QUAYLE, Mr. WEICKER, Mr. BUMPERS, Mr. BINGAMAN, Mr. DODD, Mr. SIMPSON, Mr. COCHRAN, Mr. WARNER, Mr. BREAUX, Mr. RUDMAN, Mr. HUMPHREY, Mr. DURENBERGER, Mr. PROXMIRE, Mr. HOLLINGS, Mr. LEAHY, Mr. WALLOP, Mr. JOHNSTON, Mr. INOUYE, Mr. STAFFORD, Mr. ROCKEFELLER, Mr. CRANSTON, Mr. HEFLIN, Mr. CONRAD, Mr. DANFORTH, Mr. KERRY, Mr. BENTSEN, Mr. MATSUNAGA, Mr. NUNN, Mr. HARKIN, Mr. SHELBY, Mr. GRAMM, Mr. GARN, Mr. CHILES, and Mr. LAUTENBERG) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 62

Whereas on June 14, 1985, Trans World Airlines Flight 847 departed Athens International Airport enroute to Rome, Italy, with 153 predominantly American passengers and crew on board;

Whereas two hijackers, identified by the Department of Justice as Mohammed Hamadei and Hasan "Izz-al-din," commandeered the aircraft, and pistol whipped the flight crew;

Whereas the aircraft flew between Beirut and Algiers several times over the next two days while the hijackers retained control of the plane;

Whereas the hijackers bound Navy diver Robert Stethem with an electric cord, beat him until he was unconscious, and after the aircraft's second landing in Beirut, shot him in the head in cold blood, and dumped his body onto the tarmac in Beirut;

Whereas Mohammed Hamadei has been charged by the United States with murder, hijacking, hostage-taking, and other crimes, and was indicted on these charges in the United States District Court for the District of Columbia in November, 1985;

Whereas the United States has requested the Federal Republic of Germany to extradite Mohammed Hamadei under the extradition treaty between the United States and the Federal Republic of Germany;

Whereas the Federal Republic of Germany is bound under this extradition treaty to extradite to the United States persons charged with offenses under United States law if it is not going to prosecute such persons for the same offenses for which extradition is sought;

Whereas it takes approximately two to four months for the German Government to extradite under its treaty with the United States;

Whereas it has been almost five months since the United States requested the extradition of Mohammed Hamadei;

Whereas there have been recent reports in the German press that the Federal Republic of Germany is considering not extraditing Mohammed Hamadei to the United States; therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress—

(1) That the President should express to the Government of the Federal Republic of Germany in the strongest possible terms that the United States expects it to comply with both the letter and the spirit of its treaty obligations by estraditing Mohammed Hamadei to the United States as quickly as possible; and

(2) Any action by the Government of the Federal Republic of Germany that directly or indirectly involves the exchange of Mohammed Hamadei for German nationals being held hostage by terrorists will have extremely serious consequences for the relationship between our two countries.

Mr. D'AMATO. Mr. President, I submit a concurrent resolution on behalf of myself, Senator DOLE, and 63 original cosponsors. All together, a total of 65 Senators support this resolution.

Mr. President, yesterday we learned that an American journalist, Charles Glass, was kidnaped in Moslem West Beirut. The abduction of Mr. Glass raises the number of Americans held hostage in Lebanon to nine.

At the same time, we have been receiving rather discouraging information from the West German Government, information that would lead us to believe that the West Germans are not going to extradite Mohammed Hamadei, the alleged killer of Navy Diver Robert Stethem, to the United States for trial and prosecution.

Such a decision would be a capitulation to terrorists and all that they stand for. What a sad decision.

Joining me today are Senators DIXON, DECONCINI, and DOLE along with 61 other original cosponsors, to introduce a resolution urging our President to express to the Government of West Germany in the strongest possible terms that Hamadei be extradited immediately to the United States.

This resolution also expresses the sense of Congress that any effort by the West German Government to allow Hamadei to escape justice through a trade for West German nationals being held in Lebanon will have very serious consequences upon the relationship between our two countries.

Senator DOLE and I sent a telegram today to Attorney General Meese, urging him to reaffirm American insistance that Hamadei be extradited.

Attorney General Meese will soon be meeting with West German officials on this matter.

Mr. President, I am going to read the telegram we sent today to Attorney General Meese:

DEAR MR. ATTORNEY GENERAL:

We understand that you will be meeting shortly with West German officials to discuss our pending request for extradition of accused terrorist and murderer Mohammed Hamadei.

As you enter those talks, we wanted to reaffirm for you the deep concern in the Congress about this issue. We can see no reason why the West German Government would not honor this extradition request. It is entirely in conformity with our bilateral extradition treaty with Bonn. It is critically important to establish our bilateral cooperation as we address the urgent and tragic issue of international terrorism. If this issue is not satisfactorily resolved, it will inevitably affect broader United States-West German relations.

Today we have had the opportunity to meet with the family of Robert Stethem—

Indeed, Mr. President, the family is here and is looking on.

To conclude the telegram:

the American citizen of whose murder Hamadei is accused. You can imagine their feelings of deep sadness; you can appreciate their feelings of frustration that there has been such delay in attempting to bring Hamadei to justice—American justice.

We promised the Stethem family we would not rest until Hamadei is brought to this country, in accord with legal procedures, to stand trial. We will keep that promise.

We know we can count on you to make the strongest and most determined representations to the West German authorities.

Sincerely yours,

ALFONSE D'AMATO,
U.S. Senate.
BOB DOLE,
U.S. Senate.

Mr. President, as indicated in our telegram, we hope we can count on the Attorney General to make the strongest case possible. I hope that that is the case, Mr. President, because in the spirit of that extradition treaty the decision should be that Hamadei be charged and tried here, where he can best be prosecuted and brought to justice, not out of reaction to the fear of what terrorists will or will not do in the future. If Hamadei is not extradited, it will mean that the Germans have decided to bow to terrorist pressure rather than promote the most effective prosecution available under the treaty.

What can the Germans hope to gain by trying Hamadei? The answer is obvious—an eventual trade of Hamadei for the two German hostages. The West German Government should take careful note of the fact that to date, all of its negotiations, discussions et cetera, have not changed the status of the German nationals held hostage. By failing to extradite Hamadei, the Germans will be leaving themselves open to more demands from the terrorists.

Germany certainly is not the best place to try Hamadei. Most of the witnesses and victims are from the United States, not Germany.

The United States is prepared to prosecute Hamadei now, while witnesses' memories are still fresh. If the Germans prosecute Hamadei, it will take them at least 1 full year to develop their case, a year that they will spend negotiating with terrorists. It took our own FBI almost 2 years to assemble all the evidence against Hamadei. Mr. President, even if the Germans convict Hamadei, he may well be freed in 15 years or less. I would suggest that only our system can assure, if convicted, the imposition of a life sentence. I hope the German Government can be persuaded to extradite Hamadei. But it is up to us to make those arguments. It is up to the Attorney General and the President to press on.

It seems to me that, with all the speeches made in terms of our anger and our sorrow over the brutality of the killing of that Navy diver, we now have an opportunity to put those words into some action not only by raising our voice but also by urging the administration in the strongest way to go forward and to do the business of the people and to pursue justice, justice that we know is correct, justice provided for under the extradition treaty we have with Bonn.

COSPONSORSHIP OF RESOLUTION

Mr. DOLE. Mr. President, I am pleased to join with Senator D'AMATO and more than 60 other Senators in sponsoring this important resolution. I would again express by admiration for the effective leadership that Senator D'AMATO has provided on this issue—and indeed on the broader question of forging an effective strategy to combat terrorism.

I really think that little more talk about the Hamadei extradition is necessary. I have spoken about it twice before here on the floor, most recently on June 3—when Senator D'AMATO and I wrote the President, asking him to raise the extradition question with West German Chancellor Kohl.

THE FACTS ARE CLEAR

The facts are clear.

The sentiments of the Senate are clear.

What the West German Government ought to do is clear. Mohammed Hamadei ought to be extradited. He ought to be extradited now.

Today, Senator D'AMATO and I had the opportunity to meet with the family of Robert Stethem—who was a passenger on TWA 847; the young American that Hamadei has been accused of murdering.

They are a brave family; a grieving family. They do not want revenge. They do want justice. And they will just not accept anyone saying: Well, in this case, geopolitical requirements weigh more heavily than justice.

Senator D'AMATO and I promised the Stethem family that we would not rest until Hamadei is brought before the bar of justice. We intend to keep that promise.

MEESE TO MEET WITH WEST GERMANS

We understand that Attorney General Meese will be meeting with West German authorities on the Hamadei case next week. For that reason, we have sent the Attorney General a telegram, expressing the strength and depth of congressional feelings on this issue. It is important that Ed Meese carry that message loud and clear to Bonn.

And we can send the same message—even more strongly—by all joining in cosponsoring this resolution. And by passing it quickly and unanimously.

TIME TO ACT

Mr. President, we should act on this matter decisively.

It is important—as part of our effort to forge a united stand, internationally, against terrorism.

It is significant—as it will bear on United States-West German relations.

It is necessary—as a matter of simple justice.

And it is right—the least we can do for the family of Robert Stethem.

SENATE RESOLUTION 237—RELATING TO THE 1988 WHEAT PROGRAM

Mr. DOLE (for himself, Mr. LUGAR, Mr. MELCHER, Mr. BOSCHWITZ, Mr. BOREN, Mr. PRESSLER, Mr. SYMMS, Mr. BAUCUS, Mr. BURDICK, Mr. GORE, Mrs. KASSEBAUM, Mr. KARNES, Mr. DASCHLE, Mr. EVANS, Mr. COCHRAN, Mr. DURENBERGER, Mr. PRYOR, Mr. NICKLES, Mr. CONRAD and Mr. THURMOND) submitted the following resolution; which was considered and agreed to:

S. RES. 237

Whereas United States wheat producers are still awaiting the details of the program for the 1988 crop of wheat established under section 107D of the Agricultural Act of 1949 (7 U.S.C. 1445b-3);

Whereas demand for United States wheat, for the first time in several years, will exceed domestic production;

Whereas United States wheat exports will be up more than 10 percent during the current marketing year;

Whereas high acreage limitation (ARP) levels under the acreage limitation program established under section 107D(f) of such Act increase the per unit cost of producers and reduce farm income;

Whereas high ARP levels send the wrong signal to foreign competitors by encouraging them to increase agricultural production;

Whereas the Secretary of Agriculture has discretion to set the ARP level at 27½ percent for the 1988 crop of wheat; and

Whereas the National Association of Wheat Growers (NAWG) has recommended a program that includes no more than a 27½ percent ARP level: Now, therefore, be it

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

(1) it is in the best interests of United States wheat producers to immediately receive the details of the program for the 1988 crop of wheat established under section 107D of the Agricultural Act of 1949 (7 U.S.C. 1445b-3); and

(2) such program should provide for an acreage limitation program (as described in section 107D(f)(2) of such Act) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm reduced by no more than 27½ percent.

AMENDMENTS SUBMITTED

OMNIBUS TRADE ACT OF 1986

SPECTER AMENDMENT NO. 315

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (S. 409) to authorize negotiations of reciprocal trade agreements, to strengthen United States trade laws, and for other purposes; as follows:

At the end of subtitle A of title III of the bill, add the following:

SEC. —. PRIVATE ACTIONS FOR RELIEF FROM UNFAIR FOREIGN COMPETITION.

(a) CLAYTON ACT.—Section 1 of the Clayton Act (15 U.S.C. 12) is amended by inserting "section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (39 Stat. 798; 15 U.S.C. 72);" after "nineteen hundred and thirteen;".

(b) ACTION FOR DUMPING VIOLATIONS.—Section 801 of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72) is amended to read as follows:

"SEC. 801. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) such article is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission

under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the manufacturer of the article is located, the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673, et seq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section—

"(1) Each of the terms 'United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(2) If—

"(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

"(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph), the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.".

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(c) ACTION FOR SUBSIDIES VIOLATIONS.—Title VIII of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 807. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) the foreign country, any person who is a citizen or national of the foreign country, or a corporation, association, or other organization organized in the foreign country, is providing (directly or indirectly) a subsidy with respect to the manufacture, production, or exportation of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 705 of the Tariff Act of 1930 (19 U.S.C. 1671d) relating to imports of the article in question for the country in which the manufacturer of the article is located, the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671, et seq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section, each of the terms 'subsidy' and 'material injury' have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(d) ACTION FOR CUSTOMS FRAUD.—

(1) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1586. Private enforcement action for customs fraud

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) A manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud.".

(e) ACCORDANCE WITH GATT.—It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

CLEAN AIR ACT AMENDMENTS

DURENBERGER AMENDMENT NO. 316

(Ordered referred to the Committee on Environment and Public Works.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the bill (S. 1384) to amend the Clean Air Act, and for other purposes; as follows:

At the end thereof add the following new section:

"SEC. 85. (a) Section 202(b)(1) is amended by adding the following new paragraph:

"(D) The Administrator shall promulgate regulations under subsection (a) applicable to emissions of formaldehyde from light-duty vehicles and engines manufactured during and after model year 1990 which may be fueled, in whole or in part, by fuels other than gasoline. Such regulations shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines may reasonably be expected to be available. In no event may such regulations permit emissions of formaldehyde at a higher rate than from comparable gasoline-fueled vehicles.

"(b) Section 202(a)(3) is amended by inserting the following new subparagraph after (E) and redesignating succeeding paragraphs accordingly:

"(F) The Administrator shall promulgate regulations under paragraph (1) applicable to emissions of formaldehyde (i) from heavy-duty vehicles and engines and (ii) from light-duty trucks and engines manufactured during and after model year 1991 which may be fueled, in whole or in part, by fuels other than gasoline. Such regulations shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines may reasonably be expected to be available. In no event may such regulations permit emissions of formaldehyde at a higher rate than from comparable gasoline-fueled vehicles.

"(c) Section 211 of the Clean Air Act is amended by adding the following provisions:

"(h) TESTING AND REVIEW OF FUEL ADDITIVES AND LUBRICANTS.—Notwithstanding other requirements of this section, effective three years after the date of enactment it shall be unlawful to sell, offer for sale, or introduce into commerce any fuel additive or lubricant unless the Administrator determines, after notice and opportunity to comment, that such fuel additive or lubricant (and all byproducts of such fuel additive or lubricant which may reasonably be anticipated as a result of its use) have been subjected to thorough and complete health and environmental effects testing and may not reasonably be anticipated to cause any adverse effect on the health of persons or the environment.

"(i) REDUCTION IN BENZENE, TOLUENE, AND XYLENES.—Not later than one year after the date of enactment, the Administrator shall issue regulations, after notice and opportunity to comment, which limit the permissible concentration of benzene, toluene, and xylenes in gasoline sold, offered for sale, or introduced into commerce more than five years after the date of enactment to the lowest concentration of such substances that the Administrator determines was contained in gasoline in any of the ten years preceding the date of enactment. Such regulations shall also provide for phased reductions in the permissible concentration of such substances in gasoline in the five year period after the date of enactment. It shall be unlawful to sell, offer for sale, or introduce into commerce gasoline containing such substances in concentrations in excess of those permitted by such regulations.

SENATORIAL ELECTION CAMPAIGN ACT

FORD AMENDMENT NOS. 317 AND 318

(Ordered to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to the bill (S. 2) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; as follows:

AMENDMENT NO. 317

At the appropriate place add the following:

POLITICAL COMMITTEE BENEFITS

SEC. . Subsection (e) of section 3626 of title 39, United States Code, is hereby repealed.

AMENDMENT NO. 318

On page 88, after line 10, add the following new section:

NEWSLETTERS

SEC. 15. Section 3210(a)(3)(G) of title 39, United States Code, is amended by inserting ", other than newsletters from members of the Senate" after "mass mailings".

Mr. FORD. Mr. President, this afternoon I am submitting two amendments. We have heard a lot of talk. We have heard a lot of good speeches. I think the distinguished Senator from South Dakota [Mr. DASCHLE] made one of the most eloquent speeches as regards the difference between the McConnell-Packwood and S. 2 bills that I have heard so far. I was impressed by how he was interested in the young people who were sitting here in the Chamber, and what the costs would be to them and what their bill would be in order to run for public office, particularly a seat in this distinguished body.

We have heard those who oppose S. 2 say that they do not want to use any public funding; that they do not want it to cost any money. I have also heard the distinguished Senators that propose the Gramm-Rudman-Hollings proposal particularly the distinguished Senator from Texas [Mr. GRAMM], that if you are going to offer an amendment, if you are going to offer a piece of legislation, you ought to have offsetting cost savings.

This afternoon, Mr. President, I hope that my two amendments will draw some attention, because both of these amendments will have offsetting funding, as it relates to the cost of campaign reform, which I consider one of the major pieces of legislation that

has been put forward since I have been in the Senate.

I compliment the distinguished majority leader [Mr. BYRD], Senator BOREN, and others, who worked so hard to try to put together this piece of legislation today.

So, Mr. President, my first amendment would be to repeal section 3626(e) of title 39 of the United States Code, which extends to political party committees the third-class mailing rate.

The intent of Congress in adopting this section was to extend the nonprofit third-class mail rates to the two national party committees, the State committees of those two parties, the Senate and House party committee. But, through poor drafting, administrative regulations, and court decisions, we now have 708 political parties that are taking advantage of that one piece of legislation and they are taking advantage of the third-class mail rate which reduces their costs somewhere between 5 and 6 cents per piece of mail.

Mr. President, the interesting part is some of these parties that are taking advantage of this particular piece of legislation, or the amendment to the statute: The Free Libertarian Party is one, the Conservative Party of the State of New York, the Socialist Labor Party, the Peace and Freedom Party, American Independent Party—and now, Mr. President, listen to this—the Communist Party of Ohio, the Communist Party of Maine, the Communist Party of Massachusetts, and the Communist Party of the United States of America are the ones who are taking advantage of this one particular statute that gives the third-class mailing permit that we passed with one intent.

So, Mr. President, the annual savings by eliminating this one small section of our Federal statutes would be between $11 million, which is the estimate of the Postal Service Department, and $13 million, which is the Congressional Budget Office's estimate. That means somewhere between $11 million and $13 million annually would be saved. That means we could reduce the budget to the Postal Service, and that would offset, then, any costs that might be derived as they relate to the public funding of campaigns for the U.S. Senate. That would make us between $24 million and $26 million every 2 years.

Now, the annualized estimate of S. 2 for the year 1990, the high is only $20.3 million and the low is $16.25 million. So this one item, then, would eliminate the cost, would be the offset, as it relates to public funding of the campaign reform bill, as it relates to S. 2.

Now, Mr. President, if that is not enough money—some will have questions about the cost—I have a second amendment which is a very simple amendment. It just eliminates the franking privilege as it relates to newsletters for all U.S. Senators, those who are now taking advantage of it; a great many are not. But it would modify section 3210(A)(6) of title 29 of the United States Code to prohibit the use of franks, franking for mailing congressional newsletters.

Mr. President, that has an annual saving of $13 million and a 2-year saving of $26 million. So when you begin to put all these together, you have more than enough to offset the cost of public financing of senatorial campaigns.

If the argument is going to be we do not want to use public funding, that means it is direct. What I am saying to my colleagues is: Here is an offset. We are going to take away the mailing privileges, the cut rate to the Communist Party of Ohio, the Communist Party of Maine, the Communist Party of Massachusetts, and the Communist Party of the United States, and say we are going to use that to elect our U.S. Senators. I think it is a good way to offset any cost to the general fund.

So, Mr. President, I hope my colleagues hear about this over the weekend; that when they come back in here on Tuesday they say that the Senator from Kentucky [Mr. FORD] might have a good idea. That good idea is that we have the funding necessary to offset any cost to the public general fund as it relates to the reform of our political process in this country.

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on postemployment lobbying restrictions on Thursday, June 25, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place July 14, 1987, 2 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on a measure currently pending before the subcommittee—S. 735, a bill to amend the Land and Water Conservation Fund Act of 1965, and for other purposes.

Those wishing information about testifying at the hearing or submitting written statements should write to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, room SD-364, Dirksen Senate Office Building, Washington, DC., 20510. For further information, please contact Tom Williams at 224-7145.

Mr. President, I would like to announce for the public that hearings have been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearings will take place July 21 and July 23, 1987, 2 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of these hearings is to receive testimony on a measure currently pending before the subcommittee—S. 7, a bill to provide for the protection of the public lands in the California desert.

Those wishing information about testifying at the hearings or submitting written statements should write to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, room SD-364, Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Tom Williams at 224-7145 or Beth Norcross at 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on June 19, to conduct a hearing on toxic air pollutants.

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

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, June 19, 1987, to receive a briefing from committee staff relative to a Marine Corps nomination list that is pending before the committee.

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

SUBCOMMITTEE ON SECURITIES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Friday, June 19, 1987, to conduct oversight hearings on the definition of insider trading.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session

of the Senate on Friday, June 19, 1987, to conduct a hearing on polygraphs.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, June 19, 1987, at 2 p.m. to hold a hearing on ambassadorial nominations.

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

ADDITIONAL STATEMENTS

SAVING WHALES

● Mr. CRANSTON. Mr. President, this coming Monday, June 22, is the start of the International Whaling Commission meeting in Bournemouth, England. It may be the finish for whales—unless the IWC plugs a regulation loophole that is allowing the continued slaughter of whales.

The International Whaling Commission is the international forum of whaling and nonwhaling nations. A long-term moratorium on commercial whaling was approved by the IWC, effective January 1, 1986. But some countries ignored the moratorium: Japan, Norway, and the Soviet Union continued whaling last year, despite worldwide public outcry.

Some countries—such as the Philippines—have already ended commercial whaling. The Soviet Union has announced its intention to do so. But while major whaling nations say they will discontinue commercial whaling, several are suddenly very interested in killing whales in the name of science—for study. Iceland has been the initial leader in this new-found interest in whale research. Last year, 117 sei and fin whales were killed by Iceland—and the whale meat was intended for export to Japan. So far, the United States and Germany have successfully blocked this scheme.

Now Japan, South Korea, and Norway are proposing so-called scientific projects, and other countries are watching to see if these three countries are successful. According to the Whale Center—a conservation and education organization based in Oakland, CA—1,530 whales may be butchered next year in the name of science.

If whales are to be studied for science, there are all sorts of ways to do it without slaughter: Photo identification, radio telemetry, and nonintrusive observations can provide data.

The salvation of whales is on the line in Bournemouth. The International Whaling Commission must meet its responsibility—and close the regulation loophole on alleged scientific takings.●

FATHER'S DAY

● Mr. DOMENICI. Mr. President, across the Nation families will join together this Sunday to celebrate Father's Day. As a proud father of eight myself, I would like to say a few words about this special holiday.

Originating in 1909, Sonora Louise Smart Dodd of Spokane, WA, is credited with the idea for the Father's Day observance. Her inspiration was her own father, William Smart, who was a Civil War veteran who raised Mrs. Dodd and her five brothers by himself. Realizing the difficulties he must have faced, and in appreciation for his constant devotion to his family, she spoke to the minister of her church about her desire to observe a day in which fathers should receive words of appreciation and affection from their children.

Her minister warmly approved the idea and the first Father's Day was celebrated on the third Sunday in June 1910. President Woodrow Wilson officially approved the idea in 1916:

> A day to strengthen the relationships between fathers and their children, and also to impress upon fathers the full measure of their obligations.

I would ask that fathers everywhere join me this Sunday when I renew my commitment to love and protect my children. In our society today, it seems to me that it is easy to diminish the role of father. This is a mistake; there is no role more important to the well-being of the family and ultimately society than that of the father. Douglas MacArthur, our great military hero, stressed the importance of fatherhood when he said:

> By profession I am a soldier and take pride in that fact. But I am prouder-infinitley prouder—to be a father. A soldier destroys in order to build; the father only builds, never destroys. The one has the potentiality of death, the other embodies creation and life. And while the hordes of death are mighty, the battalions of life are mightier still. It is my hope that my son, when I am gone, will remember me not from the battle but in the home repeating with him our simple daily prayer.

I think the most valuable thing a father can do for his child is to inspire and encourage him. As with Mrs. Dodd, my own father was perhaps my greatest inspiration to work to my full potential and accept new challenges.

My father emigrated to the United States from Italy when he was 14 years old. He knew no English and had only 4 years of formal education. My father was a hard working man. He knew that in order to succeed, you must have a dream and then work to achieve it.

When I was growing up, my family owned a small store. Fortunately, my father was a very successful businessman and we did quite well. However, he was always very careful to make sure that his children were aware of how lucky they were, and saw to it that we didn't take our good fortune for granted.

My father was a generous man and he wanted his children to have every advantage. But, he saw to it that we had the satisfaction of earning certain privileges. By constantly challenging me, my father taught me to make thoughtful decisions. Although I was the one with a degree from high school, college, and law school, my father had a wealth of knowledge. His encouragement helped me to move ahead with foresight. I hope I have passed this wisdom on to my own children.

For hundreds of years fathers have lifted, inspired and blessed the lives around them through acts of selflessness and courage. It is because of what fathers give to their children, and, in the process, for society, that I ask you to join me in honoring them on Father's Day.●

ALEXANDER IOFFE

● Mr. DECONCINI. Mr. President, I would like to bring to the attention of my colleagues the tragic fate of Alexander Ioffe and his family. Alexander is an internationally known mathematician who has been trying to emigrate from the Soviet Union for more than a decade. I first met Alexander during a visit to Moscow in 1978. Since that time, I have raised his case with Soviet officials at every appropriate opportunity. Unfortunately, all to no avail.

I spoke to Alexander on the phone this week and he informed me that he will begin another hunger strike on June 22 to protest his most recent visa refusal by the Soviet Government. Furthermore, he was told he could not reapply until 1993.

Alexander, who first applied to emigrate in 1976, has been continually denied an emigration visa on "state secrecy" grounds. This is an outrageous reason in light of the fact that Alexander voluntarily left the institute in question in 1972 and any information he may have acquired is now antiquated. Moreover, Alexander's work had only dealt with mathematical problems and his papers were published in academic journals within the U.S.S.R. and abroad. Surely, Soviet technology cannot be that stagnant that people are refused visas on their exposure to "classified information" obtained 15 years ago. Surely, Alexander cannot be a threat to his Government's security.

I am deeply concerned about the Soviet Government's current policy of frequently using "state secrets" and "state security" as grounds for denying visas. This new decree, which went into effect in January of this year,

fails to provide guidelines as to the limitations period on access to state secrets and, therefore, continues to permit Soviet officials to create their own arbitrary rules, based on nothing more than expediency. It is apparent that an applicant who is alleged to have knowledge of state secrets could be permanently denied an exit visa.

What did Gorbachev mean when he stated at a Paris press conference on October 2, 1985, that the length of the declassification period lasts from 5 to 10 years. This is most certainly not the reality of the situation in Alexander Ioffe's case, as well as many other Soviet emigration cases.

What does Gorbachev mean when he speaks of "glasnost?" Do the new Soviet laws liberalize or prevent emigration?

This issue was recently addressed by Ambassador Zimmerman, the head of the U.S. delegation in Vienna which is reviewing implementation of all aspects of the final act of the Conference on Security and Cooperation in Europe. The cornerstone of this international agreement, commonly referred to as the Helsinki accords, is recognition of and compliance with fundamental human rights principles. Representatives from 35 nations, including the Soviet Union, signed this document on August 1, 1975. Although the Soviet Union was one of the strongest proponents of the Helsinki accords, its record of compliance over the last 12 years is abysmal. The following is an excerpt from Ambassador Zimmerman's remarks made at a plenary meeting on May 5, 1987, which exemplifies in human terms the continued absurdities of Soviet emigration policy.

There is no sign that the shameful official intimidation of all who apply to emigrate has lessened. Prospective emigrants continue to face job dismissals, social ostracism, and official harassment. In addition, the secrecy disqualification for emigration continues to be used and abused. Lev Elbert has not seen a secret since he completed his military service in 1972. Aleksandr Lerner ended his classified work in cybernetics 18 years ago and Ida Nudel was fired from her work in hygiene and infection control in the food industry 15 years ago. Vladimir Slepak, a radio engineer, has done no sensitive work since 1969. And Naum Meiman, a 76-year old mathematician who lost his wife Inna in February, has done nothing of a classified nature for over 30 years. These facts lead to one conclusion—that secrecy is the pretext, not the reason, why these people, many with close relatives abroad, are forced to wander perpetually between a world they cannot leave and a world they cannot enter.

Perhaps a new level of callousness, or absurdity, was reached just last week, when Benjamin Charny was again refused an exit visa to join his brother in the United States, where he wants to receive treatment for cancer and for a heart condition which has caused two heart attacks. Despite the merit of his case on humanitarian and even legal grounds (it meets the strictist criteria of the new Soviet legislation), the Deputy Chief of the Moscow Office of Visas and Registration told Charny just eight days ago that he should not reapply until 1995 when by actuarial probability he will be dead. The reason for refusal was Charny's work as a mathematician on the Soviet civil space program in the 1960's. Charny ceased this work 18 years ago; meanwhile, in 1981, a colleague who had done the same work in the same office was allowed to emigrate. The irony and tragedy of this case speak for themselves.

Mr. President, these trumped up excuses for denying individuals their right to live where they choose cannot be tolerated. I am particularly discouraged by what Ambassador Zimmerman described, because I personally know Lev Elbert, Aleksandr Lerner, Vladimir Slepak and Naum Meiman. How much more suffering must they endure?

Although I am specifically addressing Alexander Ioffe's situation today, he is not suffering alone. Thousands of Soviet citizens face similar predicaments. Alexander will begin a hunger strike on June 22. He is desperate. He is tired of being the victim of vague and arbitrary Soviet laws. If the Soviets are sincere about their commitment to the human rights provisions of the Helsinki accords, their emigration procedures must be changed. For example, when an individual is refused a visa on the grounds of "state security," the refusal should be in written form, it should specifically state the grounds for refusal and the exact time duration of the restriction. Once the time period has expired, the person should be allowed to emigrate.

Mr. President, we must continue to monitor any apparent policy shifts by the Soviet Union which might affect the life of an Alexander Ioffe or any of the thousands of others who are struggling for basic freedoms. We must continue to hold the Soviets accountable for their flagrant human rights abuses. As a U.S. Senator and the recently appointed Cochairman of the Helsinki Commission. I will continue to speak out on this issue until the Soviets comply fully with what they have agreed to on paper. Words are meaningless without action. Actions must be the standard by which we determine the Soviet's commitment to the Helsinki accords. To date, their actions fail to pass muster.●

INGALLS SHIPBUILDING CITED FOR ECONOMY AND EFFICIENCY

● Mr. COCHRAN. Mr. President, the largest single industrial employer in my home State of Mississippi, the Ingalls Shipbuilding Unit of Litton Industries, located at Pascagoula on the gulf coast, has recently received some very favorable publicity for its economy and efficiency.

With Congress and the administration annually debating the levels of defense spending, it is encouraging to note that one of the Nation's foremost defense contractors and naval shipbuilders is saving the Navy, and the American taxpayers, tens of millions of dollars through shipyard efficiencies and other sound practices.

Mississippians are proud of the performance record of the men and women who work at the Ingalls Shipyard in Pascagoula, from the most senior official to the youngest apprentice. They have proven time and again that dedication and hard work, coupled with the engineering and technology necessary for such important construction projects, result in a first-class product for the lowest possible cost to the taxpayers.

Mr. President, I ask that an editorial that appeared in the Mississippi Press newspaper of Pascagoula, MS, concerning the success of the Ingalls operation, be printed in the RECORD.

The article follows:

SAVING THE NAVY TENS OF MILLIONS

When the respected Wall Street Journal says something good about you, that's impressive.

In a report on Navy shipbuilding, The Wall Street Journal says:

"The Navy does have some bright spots where it can look for help. For instance the Ingalls Shipbuilding unit of Litton Industries, Inc., has actually saved the Navy tens of millions of dollars in cruiser construction mainly through shipyard efficiencies."

That's a super reputation that means much, not only to Ingalls Shipbuilding, but to this community.

When Ingalls won a major DDG-51 guided missile contract last week Ingalls President Jerry St. Pe' summed up the team effort.

"Our success demonstrates two elements in our shipyard which I believe cannot be found together in any other shipyard in America: Understanding and dedication."

The Wall Street Journal comments are simply a reflection of the Navy's facts and figures about the job being done at Ingalls. When a shipyard builds quality ships on time and within or under budget, the reputation grows.

Unfortunately, many shipyards don't have that record. As the Journal reported, "Of 22 shipbuilding studies by the General Accounting Office, a congressional watchdog agency, 17 have begun to swell beyond the target prices established in the contracts. Government estimates project $1.2 billion more may be needed to cover costs."

The Congress, the Navy and the taxpayers should appreciate it when the men and women of Ingalls Shipbuilding do a job right. Considering the number of contracts that Ingalls keeps winning, they apparently do appreciate that reputation.

EXTENDED VOLUNTARY DEPARTURE STATUS FOR POLISH REFUGEES

● Mr. DIXON. Mr. President, since the declaration of martial law in Poland in 1981, the United States has provided extended voluntary departure [EVD] status for Polish political refugees. Such status, renewed every 6 months, is necessary to prevent their deportation back to Poland.

These 7,000 to 10,000 people are mostly members of Solidarity, who had to flee Poland 6 years ago when martial law was imposed. Most of them have been living in this country for a period of time longer than that required to obtain U.S. citizenship. They have work permits and are legally employed. Many have had children here who are American citizens.

The current period of extended voluntary departure status expires at the end of this month. Recently, the State Department recommended the end of this special immigration status, which would allow Polish nationals without valid current visas to be expelled from the United States beginning July 1.

Mr. President, I believe that to put the present status of these people in jeopardy would be cruel and inhuman. If these Poles were forced to return to Poland, they would face repression at the hands of the Jaruzelski regime, the same regime responsible for the martial law which caused these people to leave their homeland. They would be subjected to discrimination, and denied jobs and housing. Further, removing EVD status would be tantamount to issuing an unqualified certificate of good conduct in the area of human rights to the Polish Communist authorities.

When A.D. Moyer, District Director of the Immigration and Naturalization Service in Chicago, heard about this gravely unjust recommendation, he immediately sent a telegram to Immigration and Naturalization Service Commissioner, Alan Nelson, to express his alarm at this proposal. I commend him for his decisive action.

Yesterday, I phoned the White House to express my alarm over the State Department proposal. By the end of the day, the administration told me that EVD status would be extended to these Polish political refugees until the end of this year.

Mr. President, I am pleased by this decision. I believe that this 6-month period will provide an opportunity to resolve this problem administratively. I plan to work hard with the White House to find a solution to this matter. In this year, as we celebrate the bicentennial of our Constitution, we must not forget our sacred tradition of offering protection to people persecuted in their own country.●

CONGRATULATIONS TO THE OKLAHOMA STATE GOLF TEAM

● Mr. NICKLES. Mr. President, I wish to take this opportunity to congratulate the Oklahoma State University golf team on its outstanding performance this year and its sixth NCAA golf championship. The Cowboys finished the tournament with a 16-stroke lead over the nearest contender. It is a well deserved title for the Cowboys who have finished first or second in the tournament 12 out of the last 13 seasons. I'd also like to extend special congratulations to the tournament medalist, and second year all-American, Brian Watts, who tied a course record of 66 to lead the Cowboys home in the final round. Also on the Cowboy team were Michael Bradly, E.J. Phister, Tim Fleming, and Brain Montgomery, of which Bradley and Fleming were also all-American selections. Finally, I would like to commend Coach Mike Holder, for his persistence and foresight which has established Oklahoma State as the perennial powerhouse in college golf.●

RELEASE OF ABE STOLAR

● Mr. LEVIN. Mr. President, last month I received some wonderful news. After 13 years of waiting, Abe Stolar and his family were at last being given permission to leave the Soviet Union to emigrate to Israel. Many of my colleagues may recall that I have risen on numerous occasions to speak on this family's behalf. Some of my colleagues may even remember that there have been times when it seemed as if the Stolars had been given permission to leave the Soviet Union—only to have their hopes cruelly dashed at the last minute.

Abe Stolar is an American citizen who has been living in the Soviet Union since 1931. Abe, his wife, and his son applied to leave there in 1974. In 1975, the Stolars received exit visas to emigrate to Israel. After shipping all their belongings to Israel and selling their apartment, they went to the Moscow International Airport to catch their flight to freedom. But at the last minute, they were turned back on the pretext that Mrs. Stolar had had access to state secrets in her job as an analytical chemist.

In November 1985 the New York Times published the names of 10 families that had been granted permission to leave Russia, 1 of which was the Stolar's. Nine of these families have long since departed from Moscow International Airport. Only the Stolars remain.

On April 16, 1987, Soviet Foreign Minister Spokesman Gerasimov announced the release of several refuseniks. The only families he listed by name were those of Leonid Feltzman and Abe Stolar. It was announced on Wednesday of this week that the Feltzman family is leaving the Soviet Union. Again, Abe and Gita Stolar, their son and daughter-in-law, Michale and Julia, and their granddaughter, Sarah, remain.

Perhaps I was too quick in rejoicing last month after I received the "wonderful news." But in the spirit of the Soviet-claimed glasnost, I thought that there was reason to take this news seriously. I had my office issue a press release and was delighted that his case was at last resolved—only to find out weeks later that Abe had in fact been given the cold slap of refusal, once again. The Ovir Emigration Office informed him that the family now needs permission from Mrs. Stolar's mother.

Mr. President, where is the trust that the Russians claim they are trying to build in the relationship between our two nations? Where is the honesty and openness that we have been hearing about since Mr. Gorbachev's ascension to power? Will there be a day when I receive news about Abe Stolar that I can take as the truth?●

RESOLUTIONS OF OREGON LEGISLATIVE ASSEMBLY

● Mr. HATFIELD. Mr. President, I request that three legislative memorials be included in the RECORD, as recognition of the keen leadership and valuable initiative of the 64th Oregon Legislative Assembly.

The memorials follow:

SENATE JOINT MEMORIAL 4

Whereas federal student financial aid provides vital assistance to students attending Oregon's post-secondary institutions; and

Whereas federal student financial aid has been reduced by 10 percent over the past six years; and

Whereas the federal Department of Education budget for fiscal year 1988 proposes to reduce student financial aid by $3.7 billion by eliminating many aid programs and severely restricting eligibility for aid; and

Whereas these proposed reductions constitute a 45 percent reduction in federal student aid over fiscal year 1987 appropriations; and

Whereas virtually all of the more than 50,000 Oregon students receiving federal financial aid will be adversely affected by these budget proposals; and

Whereas the proposed reductions in federal student aid will severely limit access to higher education; and

Whereas many low and middle income students will be unable to afford higher education should these proposals be adopted; and

Whereas the nation's security and economic growth depends on a well educated citizenry; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is memorialized to resist these drastic reductions in federal student financial aid programs and urged to maintain the current level of funding for student financial aid programs for fiscal year 1988.

(2) A copy of this memorial shall be sent to the Speaker of the House of Representatives, the President of the Senate and to each member of the Oregon Congressional Delegation.

SENATE JOINT MEMORIAL 11

Whereas for the past several decades there has existed in America a pluralistic electric industry that includes publicly owned, privately owned and cooperatively owned electric generation, transmission and distribution utilities; and

Whereas the Federal Government has developed a publicly owned electric power system which generates and transmits power to millions of Americans through consumer-owned distribution utilities, the sales of which completely repays the federal investment in those facilities; and

Whereas the benefits of this federal investment are shared in Oregon not only by the thousands of people, businesses and industries served by consumer-owned electric utilities but by the residential and farm customers of investor-owned electric utilities through the "exchange" provisions of the Pacific Northwest Electric Power Planning and Conservation Act, P.L. 96-501, and by the firms and thousands of employees of those companies served directly by the federal Columbia River Power System; and

Whereas over 80 years of federal legislative and case law history has honed the role and relationship of consumer-owned utilities, and that of the Bonneville Power Administration and other federal power marketing administrations; and

Whereas the overriding effect of these laws has been to insure competition and to provide a yardstick of comparison between types of utility organizations, thus providing citizens of this nation with the highest quality of service at lower cost and a choice of the utility providing that service; and

Whereas the President's proposed budget for fiscal year 1988 contains calculations which assume the sale of the federal Department of Energy's power marketing administrations and which assume changes in the repayment of debt on power marketing administrations' facilities; and

Whereas there exists in this nation's courts and Congress a challenge to the laws regulating the relationships between the federally owned dams and their consumer-owned customers as well as the relationships between the various types of utility organizations; and

Whereas if these challenges are successful because of a lack of knowledge of the history of utility industry development or a lack of understanding of the rule community-controlled electric utilities play in that industry, such action would overturn more than 30 federal statutes spanning eight decades of good public policy, sell vital natural resources held by the Federal Government in trust for all the people of the United States, to private interests be they domestic or foreign, stifle competition, perpetuate monopoly control and raise electric costs to 11 million Americans including over one million of Oregon's households; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is memorialized to reject any budget proposal, bill, amendment or other legislative initiative that would study or authorize the sale of the Bonneville Power Administration or any other federal power marketing administration to private interests, to reject any change in the repayment schedules for debt owed on any facilities owned by a federal power marketing administration, and to reject any legislation which seeks to overturn the existing federal power program.

(2) A copy of this memorial shall be sent to the President of the United States, to each member of the Oregon, Washington, Montana and Idaho Congressional Delegations, to the Secretary of Energy, to the Speaker of the House of Representatives and President of the Senate, and to the Majority and Minority Leaders of the House of Representatives and Senate.

HOUSE JOINT MEMORIAL 14

We, your memorialists, the Sixty-fourth Legislative Assembly of the State of Oregon, in legislative session assembled, most respectfully represent as follows:

Whereas Crater Lake Lodge, built in 1914, is of historic and architectural importance to the people of the State of Oregon and the people of the United States; and

Whereas Crater Lake Lodge has been listed in the National Register of Historic Places; and

Whereas Crater Lake Lodge adds much to the total experience and enjoyment of a visit to Crater Lake National Park; and

Whereas Crater Lake Lodge is one of the few examples in Oregon of the historic character which represents an early era in park development and is an historical attraction in itself that is a stately reminder of the relatively early date of Crater Lake's designation and devlopment as a national park; and

Whereas the removal of the overnight accommodations as currently and historically located inevitably would diminish the quality of experience sought by a significant number of park visitors; and

Whereas a farsighted nation preserves the quality of its past as a guide and standard for its future; and

Whereas the National Park Service is now considering options for the future of Crater Lake Lodge; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) We urge the Department of the Interior and the National Park Service to preserve and restore historic Crater Lake Lodge as a national asset to provide lodging at Crater Lake National Park that can be enjoyed by future generations of Americans and increasing numbers of international visitors.

(2) A copy of this memorial shall be transmitted to the Secretary of the Interior, the Director of the National Park Service, and each member of the Oregon Congressional Delegation.●

CITIZENS COMMISSION ON INDOCHINESE REFUGEES CALLS FOR CONTINUATION OF FIRST ASYLUM, STRENGTHENED REFUGEE PROTECTION, AND ONGOING UNITED STATES RESETTLEMENT PROGRAMS

● Mr. PELL. Mr. President, the Citizens Commission on Indochinese Refugees, formed under the auspices of the International Rescue Committee, has just completed a week-long study mission to Thailand for a firsthand look at the ongoing situation of Indochinese refugees. The commission is headed by longtime IRC Vice President Bayard Rustin, and included among its members the gifted and distinguished film and theater actress Liv Ullman, also a vice president of IRC—long known for her support of refugees throughout the world. The other members of the citizens commission are the chairman of the IRC's executive committee, James T. Sherwin, the IRC's capable executive director, Robert P. DeVecchi, and Betsy Trippe DeVecchi, Hiroko Sherwin, and Donald Saunders.

I have served as a vice president of the International Rescue Committee, and I remain a member of its board of directors—it is one of my proudest affiliations. For over a half a century the IRC has been in the lead of those calling attention to the needs of refugees and seeking practical, humane solutions to their plight. Its original chairman was the esteemed theologian Reinhold Niebuhr, and its chairman for most of its existence has been Leo Cherne, whose leadership on behalf of refugees has been deservedly recognized and honored.

The citizens commission mission to Thailand took place in the period May 29–June 4, 1987. It was convened and carried out with urgency to deal with three major concerns:

First, the vital need to preserve first asylum, in Thailand and other countries of Southeast Asia, for refugees who continue to flee Vietnam, Laos, and Cambodia;

Second, the need to guarantee basic protection to refugees in countries of first asylum; and

Third, the need to ensure the continuation of reliable, consistent, fair and compassionate refugee resettlement policies by countries of final resettlement.

The commission focused its attention on the plight of the 260,000 Cambodians living in uncertain and hazardous conditions on the Thai-Cambodian border, as well as the 22,000 Khmer refugees in Khao I Dang. It calls for improved education programs for Khmer children on the border as part of a series of actions needed to improve conditions for this especially vulnerable population. It supports the recommendations of the Indochinese Refugee Panel headed by former Iowa Gov. Bob Ray that further review is imperative for the so-called rejected refugees at Khoa I Dang—the camp known to the world from the final scenes of the Academy Award-winning film, "The Killing Fields."

The commission counsels against schemes to try to return refugees to Vietnam, including those who survived the hazardous land passage across Cambodia as well as those who continue to arrive by sea. It also calls for the immediate resumption of the Orderly Departure Program [ODP] from Vietnam as a necessary step to give Vietnamese an alternative to escape by unsafe boats with the terrible risk of pirate attacks.

The commission calls attention to the plight of the Lao refugees, expressing particular concern about reports of push-backs and involuntary repatriation of Highland Lao—the Hmong so long associated with United States efforts in the region. For all these groups the citizens committee counsels improved protection, enhanced education, health, and mental

health programs, and a continuing commitment for resettlement by the United States and other countries.

The report is short and to the point. It is worth a careful reading as a blueprint for what needs to be done for Indochinese who continue to flee as refugees. I ask that the text of the report, along with a letter to me from Robert DeVecchi, be printed in the RECORD.

The material follows:

CITIZENS COMMISSION ON INDOCHINESE REFUGEES MISSION TO THAILAND, MAY 29–JUNE 4, 1987, REPORT AND RECOMMENDATIONS

The Citizens Commission on Indochinese Refugees has just completed a mission to Thailand. During the course of its trip, the Commission visited the Cambodian refugee camp of Khao I Dang, the Khmer border encampments at "Site II", the Lowland Lao refugee camp at Napho, as well as the detention center for Lowland Lao at Nong Saeng, the Lao hilltribe camp at Ban Vinai, the Vietnamese boat refugees at Phanat Nikhom and the immigration jail facility at Suan Plu.

The Commission met with representatives of the Royal Thai Government, including the Ministry of Foreign Affairs, the Ministry of the Interior, and the National Security Council. The Commission also met with representatives of the United Nations High Commissioner for Refugees, the United Nations Special Representative for the People of Kampuchea, the United Nations Border Relief Operation, the International Committee for the Red Cross, the United States Ambassador to Thailand and the members of the American Embassy concerned with refugee affairs.

The Commission's initiative was due to three major and interrelated concerns.

1. *The vital need to preserve first asylum, in Thailand and other countries of Southeast Asia, for refugees who continue to flee Vietnam, Laos and Cambodia.* In this connection, it is of critical importance to note the root causes which lead these refugees to risk their lives in the search for freedom: the suppression of basic human rights by the Vietnamese authorities within their own country and against their own people, their continued subjugation of Laos, and their continued occupation of Cambodia, and the consequence of the genocidal acts of the Khmer Rouge. So long as these regimes create conditions which compel their own people to flee, there will be a need for first asylum and the guarantee of a safe haven. We strongly urge the ASEAN nations, the United States, and other countries of the free world to press for an urgent resolution of these problems and the restoration of basic human rights to the long-suffering peoples of Indo-China.

2. *The need to guarantee basic protection to refugees in countries of first asylum.* Refugees are the most vulnerable of populations. Those who risk their lives fleeing oppression, tyranny and persecution must be given basic protection by the countries to which they have fled.

3. *The need to insure the continuation of reliable, consistent, fair and compassionate refugee resettlement policies by countries of final resettlement.* We believe that the United States has a special responsibility and leadership role in this regard, that the American people continue to offer a generous welcome to refugees in need, and that the United States Government has the authority and Congressional support for a continued commitment to refugee resettlement.

The Commission recognizes that a major portion of the responsibility for refugee populations has fallen on Thailand and the Royal Thai Government. We acknowledge with deep appreciation Thailand's efforts and contributions in this regard. We recognize at the same time the responsibilities of the free world, and especially of the United States to relieve Thailand of as much of this burden as possible.

The Commission makes the following specific recommendations:

BORDER KHMER

The safety and welfare of the 260,000 Khmer on the Thai-Cambodian border should be further safeguarded by bringing them within the protection of the UNHCR, in addition to the continued presence of UNBRO and the ICRC.

The 150,000 Khmer at the present Site II are in a war zone where protection is impossible, and should be moved to a safe location. During the Commission's visit, seven Khmer were killed by shelling of this camp and numerous others seriously wounded.

Since 1979, a generation of Khmer children has been born knowing no more of life than a refugee camp. There is every indication that the Cambodian conflict will not be resolved in the near future. It is therefore incumbent on the civilized world to ensure that this population has an opportunity for education, including primary and secondary schooling for all the children, as well as special programs for the handicapped.

The well-being and security of those at Site II would be enhanced by the establishment of a free market which would allow for a more varied diet and be conducive to freer interchange among the sections of the camp.

KHAO I DANG

The nearly 22,000 Khmer refugees in Khao I Dang—a camp synonymous worldwide with refugee compassion—should be processed for resettlement as expeditiously as possible. The Commission takes special note of the rejected case load of over 12,000 refugees and concludes, consonant with the recommendations of the Ray Commission, that further review of these cases is imperative. The Commission intends to take this matter up with the U.S. Government immediately upon return. We also urge the speedy processing of the 7,000 Ration Card and 1,500 remaining Family Card holders. In the meantime, we ask the Royal Thai Government to allow this additional processing to be completed before any relocation of this population.

VIETNAMESE REFUGEES

The Commission is concerned by the increase in the numbers of Vietnamese boat refugees and the resulting overcrowded living conditions in Section C at Phanat Nikom camp. We are equally concerned with the plight of Vietnamese who have flew overland through Cambodia. Based on the 1986 Department of State Country Reports on Human Rights Practices in Vietnam, and the fact that Vietnam refuses to accept the return of those who have fled, such Vietnamese should have presumptive eligibility for refugee status. We will urge this position on our Government upon return.

ORDERLY DEPARTURE PROGRAM (ODP)

The Commission regrets the suspension by the authorities in Hanoi of ODP interviewing, and calls for its immediate resumption. This program should be the alternative to clandestine escapes in often unsafe boats, many of whch have fallen victim to pirate attacks.

LOWLAND LAO REFUGEES

The commission examined the screening of refugees by the Royal Thai Government authorities with UNHCR observers. We cannot help but conclude that the procedure would benefit from improvement. In particular, we urge greater UNHCR participation by international staff. We also urge the United States Embassy to take a more active role in reviewing all "screened out" cases in order to ensure that any refugees with valid claims for resettlement are identified.

The processing for resettlement of the 23,000 Lowland Lao refugees at Na Pho camp should be completed expeditiously. We conclude that there should be a complete and thorough review of all rejected cases to ensure consistency and fairness. This position, too, we will urge upon our return.

Durable solutions for lowland Lao refugees should not be foreclosed. In this connection, we would urge the U.S. Government to work with the government of Laos towards the establishment of normal immigration procedures and to explore the possibility of an orderly departure program from Laos.

HIGHLAND LAO

While the commission acknowledges the patience and assistance of the Royal Thai Government over the years in providing first asylum to highland Lao, we are deeply concerned by reports of push-backs and involuntary repatriation. We recommend that all Highland Lao seeking asylum and refuge in Thailand be permitted to enter the screening process, and if determined to be eligible, be allowed to enter one of the UNHCR camps.

We call on the United States to make an ongoing commitment to accept Highland Lao refugees who seek resettlement.

VULNERABLE POPULATIONS

The commission notes the presence of a number of vulnerable refugee groups, many of whom have been in camps or detention for a period of years and for whom no relief is presently in sight. We call on the U.S. and other countries of reettlement to be particularly responsive to the needs of these populations, which include:

1. Khmer boat refugees.
2. Khmer refugees in camps other than Khao I Dang.
3. Khmer Krom (Ethnic Khmer born in Vietnam) on the Thai-Cambodian border.
4. Vietnamese unaccompanied minors in Phanat Nikhom.
5. Defectors from the communist army of Vietnam presently at Phanat Nikhom or at Site II.

One final word. The Commission is deeply aware that the Indochinese refugee crisis has lasted for over twelve years. It continues to put a severe strain on the people of Thailand and all those involved with refugees. The strains are most telling on the refugees themselves, especially those who have been victims of violence, who have been in camp the longest, and who have been passed over or rejected for resettlement.

We are concerned that severe mental health and emotional problems are on the increase and urge the Royal Thai Government, the international organizations concerned, and the private voluntary agencies

involved in refugee assistance, to be alert and responsive to these circumstances.

Bayard Rustin, Chairman; Liv Ullmann; James T. Sherwin; Robert P. DeVecchi; Donald Saunders; Betsy Trippe DeVecchi; Hiroko Sherwin.

INTERNATIONAL RESCUE COMMITTEE, INC.,
New York, June 8, 1987

Hon CLAIBORNE PELL,
U.S. Senate, Russell Senate Office Building, Washington, DC

DEAR SENATOR PELL: I wanted to share with you the enclosed report issued by the Citizens Commission on Indochinese Refugees. It was issued in Bangkok on June 4, following a week long study mission.

The report contains specific policy recommendations which the Commission members unanimously endorsed. These were arrived at following extensive discussions with Thai, UN and U.S. officials concerned, and visits to all the major refugee camps.

We left Thailand with no doubts in our minds that the refugee situation there is at a critical juncture. The generous policy of first asylum which Thailand has granted for refugees is in jeopardy. Refugee protection is equally endangered. Vital to the maintenance of these is the need for an on-going U.S. resettlement commitment which is reliable, consistent, fair and compassionate.

The Commission intends to follow up on this report and looks forward to the opportunity of working with you to this end.

Sincerely,

ROBERT P. DEVECCHI,
Executive Director.

COMMODITY MARKETING ORDERS

● Mr. BOSCHWITZ. Mr. President, recently I offered an amendment to the Federal Trade Commission [FTC] reauthorization that would have lifted the congressional ban on investigation and study of Federal commodity marketing orders by the FTC.

At that time it was argued by most cooperatives, and Members of the Senate who agreed with them, that the U.S. Department of Agriculture Agricultural Marketing Service [USDA-AMS] has full and complete power to regulate the marketing orders so that no abuses of the antitrust exemption provided for marketing orders could occur. Further, study by any agency except USDA-AMS was duplicative and unneeded because AMS is doing a great job.

Recently someone else did take a look at the California-Arizona navel orange marketing order. Victor Palmer, USDA Acting Chief Administrative Law Judge, found that the Agricultural Marketing Service has not handled this marketing order appropriately.

Four California navel orange handlers regulated under the California-Arizona navel orange marketing order instituted proceedings against USDA under section 15(A) of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(15)(A)). The four California handlers charged that the Secretary of Agriculture's annual implementation and weekly allocation of prorated volume restrictions (the amount of navel oranges legally allowed to be shipped to market on a weekly basis) for the last 11 annual seasons:

First. Amounted to an unlawful delegation of authority by the Secretary of Agriculture to the order's Navel Orange Administrative Committee that is dominated by Sunkist Growers, an organization that is in direct competition with the petitioning California orange handlers;

Second. Constituted arbitrary and capricious exercises of regulatory power which were abuses of discretion by the Secretary of Agriculture;

Third. Were not in compliance with the most basic requirements of the Administrative Procedure Act; and

Fourth. Discriminated against petitioners by denying them the "equity of marketing opportunity" that the act and the order requires be given to all handlers.

Acting USDA Chief Administrative Law Judge Victor Palmer ruled on this matter on April 23, 1987. Agreeing with the petitioners and deciding against USDA on the major points of law, Judge Palmer found:

The prorated flow-to-market restrictions imposed under Marketing Order 907 upon petitioners' handling of California-Arizona navel oranges from autumn of 1979 through January 31, 1985, were not in accordance with law due to the failure of the Department of Agriculture to:

First, perform the independent evaluation and analysis of NOAC's recommendations sufficient for the exercise of allocations of the restrictions, as required by the Administrative Procedure Act; and

Second, provide petitioners with advance notice and opportunity to comment upon the restrictions as required by the Administrative Procedure Act.

Today, in the Senate Agriculture Committee, we had testimony from Willie Nelson and others advising us that we should start an international grain cartel so that we could extract from customers the price that we want for our grain. Not only has this approach failed in the international arena, but it is failing here at home where we have such arrangements.

The first article I would like to enter into the record is authored by Marj Charlier of the Wall Street Journal. The article explains how independent procedures are fighting and winning a few battles to grow and sell their products without the interference of Federal marketing orders.

The second article, by Neil Behrmann of the Wall Street Journal, examines the fate of world commodity cartels. The evidence is conclusive that they have not worked in the past which leads me to believe that they will not work in the future.

The articles follow:

[From the Wall Street Journal, June 17, 1987]

FIGHTING QUOTAS—INDEPENDENT FARMERS OPPOSE RULES LETTING CARTELS DECIDE OUTPUT

(By Marj Charlier)

SANGER, CA.—Inside a big metal building on the Riverbend International Corp. farm here, shiny oranges bounce jauntily along conveyor belts and down chutes, automatically joining like-sized fruit in boxes bound for Pacific Rim markets.

But outside, in orchards that stretch across the San Joaquin Valley, oranges just as fine plop off trees and rot in the scorching heat. Perry Walker, Riverbend's vice president, says that the fruit wouldn't be going to waste if it weren't for restrictions imposed by a government-backed cartel.

Rotting fruit and lost profits have become a cause. Mr. Walker has joined a growing group of independent fruit and nut farmers and packers who are fighting what they see as 1930s-bred socialism. Fifty-year-old federal regulations allow farmers to form cartels to control supplies, share marketing efforts and allocate production rights through "marketing orders" approved and enforced by the U.S. Agricultural Department. Says one grower: "Even the Communists don't do what we're doing—destroying good food."

SMART AND TOUGH

Using petitions, lawsuits and other legal maneuvers, the farmers and packers are winning some battles. In California, Florida and the Upper Midwest, they have gotten rid of some of the nation's 47 marketing orders and begun to weaken others. "The little guys are starting to get smart and tough," says John Ford, a former Agriculture Department official who works as a consultant for farmers fighting marketing orders.

At stake is the enormous power of huge produce-marketing cooperatives. Because of their big market shares, co-ops like Sunkist, Sun-Diamond and the California Almond Growers Exchange have most of the votes on the committees that administer the marketing orders. Without the protection from competition that the production limits provide, the co-ops might lose farmer members and valuable markets to the independents.

Consumers and many farmers stand to gain if the independents' campaign succeeds. More fruit and nuts on the market would lower retail prices, the U.S. Small Business Administration advocacy office has concluded. And eliminating restrictions would increase farmers' profits 10% to 20% by reducing administrative costs and discouraging imports, among other things, according to a study published recently in the Journal of Law and Economics.

EVENING ODDS

Back in 1938 when the marketing orders were set up, the co-ops were seeking to even up the odds between thousands of Depression-era small farmers—all trying to sell their produce at the same time—and powerful urban buyers. The law allowed farmers, co-ops and packers to form boards to write and administer marketing orders controlling the movement of produce to market. The lemon and orange orders sought to create "equity of opportunity" in the marketplace for all farmers and packers by letting the

boards set weekly quotas for each farmer and packer.

Now, no one is predicting that the marketing-order system will collapse overnight. Indeed, while fruit and nut growers are fighting to eliminate supply controls, Congress is considering mandatory controls for grain farmers. The Save the Family Farm Act, sponsored by Sen. Thomas Harkin, an Iowa Democrat, and Rep. Richard Gephardt, a Missouri Democrat, would have farmers vote to limit their production as a solution to grain surpluses and the nation's farm crisis.

And not all farmers and packers dislike marketing orders. The orders benefit small, part-time farmers who don't have time to vie for market share. And their generic advertising programs and quality standards are universally praised.

A DERAILED CRUSADE

Only four years ago, the Agriculture Department itself wanted to overhaul the system, which it oversees. Under former Secretary John Block, the department pushed to reduce cooperative control and rein in anti-competitive orders. But pressure from Sunkist, the huge Arizona and California orange and lemon cooperative, derailed that crusade, says Mr. Ford, the deputy assistant secretary at the time. (Sunkist officials declined to be interviewed for this story.)

Now, the department has dropped the matter, says Patrick Boyle, who heads the department's Agriculture Marketing Service. "In previous years there was more discussion about that," he says. "But if you look to the department to take the lead, that's not going to happen."

Fine, say the independent farmers and packers; they will do it themselves. And they have become a formidable force. "The system's a house of cards," says James Moody, a Washington, D.C., lawyer who has worked for the growers for the past eight years. "If you keep banging away at it, it will fall."

In the past decade, young, college-educated farmers with marketing expertise have quit the co-ops to pack and market their own produce, capturing profits that used to go to middlemen. Computers, larger farms, better transportation and advance buying by supermarkets have all made that easier. Today, 100 packers process and market almonds, while only 15 did a decade ago.

The new independent farmers and packers like this heated competition. Carl "Skip" Pescosolido, a petroleum marketer and orange grower from Irving, Texas, is one of them. He drove to the San Joaquin Valley for the first time in 1970, bought a farm and in 1979 began funneling his marketing skills into selling oranges. He quickly ran up against marketing-order restrictions—he could sell more oranges than the order would allow—and became an early opponent of the California citrus order.

"I was the only voice of reason in the industry," he says. "Today, it's fair to say 30% of my fellow growers share my views."

What really irks these growers is that the quotas have routinely restricted the sale of oranges in only one of four districts regulated by the committee—the district where most of Sunkist's competitors, the independents, operate. These growers, including Messrs. Walker and Pescosolido, are regularly required to divert about 32% of their navel oranges to lower-profit channels like the export market, charities or juice plants.

The independent growers blame the market restrictions for declining per-capita consumption of oranges and increasing imports. They also note that farm prices haven't improved despite the supply controls.

"ORDERLY FLOW"

Billy J. Peightal, the manager of the orange marketing committees, concedes that oranges haven't been consistently profitable but says that prices have been higher than they would have been without the marketing orders. "The system creates an orderly flow of oranges to the market," he says. "In the long run, everybody would suffer without this order."

But the only time the orange marketing order was lifted—for five months in 1985 after a severe freeze in Florida and Texas—prices to farmers rose and consumer prices didn't. In a study of that episode, the Agriculture Department's economic research service concluded that most times, grower income would be greater without the restrictions.

Meanwhile, independent almond producers have their own complaints. A major one is that the almond marketing board, dominated by CAGE members, requires co-op and independent packers to spend 2.5 cents on brand-specific advertising for each pound of almonds they handle. If they don't spend it, they must forfeit the money to the almond board.

But independent handlers sell more than 90% of their almonds overseas and as ingredients for ice cream and other foods. Many don't have a brand, and brand advertising won't increase their sales one iota, says Robert Saulsbury of Saulsbury Orchards in Madera, Calif. His 2.5-cent levy over the past seven years has added up to more than $1.4 million.

CAGE, which holds most of the retail market with its Blue Diamond brand, does benefit from brand advertising. The co-op spends its advertising money and doesn't have to pay it to the board.

GENERIC ADS

The almond board has consistently voted against using the forfeited funds on the generic advertising that many independents would like. "We question if 'go out and eat more almonds' helps sell almonds," says Steven Easter, a CAGE and almond board member.

Mr. Saulsbury and two other almond packers have also filed petitions protesting the board's requirement that producers sell a set percentage of their crop to someone who will make almond butter out of it. The butter is supposed to compete with peanut butter and provide a new market for almonds. But butter makers pay less than market value for the almonds, and many of the independents don't believe that almond butter will sell anyway—especially when it is four times as expensive as peanut butter. "Everybody hates almond butter," says Cloyd Angle, who owns the independent packinghouse Cal-Almond Inc. (Mr. Easter says that the almond-butter program has had siginficant success in Europe.)

Independent growers and packers are beginning to win some significant victories. In April an adminsitrative law judge agreed with Messrs. Pescosolido and Walker and other orange producers who challenged the navel-orange marketing order. Six years' worth of weekly restrictions on marketing oranges were illegal, the judge said, because the Agriculture Department approved them without adequate review and because they weren't fair to the independent growers. The department has appealed the decision.

CHERRIES AND HOPS

Meanwhile, cherry growers in the Upper Midwest gathered enough votes to get rid of their marketing order, and hops growers in California voted to scratch theirs last year. In the state of Washington, spearmint growers the contemplating either a lawsuit or an administrative petition to kill their marketing order. And Florida grapefruit growers voted last month to kill theirs. "As growers realize the marketing orders hinder their ability to satisfy customers, they kill them," says Gregory Nelson, of grapefruit grower DNE Sales Inc. in Fort Pierce, Fla.

The fight against the orders has attracted some colorful warriors. One of them is prune packer Neil Denny of Marysville, Calif., a veteran of battles with the county commission, the state environmental protection agency and the county sheriff. Recently, when the prune marketing board, dominated by the Sunsweet cooperative, proposed a reserve to limit sales and raise prices, Mr. Denny's hackles rose again.

"You don't hide anything from the market anymore," he says. The pools only "keep a small guy who's aggressive out."

While marketing board members flew to Washington at the board's expense to persuade the Agriculture Department to approve the reserve, Mr. Denny and fellow independent grower Neill Mitchell paid their own way and burst into department offices to protest. "We were just two little guys with a big story," say Mr. Denny. But he and Mr. Mitchell stopped the reserve, nonetheless.

[From the Wall Street Journal, June 1, 1987]

MARKET FORCES AND DISCORD STYMIE CARTELS

(By Neil Behrmann)

LONDON.—The price-bolstering clout of the world's commodity cartels is evaporating amid discord among producing nations and the dominance of market forces.

"Commodity agreements are an endangered species," say Charles Young, director of research at Landell Mills Commodities Studies Ltd. Such accords were fashionable in the 1970s, he says, but policy makers today believe in "free markets and privatization."

Nearly a decade ago, more than 150 nations, rich and poor, wanted to devise a grand strategy to stabilize prices of 10 commodities and bolster cash flows of the Third World nations that produce raw materials. United Nations planners envisioned a "common fund" that would finance various pacts covering coffee, tea, cocoa, sugar, cotton, rubber, jute, sisal, tin and copper.

Despite six years of effort, however, the fund never materialized. And just one new pact, covering rubber, was negotiated.

INTERNAL BICKERING

Tin's international agreement dates from World War II, and sugar, coffee and cocoa pacts existed before 1977 and have been renegotiated several times since then. Only cocoa and rubber are fully active now, though.

Coffee's price-support mechanisms have been suspended more than a year while producing and consuming members argue about how to allocate export quotes. Although the International Coffee Organization's executive board meets this week in Bali, the panel isn't expected to decide the quota question before it meets in September at its London headquarters.

The International Sugar Agreement's price and quota functions lapsed in 1984 when members couldn't agree on export restrictions to support prices. And metal markets still suffer from the October 1985 collapse of the International Tin Council, which ran out of money by supporting prices far about market levels. Malaysia and Indonesia scuttled attempts to save the ITC early last year, delegates say, because the two nations weren't prepared to raise more money for support operations.

The spirit behind the international planning of 10 years ago "is dead," says Robert Fish, managing director of Primary Commodity Research, Ltd., a consulting firm. Noble efforts to bolster the economies of Third World nations have been overtaken by self-interest, he says.

"Some years ago we were sympathetic to producers' problems," a European delegate says. "Now we enter negotiations to obtain the best possible deal for ourselves."

Commodity packs generally rely on quotas and buffer stocks, or common inventories, to keep prices in an agreed range. The intent is to assure stable supplies and output, and an orderly market for producers and consumers alike.

When a commodity's price falls below a specified level, the accord's representatives typically buy it on the market to force quotes back up. When prices surge, the council sells surpluses from its stockpile. Producers can also agree to restrict exports when the market is weak and to suspend quotas when prices are high.

In practice, though, producing members of several pacts have ignored quotas and stepped up output, even at low prices, because they need foreign currency to repay international loans.

Actions of non-member producers also put strain on cartels. While the sugar pact imposed strict export quotas on its producing nations, the Common Market, a major producer, didn't belong to the world organization. Huge amounts of Common Market sugar poured into the international market, undermining prices.

The cocoa pact, which failed dismally to support prices a few years ago, is being tested again this year after a major hitch was straightened out. The buffer-stock manager at the International Cocoa Organization now can buy from producers that aren't members, such as Malaysia. Last month the manager kept prices from falling by purchasing cocoa both from member and nonmember countries, although one analyst says the manager isn't buying very aggressively.

Mr. Fish warns that if cocoa surpluses continue to swamp the market, the buffer stock manager will soon exhaust his $250 million purchase budget. Just such a drain helped stymie previous price-support efforts. When prices fell in 1984, the market anticipated the moves by the buffer stock manager and waited them out.

The rubber pact is working best because it is elastic, says a delegate to several commodity organizations. Price ranges at which the buffer-stock manager trade are adjusted to reflect the market forces. Export quotas aren't used.

ROLE OF SPLINTER GROUPS

Some commodity agreements have been undermined when threats by some producers to form their own cartels antagonised consumer members. In the tin organization, Malaysia, Indonesia and Thailand plied a separate course, and Latin American coffee producers raised the specter of their own coffee group.

Indonesia, the world's third-largest coffee producer, has said it will seek more support in the ICO from Asian-Pacific nations. Indonesia, the Philippines, Thailand and Singapore are members of the Asean coffee club, formed in 1980. Asean—the Association of Southeast Asian Nations—also includes Malaysia and Brunei.

Indonesia and seven other coffee producers have said demands by Brazil and 23 other producers to maintain the traditional ICO quotas are unrealistic. Quotas were suspended in February 1986 when prices soared to more than $2 a pound because of drought damage to the crop in Brazil, the world's largest producer with an ICO quota of 30% of the market. Coffee stood at $1.12 a pound Friday.

Market forces, too, have militated against commodity pacts. Supplies of raw materials surged in the 1980s as Third World nations overproduced, spurred by the price gains of the 1970s.

Meanwhile agricultural subsidies in the Common Market, the U.S. and elsewhere accentuated the commodities glut that led to the inevitable failure of the pacts, says John Calverly, an economist at American Express Bank.

On the other hand, when demand for sugar surged in 1980, prices more than doubled despite the stabilization efforts of the international organization.

In recent years consuming nations have lost enthusiasm for the idea of commodity price and production stabilization. Although they were receptive in the 1970s when they wanted to curb rapidly climbing prices, analysts say, the subsequent commodities slump has helped curb runaway inflation in major consuming countries.

Still, self-interest may encourage some consuming nations to stick with commodity pacts. Latin American countries are having trouble repaying bank loans, and in one analyst's view that is a big incentive for consuming countries to prop prices for coffee and cocoa.●

NATIONAL INVENT AMERICA! WEEK

● Mr. HARKIN. Mr. President, I want to call the attention of my colleagues in the Senate and the entire Nation to the first annual Invent America! Week, June 21-26, here in Washington, DC, to honor and celebrate the inventive talents and ideas of this country's student inventors in kindergarten through the eighth grade.

Invent America! is a program whose time has come for this Nation. The Invent America! program and its State, regional, and national competition to promote excellence in education through the invention process, recognizes that the greatest innovations for new jobs, technologies, and economic competitiveness in America, will come from the men and women—young and old—who dare to take great risks to invent our future.

At the very heart of America's greatness is its inventive and independent spirit. This spirit allowed early Americans the freedom to forge a technologically rich and aggressive country from an agrarian society. Our Nation then went on to lead the world in many fields. America's leadership ability and economic vigor throughout the last 200 years has characterized the "never say never" drive of America's inventors and innovators who dared to challenge the known to create a better quality of life for all of us.

In celebration of this remarkable spirit and national heritage, and the critical need to refocus Americans on the pursuit of new ideas, the U.S. Patent Model Foundation, a nonprofit organization, launched the Invent America! program in this Nation's schools in February on this year. This program encourages our next generation of doers, thinkers, and creators—our 31 million elementary schoolchildren—to develop the skills they will need to keep America strong for the next 200 years. Student inventors from all 50 States have participated in the Invent America! program this first year. Invent America! week will recognize the brighest ideas of 45 regional winning student inventors, their teachers and parents who will be here in Washington, DC, for the selection of nine national winners on June 25. I am proud to announce two of the regional winners are students from Iowa: Crystal Davey, a fourth grade student from Dallas Center, created an adaptable baseball glove, which would be used by kids suffering from cerebral palsey; and, Randy Read, a seventh grader from Malcom who made a Piglet Catcher to aid farmers in the difficult task of catching piglets.

And, early this summer, I, along with other members of the Iowa congressional delegation, the Governor, the Iowa Department of Education and several statewide associations will formally announce Invent Iowa!—a comprehensive statewide project to encourage the development of invention programs throughout the State of Iowa, for Iowa's youth.

These important initiatives—Invest America! on the national level and Invest Iowa on the State level—will work hand-in-hand in an effort to revitalize the great American spirit of invention, competitiveness and free enterprise through an innovative educational method. These programs set an important example for all 50 States to revitalize a legacy that will directly affect increased domestic productivity and global competitiveness.

We have seen the reward of this type of educational emphasis in other nations. For example, the Japanese people, since 1941, have combined the efforts of industry, government, and education to promote creativity and productivity in a comprehensive program for invention and innovation.

Until the U.S. Patent Model Foundation introduced Invent America!, this country had not had such a program and the U.S. Patent Office figures

have reflected the results. In 1986 Japan alone took 18 percent of U.S. patents issued—13,857. Figures for 1986 also reveal that of the 76,862 patents issued in this country, a total of 34,859 went to foreign residents, and over the past 20 years, the percentage of U.S. patents obtained by foreigners has more than doubled.

The message is clear from both the public and private sector, that a dangerously high percentage of America's young job applicants and new hires lack the critical and creative thinking skills necessary to handle today's rapidly changing technology and highly competitive corporate environment. All children, regardless of social or economic background and physical or academic ability can be winners with the Invent America! program. Invent America! will give students the tools they need to meet and surpass global competitiveness. In recognizing and rewarding creativity, throug the Invent America! program in schools, we can begin to once again create a culture which encourages and rewards inventions and innovation.

Fifteen States across America have already announced statewide support for Invent America! in its first year, and I am proud to list Iowa as one of them with the announcement of the Invent Iowa Program. These programs offer a unique opportunity to strengthen critical partnerships between government, education, and business sectors.

In this important national endeavor, the Invent America! program has also recognized the significant contributions that our senior citizens with lifetimes of experience in the area of invention, education, and business can make to the effort. To this end, the foundation is developing a Senior Inventor Outreach Program to use our Nation's senior citizens to expand Invent America! by their participation in on-site school visits, special workshops and after-school programs.

Invent America! is truly a positive investment in America's most precious resource—our youth—and is the type of program that we, as elected leaders of our people, should support. With Invent America!, every young American will have the opportunity to reach his or her own personal creative and inventive potential.

I urge each of you to advocate the Invent America! program in the schools in your district and your State, and participate in the events of national Invent America! Week in June.

As Albert Einstein once said, "Imagination is more important than knowledge for knowledge is limited, whereas imagination embraces the entire world."

I'm looking forward to working on these invention programs and I encourage you to support these efforts to help our Nation perform more effectively in an increasingly competitive world.●

TRIBUTE TO LT. FRED D. CAROZZO, JR.

● Mr. HEINZ. Mr. President, I rise today to recognize Lt. Fred D. Carozzo, Jr., of Clairton, PA, who died in the service of his country on March 22, 1987, in a U.S. naval air accident in the East China Sea near Okinawa.

In honor of his exemplary service and patriotism, the mayor and members of the Clairton City Council proclaimed April 20, 1987, as Lt. Fred C. Carozzo, Jr., Day. I ask unanimous consent that the proclamation be printed in the RECORD at this point.

The proclamation follows:

PROCLAMATION

Whereas the Mayor and Members of the City Council of Clairton, Allegheny County, Pennsylvania proclaim April 20, 1987 as Lt. Fred D. Carozzo, Jr. Day in the City of Clairton,

Whereas Lt. Fred D. Carozzo, Jr. was born and raised in Clairton and graduated from Clairton High School. He also was a 1978 graduate of the University of Nebraska,

Whereas on March 21, 1987 he died in a U.S. Naval air accident in the East China Sea Near Okinawa,

Whereas by his final selfless act Lt. Fred D. Carozzo, Jr., was instrumental in saving his two crewman's lives.

Whereas we acknowledge the fine character of Lt. Fred D. Carozzo, Jr., and all our young men serving our country,

Whereas Lieutenant Carozzo has left a last impression on the Department of the Navy and will be remembered for his outstanding performance in some of the most demanding assignments. He had only recently completed. The overall plan for anti-submarine defense of the entire Battle Group.

In the final seconds before his death, Lieutenant Carozzo's responsible and courageous action saved the lives of two of his crewmen. His split-second decision to initiate his plane's ejection sequence permitted the crewmen to escape immediately before impact. Unfortunately, Lieutenant Carozzo was unable to complete his own escape.

I extend my heartfelt condolences to the family, friends and fellow servicement of Lt. Fred C. Carozzo, Jr., as they mourn the loss of this brave and decent man.

THE BUDGET: BETTER NEVER THAN LATE

● Mr. HATFIELD. Mr. President, with much fanfare, the conferees on the budget resolution have finally reached agreement, more than 2 months after they were obliged to complete their work under the schedule established by the Gramm-Rudman-Hollings amendments to the Budget Act. I understand that the conference report may be ready for consideration by the Senate next week, only a few days prior to the beginning of our July 4th recess.

With the adoption of the conference report, the Appropriations Committee can at last be given an allocation pursuant to section 302(a) of the Budget Act, make an allocation to its subcommittees under section 302(b) of the Budget Act, and proceed with subcommittee and full committee markups of the fiscal year 1988 appropriations bills. I am confident the committee will proceed expeditiously and discharge those responsibilities as promptly as possible. Chairman STENNIS has pledged to do that, and I will support him in every way I can.

But I'm afraid it's too late, Mr. President. By the time the Appropriations Committee receives its 302(a) allocation from the Budget Committee, it will be mid-July. We will have 6 weeks of session scheduled between that time and September 30, when we must conclude our business or resort to a continuing resolution. The Budget Committees took 6 months to complete one resolution. Does anyone believe we can enact 13 appropriations bills in just 6 weeks? It can't be done, Mr. President, and it won't ever be done if the budget process continues to fail us as it has again this year. If my colleagues want to avoid continuing resolutions, then let's do away with budget resolutions. Better no budget resolution at all than one that comes so late.●

ESSAY ON POLITICS BY KRIS JENSEN

● Mr. DASCHLE. Mr. President, the following essay concerning politics and public service was written by Kris Jensen, a young man from Aberdeen, SD. Kris successfully completed a rehabilitation program this spring at the Youth Forestry Camp for youthful offenders in Custer, SD. I wanted to share Kris's thoughts today to help remind us all of the spirit of public service and the responsibility we have to foster this spirit among all young Americans.

The essay follows:

POLITICS

I would like to be a politician if I could be anything I wanted to be. I would preferably like to be a Democratic Senator. My new self wouldn't change any from what my old self is like. I would like to further my education and enhance some of my abilities that I already possess. I would own the same car I have now to show people that I don't need to have anything different than most people have. I would also live in a small, but comfortable apartment instead of some huge house that I don't need. I would keep the same friends and try to make more along the way. I wouldn't let my success go to my head.

My new self would go to the Senate to work for the people. I would try to pass or bring up on the floor, new bills or amendments that would help the people and not

me or the rest of the government. I would try to help the needy and the lower and middle classes of people. I would try to help the senior citizens and the street people or the homeless to find ways they could earn a living or "make ends meet." I would try to fight the cuts on social security, the amount of drugs in the U.S., the senseless killing, and drunken driving on our interstates.

I would like to be a politician in order to help others because there are only a few people * * * who care about the rising problems in our country and our state. Only a few people really care what happens to America and its people. I would try to be one of the best Senators there has ever been and to go down in history as a person who cared. I think we need to take a look at America's problems first before we put our noses in other countries problems. If there were more people who cared, this country would be a beautiful place to live. Our main problems we face nowdays are AIDS, Political corruption, Drugs, nuclear accidents, and corruption in our churches. Another major problem is the spying and the traitors in the Armed Services. If we take care of these problems, we would be a better country. Most of all, I would like to work for the people and not myself.

KRIS JENSEN.

MAY 21, 1987.●

WEST VIRGINIA DAY 1987

Mr. BYRD. Mr. President, this Saturday, June 20, West Virginia will be celebrating its 124th year as the 35th State in the Union.

Over nearly one-and-a-quarter centuries, most Americans have come to take West Virginia for granted, even if some others sometimes forget that West Virginia is no longer just the western part of Virginia.

Few people today, however, realize how near West Virginia came to not becoming a separate State.

Not surprisingly, West Virginia shares with her mother State a mutual history up until the prelude of the War Between the States. In thinking and in fact Virginians, the early settlers of trans-Allegheny Virginia during the Revolutionary War, has furnished George Washington some of his fiercest and most effective warriors. And even to this day, the names of many West Virginia counties pay tribute to outstanding Virginians from the antebellum past—Brooke, Cabell, Gilmer, McDowell, Nicholas, Pleasants, Preston, Randolph, Tyler, and Wood memorialize Governors of Virginia; Barbour, Braxton, Doddridge, Hardy, Harrison, Lewis, Mason, Pendleton, Ritchie, Roane, Taylor, Tucker, Upshur, and Wirt honor distinguished Virginia statesmen, jurists, and writers; and Berkeley recalls one of Virginia's royal colonial Governors.

As the frontier had moved westward across Virginia and beyond the Ohio River, however, new elements had filtered into northwestern Virginia from New England, New York, and Pennsylvania. Evincing Yankee values and customs, the new northwestern Virginians did not trace their roots to the shores of the Chesapeake or the banks of the James or Rappahannock Rivers. Of different stock going back to their origins in the British Isles, the northwestern Virginians largely spoke a different dialect, were inclined more to commerce and industry than to agriculture, and were often less sympathetic to the "southron cause" than were a majority of their compatriot Virginians to the South and Southeast.

Those differences had caused tensions in Virginia from the early decades of the 18th century onward. To head off a political rupture of Virginia in the late 1820's, the more powerful, wealthier, and numerous eastern Virginians had agreed to a Constitutional Convention in 1829, which, with former President James Monroe presiding, somewhat streamlined and democratized Virginia government. A second reform convention met in 1850, producing constitutional revisions that somewhat papered over the east-west strains in Virginia. In 1851, a distinguished western Virginian from Harrison County, Congressman Joseph Johnson, was elected the first and only Governor of Virginia from the trans-Allegheny section of the State. Until the John Brown raid at Harper's Ferry, eastern and western Virginia settled into an uncomfortable accommodation with one another.

The Dred Scott decision, the Brown raid, and the gubernatorial election of 1859 left Virginia reeling in confusion and anxiety.

The Presidential election of 1860 revealed how ambiguous the political situation in Virginia was on the eve of the Civil War. Douglas, the northern Democrat, received barely 16,000 votes, mostly in the valley of Virginia and along the Ohio. Lincoln's vote of less than 2,000 came entirely from the northern panhandle squeezed between Pennsylvania and Ohio. John Bell of Tennessee, running on a platform of unity and compromise on the slavery question, polled the majority of Virginia's votes, east and west, and won Virginia's electoral votes. Buchanan's Vice President, John C. Breckenridge, however, was the candidate of Southern Democrats, advocating Federal protection of slavery along the lines of Dred Scott, and coming in second to Bell in Virginia by only 500 votes.

As Virginia staggered into secession with the election of Abraham Lincoln, however, the splits between the two primary segments of Virginia became too severe to paste back together. Eager to remain loyal to the United States, a number of northwestern Virginians set about trying to keep Virginia in the Union. Failing that, however, other northwestern Virginians were equally committed to breaking away from the Richmond government and forming a new State.

Opposed to the new statehood movement, however, a significant number of western Virginians desired just as sincerely to stay a part of Virginia, and to join the new Confederacy. Some historians have projected that the majority of troops serving under Stonewall Jackson in defense of the Confederacy may have been, like Jackson himself, natives of western Virginia. The famous Hatfield-McCoy Feud had its origins in devil Anse Hatfield's reputation as a Confederate sharpshooter, as well as the allegiance of many McCoys on both sides of the Big Sandy and Tug Fork Rivers to the Union.

Thus, in the divided families and communities of trans-Allegheny Virginia, was the ground laid for a bloody and often fratricidal struggle that tore West Virginia from 1861 until hostilities ended in 1865. During the years of the conflict between North and South—genuinely a War Between the States—West Virginia was the scene of the real Civil War, with brother killing brother, neighbor fighting neighbor, and former friends hating one another with jingoistic fervor.

At the same time that loyal, pro-Union Virginians were planning and creating a new political entity in the mountainous west of their State, powerful men in Washington were adamantly opposing statehood for West Virginia.

First, that part of Virginia that lay behind Union lines—much of which was petitioning for statehood—was still legally slave territory. Even the Emancipation Proclamation did not remedy the problem, including as it did in its terms of Emancipation only those areas still in rebellion against the Federal Government in Washington. Staunch abolitionists, not yet certain that the war would end slavery, were reluctant to admit into the Union another slave State.

Again, legalists and jurists in Washington were concerned about a particular point of constitutional law. If secession from the Union was wrong for the Confederacy, they asked, how could Washington sanction the counties of a State seceding from that State without legal permission? By "legal permission" in West Virginia's case they meant, not the permission of the official but weak and questionable government of the Unionist Governor of Virginia, Francis Pierpont in Alexandria, but a Richmond government duly chosen in an election held from Norfolk to the Ohio River.

Fortunately, President Abraham Lincoln admired both the loyalty and the bravery of the Unionists of West Virginia. His influence swung support to West Virginia statehood. After all, Lincoln said:

* * * there is still a difference between secession against the Constitution, and secession in favor of the Constitution.

So, on June 20, 1863, West Virginia officially became the 35th State.

Yes, Virginia there is a Santa Claus. And, yes, there is a West Virginia; a separate State; a sovereign State; a State of patriots, law-abiding citizens, people who have faith in their country, their flag, their Government, and in God. And in themselves. Yes, West—W-e-s-t—Virginia; two words, two States: Virginia and West Virginia.

After the war between the States, Union and Confederate West Virginians alike joined in developing their new State. In the State legislatures that met variously in Wheeling and Charleston, former Union Army officers sat beside former Confederate Army officers. With the healing of the physical wounds of the Civil War in West Virginia, wounded relationships between loved ones and friends healed, as well. Drawing on their pioneering heritage, the men and women of the new State harnessed West Virginia's natural resources and made West Virginia one of the world's industrial giants. In so doing, West Virginia's founding patriarchs and matriarchs also left a legacy of decency, democracy, hard work, courage, and patriotism for which our State is recognized even today.

As West Virginia celebrates its 124th birthday, we are proud of our rich history, and are working to build on that foundation to make our State stronger and more prosperous in the years ahead.

Happy 124th birthday, West Virginia!

Mr. ROCKEFELLER. Mr. President, 124 years ago tomorrow—June 20, 1863—West Virginia joined the Union as the 35th State. On behalf of the 2 million people who are proud to call themselves Mountaineers, I would like to wish West Virginia a very happy birthday.

Our State was born in the midst of the Civil War. It surely was not easy for the people of western Virginia to break away from the distinguished history of one of America's original States. But West Virginians, known even then for their loyalty, perseverance, and strong family ties, could not sever the bond to the Republic that gave her people the rights they loved so dearly.

President Lincoln had these remarks to make upon West Virginia's admittance to the Union.

We can scarcely dispense with the aid of West Virginia in this struggle; much less can we afford to have her against us, in Congress and in the field. Her brave and good men regard her admission to the Union as a matter of life and death. They have been true to the Union under very severe trials.

Mr. President, throughout their history, West Virginians have continued to remain true under such trials. West Virginians are as tough and resilient as the mountains that surround them. Our proud history had shown them to be intensely loyal to their family, to their friends, and to their State. Witness the number of West Virginians who prefer to face the present hardships our State confronts rather than desert the homeland of their parents and grandparents before them.

Loyalty to country has always been a trademark of our people. Many have given the greatest sacrifice of all. In the Vietnam war, West Virginians suffered the highest casualty rate of any State. The freedom and opportunity that this country provides are wholeheartedly embraced and fiercely protected by my fellow West Virginians.

For 23 years, I have been proud to call West Virginia my home. Settling there changed my life—all for the better. My four children were born there and love it as much as my wife and I do. Mr. President, I would like you to join me in a special tribute to my State and its wonderful people. Happy Birthday West Virginia!

ORDERS FOR TUESDAY, JUNE 23, 1987

ADJOURNMENT UNTIL 2:00 P.M.

Mr. BYRD. Mr. President, in order that Senators may have time in the morning on Tuesday to work on the amendment that will be introduced by Senator BOREN, myself, and others, in order that we might try to reach our hands across the aisle, I shall not have the Senate come in until the hour of 2 o'clock p.m.

So, Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 2 o'clock p.m. on Tuesday next.

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

WAIVER OF CALL OF CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that on Tuesday next the call of the calendar be waived under rule VII.

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

MOTIONS OR RESOLUTIONS, OVER UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimus consent that on Tuesday next, no motions or resolutions, over under the rule, come over.

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

PERIOD FOR TRANSACTION OF MORNING BUSINESS

Mr. BYRD. I ask unanimous consent that, after the two leaders have been recognized under the standing order on Tuesday next, there be a period for morning business not to extend beyond the hour of 2:30 p.m.; and that at the hour of 2:30 p.m., the Senate resume the consideration of unfinished business.

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

TIME FOR SENATORS TO SPEAK IN MORNING BUSINESS

Mr. BYRD. I ask unanimous consent that, during the period for the transaction of morning business on Tuesday next, Senators may speak for not to exceed 5 minutes each.

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

A HAPPY FATHER'S DAY TO ALL

Mr. BYRD. Mr. President, I thank all Senators and all officers of the Senate, employees, everyone involved for their patience. I hope everyone will have a good weekend, a restful weekend, and a joyous and happy birthday in West Virginia.

I also hope that all fathers and grandfathers will have a happy Father's Day and that all of our children and grandchildren will pause of reflect on the meaning of Fathers Day. Recently, we had a celebration of Mother's Day which was originated, by the way, in Grafton, As one who has grandfathered six wonderful grandchildren and fathered two beautiful daughters, I look forward to another Father's day.

ADJOURNMENT UNTIL TUESDAY, JUNE 23, 1987, AT 2 P.M.

Mr. BYRD. Mr. President, I am authorized by the leadership on the other side of the aisle to proceed to adjourn the Senate over, and I therefore move, in accordance with the order previously entered, that the Senate stand in adjournment until 2 o'clock p.m. on Tuesday next.

The motion was agreed to; and the Senate, at 3:30 p.m., adjourned until Tuesday, June 23, 1987, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 1987:

IN THE AIR FORCE

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. Duane H. Cassidy, [redacted] FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Gen. Joseph T. Palastra, [redacted] U.S. Army.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 19, 1987:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Evan J. Kemp, Jr., of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1987.

Evan J. Kemp, Jr., of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1992.

DEPARTMENT OF LABOR

Fred William Alvarez, of New Mexico, to be an Assistant Secretary of Labor.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

91-059 O-89-47 (Pt. 12)