HOUSE OF REPRESENTATIVES—*Thursday, September 10, 1987*

The House met at 11 a.m.

Rev. Hal Marchman, Central Baptist Church, Daytona Beach, FL, offered the following prayer:

We thank You, O God, for this day in which we can be still and know that You are God and Father of all mankind. We pause to give thanks for this great Nation and for those who guide and lead us. May each one of us make an effort today to close the gap between what we are and what You want us to be. May Your love be expressed in our actions and relationships. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

REV. HAL MARCHMAN

(Mr. CHAPPELL asked and was given permission to address the House for 1 minute.)

Mr. CHAPPELL. Mr. Speaker, I am so pleased that we can have one of our finest citizens as the chaplain of the day for this august body. I am so pleased that he comes from the Fourth District, my district, and I want to say that he is one of the finest friends I have ever had and one of the finest Americans I know. It is so great to have him with us today.

SCHULZE AMENDMENT TO EXTEND MINIMUM DURATION OF TENDER OFFER FOR CONTROL OF CORPORATIONS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, today I had intended to offer an amendment to the Securities and Exchange Commission Authorization Act, addressing one aspect of some current takeover attempts. My amendment would have extended the minimum duration of any tender offer for control of a corporation to 60 calendar days. An amendment of this type would provide more adequate protection for workers, management, and shareholders, from those who utilize our securities laws to fill their own pockets regardless of the best interests of our Nation.

I will not offer this amendment, at the request of our distinguished ranking member from New York, Mr. LENT. However, let this be a signal to those who are searching for profits and venture capital in the assets of stable and well-managed corporations. It is my hope that the Committee on Energy and Commerce will move forward quickly with reforms of our securities laws to protect our Nation's interests.

CONGRESS RETURNS TO CLEAN FRESH BUILDINGS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I commend you, the Clerk of the House, the Superintendent of Buildings and the Architect's Office for cleaning up of the House buildings and the Capitol. The halls have been freshly painted, boxes have been moved out of the halls, and there is just a fresh look to our facilities.

Mr. Speaker, now it is up to Members and staff to keep this place looking nice.

THE TURKEY AT&T TELEPHONE SYSTEM

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, my staff asked me the other day if I were going turkey hunting and I responded, heavens, no, we have a turkey of our own right in our very own office. As a matter of fact, we have a whole flock of turkeys called the AT&T, American Turkey Troop, planned by no less than the committee in GSA.

If my colleagues have not noticed, they come mostly in this black color and emit various noises, mostly unintelligible. Once I heard the noise emanating from one "cheap cheap cheap cheap."

This fowl critter reacts in strange and stubborn ways. I tried the other day to send my receptionist a message, and I had to send a messenger.

I would suggest at some point next week we organize a turkey drive, and out of the goodness of our hearts each and every single office contribute to the well of the House one of these fowl critters. Can my colleagues imagine the smell that would emanate from a huge pile of these critters piled right here in the well?

Maybe that would send a message, because I know that we cannot do it on this fowl critter.

DANIEL ORTEGA'S TRIP TO MOSCOW

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I was amazed to read in the Washington Times this morning a report quoting the Speaker of the House saying he hoped Daniel Ortega's trip to Moscow "will have the effect of producing less dependence on Moscow and Havana." If that report of the Speaker's remarks is accurate, I would simply like to refer to all the previous trips Daniel Ortega has made to Moscow. They have always been to secure greater assistance and closer cooperation between Moscow and Managua. The first Sandinista diplomatic missions after gaining power were to Havana and Moscow. The Soviet Communist Party signed a treaty with the Sandinista party within 11 months of their taking over in Nicaragua. Even last week, the news of Soviet assistance in the form of increased fuel supplies demonstrates clearly the Sandinistas increased dependence on the Soviets. No one should be surprised that Daniel Ortega goes to Moscow. Swallows fly to Capistrano, buzzards fly to Hinckley, and Ortega flies to Moscow. Skeptical as I am about it, I hope Ortega will have complied with the Guatamala agreement he made to bring democracy to Nicaragua before he goes to Moscow.

ANNUAL MEETING OF THE INTERNATIONAL FEDERATION OF MULTIPLE SCLEROSIS SOCIETIES

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, I would like to take just a moment to welcome the International Federation of Multiple Sclerosis Societies to Washington, DC. The federation, with 31 member nations, is conducting their annual conference from September 8 through 12 at the Sheraton Grand.

Multiple sclerosis is a degenerative neurological disease that affects nearly 2 million people worldwide. There is no known cause and no

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known cure, at this time. The disease primarily attacks young adults, aged 20 to 40, and appears to be triggered by a virus that causes multiple scarring of the brain tissue.

During this conference, the delegates will be reviewing ways to stimulate scientific research into MS, to collect and disseminate information on the disease and to aid persons who have been disabled.

I am pleased to inform the House, that a constituent of mine, Mr. George Boddinger, of Potomac, MD, is one of seven official delegates to the conference from the United States. Mr. Boddinger is a corporate consultant for the National Association of Securities Dealers. He is a director of the Harvard Business School Club of Washington and is active in a number of civic causes. I wish Mr. Boddinger and the MS Society the best of fortune in their efforts to conquer this form of human suffering.

REPORT ON PROGRESS OF CONSTITUTIONAL CONVENTION IN PHILADELPHIA

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, it is now September 10, 1787, and I am reporting to you from the floor of the Constitutional Convention in Independence Hall, Philadelphia.

Now the delegates are poised for the final week of action to complete the document that is supposed to serve as the new foundation for the new United States of America. Today they are deep in deliberations on the question of how to amend the new Constitution, if indeed amendments were ever to be offered.

The former one to which they agreed does not serve the best interests, it seems, of Gerry of Massachusetts, Alexander Hamilton of New York, and James Madison of Virginia. Those three have gotten together and have proposed, and the vote is now being taken, on the proposition that amendments to the Constitution should be able to be forthcoming from two-thirds vote of each House of the Congress or of the States themselves in proposing it with two-thirds number, and then that could be ratified by three-fourths of the States who would contemplate such an amendment.

I am ready to take the vote to my colleagues. The final vote is being cast, and it appears that the amendment has carried and, therefore, the amendment process for the Constitution is now embedded. Everybody is optimistic that within a week they will be signing this new Constitution of the United States. I am reporting to you 200 years ago today from Philadelphia at the Constitutional Convention.

SEPTEMBER 15—KONA COFFEE DAY

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, although Americans drink 380 million cups of coffee a day, Hawaii is the only State that produces native-grown coffee. Kona coffee, from the island of Hawaii, is recognized the world over for its rich flavor and distinctive aroma.

As a tribute to America's only native coffee, "Kona Coffee Day" will be observed on September 15 at the Members' dining room in the Capitol. On that day, all coffee served in the Members' dining room will be Kona coffee.

My colleagues, when you buy a cup of coffee on September 15, you will be sharing in a proud tradition. Kona coffee dates back to 1817 when King Kamehameha, the first ruler to unite the Hawaiian Islands, ordered the planting of coffee trees so that the royal family could enjoy their own special blend of coffee. As a result of his 1817 decree, Kona coffee now graces the slopes of the majestic Mauna Loa, an active volcano soaring 13,680 feet above the Pacific. For 170 years, Hawaii's rich soil, mild breezes, moderate temperatures, and gentle rains have given Kona coffee a flavor unlike any other coffee in the world.

During his 1866 tour of the Hawaiian Islands, the unique flavor of Kona coffee so impressed the usually acerbic Mark Twain that he gave it an unqualified endorsement. On September 15, you can celebrate "Kona Coffee Day" by enjoying the coffee that Twain judged to have a "richer flavor than any other."

UNITED STATES NEEDS CAPITAL PUNISHMENT LAW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Donald Harvey signed an agreement with the Government Monday. Donald Harvey will plead guilty to killing some 20 people in hospitals in Kentucky and Cincinnati. The Government will grant him a life sentence.

Mr. Speaker, I think it is time we stopped plea bargaining and draft a legislative remedy to stop the homicides that are escalating in this country.

Everybody is talking about the sexy issue of terrorism, but my God, look at the limited number of people and the exposure we face by the tremendous amount of murder in our own country. It costs us $100,000 a year to keep Richard Speck in a maximum security cell.

I think it is time we start taking a look at the victims and not the rights of these killers, and Congress enact a strict capital punishment measure that will send a signal throughout the country that we are fed up with it.

□ 1115

DOES THIS BRING BACK MEMORIES OF BEIRUT?

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, during August I crisscrossed my Missouri district. And much of what I heard was not surprising. My constituents are concerned about trade, about agriculture, about education and about the deficit. But they have added another big concern to their lists—the Persian Gulf situation.

They want to know why we are there and what our policy is. I couldn't answer them because I don't know. The administration hasn't shared its policy with us.

It can't be because of the oil—we don't rely on oil from that region. It can't be because of our friends in the area—they basically have refused to help us.

Once again this administration is depending on its Rambo-like style of foreign policy to blunder through another ordeal. Does this bring back memories of Beirut?

Mr. Speaker, I join my Missouri constituents in asking the administration to explain what our policy is in the Persian Gulf, tell us what our goals are and how we are going to achieve them. That's not too much to ask.

HIGH RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, every year, according to Government estimates, as many as 100,000 workers die and as many as 400,000 are newly disabled due to diseases caused by workplace substances. And, every year, according to a 1984 Department of Labor study, these deaths and disabilities cost American taxpayers $5.4 billion in Social Security, Medicaid, and Medicare payments. H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, is designed to save those lives and lower those costs.

Among the many supporters of H.R. 162, the High Risk Occupational Disease Notification and Prevention Act,

are some members of the business community who will be affected most by the bill.

When the National Paint and Coatings Association testified at 1 of our 10 hearings, we listened carefully to what they said. Initially, they were concerned with some scientific and administrative aspects of the program and also about its impact on liability. But, based on improvements we are making in the bill, they now fully endorse it.

Their support is very significant, because the 800 members of the association cover a broad spectrum of the industry. About 200 member companies provide raw materials for other members, and many of the firms have annual sales over $10 million. In terms of employment, about 350 of the members have between 20 and 100 workers, and a number of them have several hundred.

The Paint and Coatings Association knows that many of its members will be affected by the bill's high risk notification and medical monitoring programs, and they have told me that it's the right thing to do.

Since we started developing the bill, we have worked with many different organizations—health, environmental, labor, and business groups, and this cooperation has increased support for the bill and also strengthened and improved it.

At $25 million a year, H.R. 162 is a cost-effective program that identifies workers at high risk of disease, notifies those workers of the risks, and encourages medical monitoring. It's not a compensation bill, it's a program designed to save lives, and I urge all of my colleagues to support H.R. 162.

PROHIBITING DOD TRANSPORTATION CONTRACTS WITH WARSAW PACT COUNTRIES

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I am introducing legislation designed to prohibit the U.S. Defense Department from acquiring transportation or other services from Warsaw Pact countries. The U.S. Government is spending some $300 billion on defense and some of this may go to Warsaw bloc countries for construction and transfer of our hardware defense materials.

It is true that the Warsaw Pact nations are in a position to produce and service defense hardware at a cheaper cost than Western, free world countries but the Western Allies cannot become dependent on Soviet-bloc countries for our defense needs nor in this way help their economy. We must be sensitive to the fact that the Warsaw Pact nations may become potential battlefields against preserving democracy.

It is only prudent that if we are to have a sound defense and a strong national security that we must encourage the production and transportation of defense materials from domestic manufacturers and shippers or from nations that make up the free world.

I urge my colleagues to join me in supporting legislation, which I am introducing today, that prohibits the Secretary of Defense from entering into contracts with Warsaw Pact nations in order to provide transportation services for defense. Enactment of this legislation is in the best interests of our national security and the Western, free world.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Ms. OAKAR. Mr. Speaker, I offer a privileged resolution (H. Res. 259) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 259

Resolved, That the following Members, be, and are hereby, elected to the following standing committees of the House of Representatives:

Committee on House Administration, Joe Kolter; and

Committee on District of Columbia, Bruce A. Morrison.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 257 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 257

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2600) to extend and amend the authorization of appropriation for the Securities and Exchange Commission, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purpose of debate only I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 257 is an open rule providing for the consideration of the bill H.R. 2600, the Securities and Exchange Commission Authorization Act of 1987.

Mr. Speaker, the rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Energy and Commerce.

All points of order against the bill for failure to comply with clause 2(l)(6) of rule XI, that is the rule which requires that committee reports be available to Members for 3 days prior to the consideration of the bill on the floor, are waived. Although the Committee on Energy and Commerce reported the bill on July 24, 1987 the report was not actually filed until September 8, 1987. However, since printed copies of the report have not been available for the required 3 days a waiver of clause 2(l)(6) is necessary.

Mr. Speaker, the rule also provides that it shall be in order to consider the amendment in the nature of a substitute, recommended by the Committee on Energy and Commerce now printed in the bill as original text for the purpose of amendment under the 5-minute rule, and further provides that the committee substitute shall be considered for amendments by sections, and that each section shall be considered as having been read.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 2600, authorizes $153.9 million for fiscal year 1988, and $169 million for fiscal year 1989, for the Securities and Exchange Commission activities. The Commission is responsible to enforce securities law and regulations for all public securities markets. In addition, the Commission collects fees for stock transactions, the filing of certain documents, and tender offers. These fees have enabled the Securities and Exchange Commission to contribute into the U.S. Treasury over the past few years and with a strong

market they will continue their contribution.

Mr. Speaker, the bill also authorizes the funding of $20 million for fiscal year 1988 and $15 million for fiscal year 1989 for the Commission to shift from a paper-based system to an electronic system for filing information from corporations and other parties.

Mr. Speaker, we have all seen and heard the stories of corporate corruption and wrongdoing from the stock market to the security industry. What this bill will do is to strengthen the enforcement program of the Commission to continue to investigate and prosecute those who choose to circumvent the law for their own self-interest.

Mr. Speaker, I know of no controversy over the bill or the rule, both have bipartisan support, and I urge the passage of the rule and the bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in recent months the Securities and Exchange Commission has been increasingly in the public eye as it has moved more aggressively to enforce the laws against insider trading. They deserve commendation for this undertaking. In a free market system it is important that the Nation's major securities markets be beyond reproach.

Mr. Speaker, unlike most Federal agencies, the SEC brings in more money than it spends. In fiscal year 1986, the SEC collected fees amounting to 203 percent of its budget. We could use a few more self-supporting agencies in this Government.

Mr. Speaker, this bill provides a total authorization for the SEC of $153.9 million for fiscal year 1988 and $169 million for fiscal year 1989. These amounts include funds for the Commission's electronic data gathering, analysis, and retrieval system known as EDGAR. The EDGAR system, the implementation of which is subject to certain conditions stated in the bill, would allow companies to file data electronically.

Mr. Speaker, while this bill was reported from the Committee on Energy and Commerce by a voice vote, I should note the administration's opposition to the bill.

The administration objects that the bill would authorize appropriations 6.1 percent above the President's budget request and also that the bill would impose rigid and unnecessary management constraints on the SEC in connection with the development and operation of the EDGAR system.

Mr. Speaker, the rule before us today is an open rule. It includes a waiver of the 3-day layover requirement because the report on the bill was not filed until yesterday. However, I support the rule because it will allow the House to make any necessary improvements in the bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 257 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2600.

□ 1129

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2600) To extend and amend the authorization of appropriation for the Securities and Exchange Commission, and for other purposes, with Mr. MOAKLEY in the chair.

The Clerk read the title of the bill.

□ 1130

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume so that I may engage in a discussion of this very important piece of legislation.

Mr. Chairman, I am very pleased to bring to the floor H.R. 2600, the Securities and Exchange Commission Authorization Act of 1987. H.R. 2600 authorizes for the next 2 fiscal years all of the funds requested by the SEC in its budget authorization request for fiscal years 1988 and 1989. This bill authorizes $153,900,000 for fiscal year 1988 and $169,000,000 for fiscal year 1989.

H.R. 2600 is truly a bipartisan effort. It was approved by both the Subcommittee on Telecommunications and Finance and the Energy and Commerce Committee by voice vote without dissent. I express my thanks to the chairman of the full committee, Mr. DINGELL, the ranking minority member on the full committee, Mr. LENT, and the ranking minority member on the subcommittee, Mr. RINALDO, for their advice and assistance with regard to this bill.

In supporting the authorization of all of the funds requested by the Commission, I am aware of the budget constraints under which all of us operate. I am also mindful, however, that insider trading and other forms of market manipulation are reaching historic levels.

This is a critical time in the history of the Commission. During the past several years, revelations of market manipulation and insider trading regularly have lept from the front pages of our daily newspapers. There has been considerable concern that the Commission has not sought over the years the level of funding necessary to deal with such market abuses. In my judgment, this is no longer the case. This authorization bill gives the Commission the funds to enable its continuing investigations into these areas to proceed with vigor. When those who would subvert our securities laws understand that the Commission has the funding and other resources necessary to fight them and win, they will think twice before launching their illegal schemes.

In supporting H.R. 2600, it is reassuring to me that a significant portion of the Commission's budget will be devoted to enforcement efforts to help root out these and other securities law violations.

It is imperative that the Commission have sufficient resources to protect the investing public and preserve integrity in our capital markets. The Commission has a critical mission in our capital formation process, and we in Congress must hold it to extremely high standards. In providing the Commission with all of the funds it seeks, we expect it to use them wisely and resourcefully.

This measure also deals directly with the EDGAR [electronic data gathering, analysis, and retrieval] project, which is endorsed by the Commission. The EDGAR system, which has been in a pilot program over the past 2 years, is intended to facilitate the corporate filing process by automatically receiving, accepting, and reviewing annual reports and other SEC filings.

The Commission receives millions of pages of filings each year. Presently, issuers file approximately 65,000 disclosure documents each year, including 3,000 annual reports. The EDGAR system was created to help the Commission deal with these documents in an effective and efficient manner. EDGAR will automate the filing, processing, and dissemination of these filings. Such electronic analysis and dissemination will help foster more informed investor participation and more efficient securities markets.

This bill authorizes $20,000,000 for 1988 and $15,000,000 for 1989—the full amounts requested by the Commission—for the purpose of funding a contract for EDGAR. The bill provides further that the Commission will make certain progress and status re-

ports to Congress relating to the EDGAR system.

The Commission will submit a report to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives on the status of EDGAR development, implementation, and progress at 6-month intervals beginning December 31, 1987, and ending at the close of 1990. The Commission will also certify to Congress information relating to the total EDGAR contract costs to the Federal Government, a cost-benefit analysis, implementation schedule, system capabilities, and competence of the contractor and the SEC EDGAR management, and the results of the mandatory filing test group of registrants. In addition, printed or written filings made during the transition period are intended to be in the same form as is required for filings at the time of the enactment of this legislation.

This report and certification will guide the Commission's implementation of EDGAR, and will help to assure the Congress that as the EDGAR project proceeds, its capabilities and its costs are fully understood and its potential benefits are fully realized.

I would say in closing that H.R. 2600 represents a bipartisan effort designed to give the SEC the funds it needs to serve as an effective force for investors in our increasingly complex capital markets. It deserves broad support. I urge its passage by the House.

Mr. Chairman, I reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to express my support for H.R. 2600 as passed by the Committee on Energy and Commerce. This bill constitutes a successful effort of Democrats and Republicans to reach a consensus on reauthorizing the SEC which will allow it to carry on all of its essential programs for protecting investors and the public. This bill does several important things.

First, it authorizes the SEC at the funding level it requested for 2 years. I believe that the SEC must have the resources to help clean up Wall Street. We have seen widespread insider trading schemes and other abuses that have reached into some of America's most respected securities firms. The SEC must have the staff and other support it needs to enforce the law.

Second, it provides full funding for the EDGAR computerized filing system. That system will allow corporations, investment companies, and others to file periodic reports at the push of a button. EDGAR will cut costs for filers, speed information to investors, and provide significant benefits to the public.

This bill does contain provisions that would not have been my choice. I would have preferred a 3-year reauthorization rather than 2 years. I think a 3-year period would have sent a stronger message to the criminals that Congress means business in stopping financial fraud.

In addition, the amendment places extensive reporting and certification requirements on the SEC before it can receive funding for EDGAR. I think it is important for Congress to keep an eye on how EDGAR is proceeding and believe that the Commission should file periodic progress reports. Although I agree with many of the objectives of the reporting and certification requirements, I do not think that a statute is the best place to put these provisions. I am concerned that, despite good intentions on both sides, we will place some certification or reporting requirements in the law that could create unintended problems down the road.

Despite these reservations I believe that it is important for us to have bipartisan support to reauthorize the SEC. Members on both sides of the aisle and our staffs worked together to address all of our concerns and to draft practical legislation.

Mr. Chairman, I want to compliment the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], for the manner in which he consulted with and worked together with myself and other Members of the minority in putting this bill together. I am satisfied that the legislation will allow the SEC to do the job we want it to do. Therefore, I support the legislation, and I urge my colleagues to do the same. I compliment everyone on both sides of the aisle who worked to put this bill together.

Mr. Chairman, it is important to note that these additional resources constitute a congressional vote of confidence in the SEC. The Commission is doing an excellent job of prosecuting fraud, such as insider trading and the filing of false financial statements. The SEC is also modernizing and improving its disclosure and other regulations to improve investor protections while lowering costs. I commend the SEC and its staff for this fine work and urge the Commission to continue and expand these efforts with the larger budget we are authorizing today.

Mr. MARKEY. Mr. Chairman, again I yield myself such time as I may consume.

Mr. Chairman, I would like to point out that the gentleman from Oklahoma [Mr. ENGLISH] has provided us a very eloquent system on the EDGAR system. That, I believe, will help us to flesh out this record and make it quite clear that we have to have the technological resources at the Securities Exchange Commission which will make it possible for us to get a better handle on what has transpired in this exploding area of financial transactions in the 1980's.

Mr. Chairman, we have entered into a new technological era that has changed the fundamental nature of the way in which financial services in this country and in the world are in fact provided. As a result of that revolution, we, through this piece of legislation, are trying to get to the SEC the resources which it will need in order to get the job done and to monitor those activities in a way which it has not had the capacity to do before.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding time to me, and I would like to commend the gentleman from Massachusetts and the gentleman from New Jersey [Mr. RINALDO] for working out a very good bipartisan bill that deals not only with the necessity of continuing the authorization of SEC but deals with a couple of problems that have been confronted by us in recent years.

Because of budgetary problems perhaps, there has been a tendency, I think, both on the part of the administration to ask for too little and on the part of Congress to allocate too little funding for some of these agencies to carry out the basic functions of their work. The SEC, like a number of other regulatory commissions, was established in order to be able to provide oversight in an industry, and if we inadequately fund that oversight capacity, the kind of thing that we have seen occur in the securities markets is almost invited to occur by that lack of funding. What in fact we need to do and what in fact this bill does is to provide an adequacy of funding for the Securities Exchange Commission, and they have told us and assured the committee that their emphasis will be on enforcement.

A significant portion of these funds that are being authorized in this bill will be allocated to enforcement so that the SEC is going to be able to carry out the basic purposes for which it was established. In fact, this authorization actually reflects a making up for lost time, if you will. We have, by marching in place at a time when things were getting out of control, lost ground, and this authorization is going to permit the SEC to take those actions to be able to catch up and get back in control of the situation and be able to provide the kind of oversight that Congress originally intended the SEC provide over the securities industry in this country.

Again, Mr. Chairman, I commend both the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from New Jersey [Mr. RINALDO] for an excellent job of putting together a good bipartisan bill.

□ 1145

Mr. RINALDO. Mr. Chairman, I yield 4 minutes to my good friend, the gentleman from New York [Mr. LENT], the ranking member of the full committee.

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I am pleased to speak today in support of this bipartisan compromise proposal to authorize the SEC for the next 2 fiscal years. This bill is a significant accomplishment, and I want to compliment Chairman MARKEY, Chairman DINGELL, and Mr. RINALDO on bringing it to the committee. Above all else, the legislation will provide the SEC with the funding it needs to pursue its vital enforcement efforts in depth, staff its other functions, and implement a new and dramatically expanded information system.

I believe the basic reporting and certification conditions imposed on funding for the EDGAR reporting system are not unreasonable. They do not in any way restrict the Commission's discretion in implementing EDGAR in the manner it finds most cost efficient and technologically sound. I think these purposes could have been achieved in committee report language, with a clean bill, but as long as the conditions imposed are not intended to, and do not place any substantive burdens on the SEC's implementation of EDGAR, and allow its other functions to go forward, I am willing to accept them in the legislation. I know all Members will be interested in keeping abreast of developments with the EDGAR system, and this bill ensures that we will have timely notice of any potential problems that occur.

Again, this bill carefully balances a number of competing concerns, and I hope the Members will approve it quickly so that the SEC can get early assurance that it will have the resources to continue doing the fine job we want it to do.

Mr. RINALDO. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to commend to the Members on this bipartisan, compromise legislation which is before the House today.

I think a lot of good work has been done with this bill to reauthorize the Securities and Exchange Commission, and Members on both sides who have been involved ought to be commended for the many hours of efforts in putting this bill together.

The bill ought to be supported for a number of reasons, but let me just state one or two.

Probably the most critical component in our securities system is the confidence of the American people that the system not only is efficient and effective, but that it is fair and honest and aboveboard.

Wall Street has been robbed by some scandals in recent years, particularly in the last several months, which have shaken that confidence.

While it is imperative for Wall Street itself internally to provide the effective oversight and enforcement to make sure that its members abide by the rules and the laws, it is also imperative for the public to know that there is a vigorous, effective, efficient enforcement agency overseeing the operations of Wall Street and protecting the investor from fraud and crime and insider trading, and a number of other things that have unfortunately happened in recent months and years.

By providing for an effective, efficient SEC, we can help provide that confidence, provide that assurance that our system is aboveboard, and that the small investor has nothing to fear by investing hard-earned savings into equities, bonds, or other markets that are operated through our securities trading system.

The charge is made that perhaps we are giving the SEC too much money. Let me just state that at a time when the SEC caseload has increased by a tremendous amount, we are providing the SEC with what is probably just barely enough money to cope with that increase in both trading volume and the number of cases.

The SEC is one of the real profit centers of government. In the 1986 fiscal year it returned 203 percent of its budget to the Treasury with receipts taken in from fines, fees, and other revenues.

If every Federal agency did that, and I am not suggesting that every Federal agency could or should do that; but if every one did that, it is interesting to note that we would have a $2 trillion surplus facing us rather than the deficit, so let us not look at the SEC budget as something that is overgrown.

It returns far more money to the Treasury than we pay out to run the place.

This year alone, the SEC extracted $100 million in penalties and fines from one individual alone.

It is important, as I said, that we have an agency that is able to go out and hire the best talent available, pay competitive salaries to its enforcement people and its legal people.

We are talking about people here who need a considerable amount of education and training to be able to be involved in and be effective at resolving all of the intricacies of stock trading, and some of the fraud that goes on. So let us give this agency the working capital to do the job it has been assigned to do, and provide the American people the security that they have a fair, effective, and efficient system.

I urge my colleagues to support this legislation.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, outstanding work has been done on this legislation by the subcommittee. The gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the subcommittee, has continued the excellent work and leadership in this area, and is indeed to be commended by the Members, as are the gentleman from New Jersey [Mr. RINALDO], the distinguished ranking minority member, and the gentleman from New York [Mr. LENT], my good friend and colleague.

This is a fine piece of legislation. It reflects careful and thorough work on the part, not only of the leaders of the subcommittee, but also on the part of the subcommittee.

It will take steps to assure that the SEC has the means, the skill and the willingness to follow forward in seeing that our investors are protected, and that the confidence in the public may remain intact in the marketplace at a time when rascality abounds.

I urge the Members to support the legislation, and I yield back the balance of my time.

Mr. ENGLISH. Mr. Chairman, I rise in support of H.R. 2600, the Securities and Exchange Commission Authorization Act of 1987. I want to comment in particular about the provisions of the bill that authorize the SEC to establish the EDGAR system.

EDGAR is a grand experiment that is being watched closely by many Federal agencies and by others with an interest in the future of Government information policy. EDGAR is the most ambitious attempt by a Federal agency to establish a large electronic data base. Whether EDGAR succeeds or not will affect how other agencies proceed with automation of information systems.

I have developed a special interest in EDGAR in my role as chairman of the Government Operations Committee's Subcommittee on Government Information, Justice, and Agriculture. In the 99th Congress, my subcommittee held several days of hearings on the general subject of electronic collection and dissemination of information by Federal agencies. The SEC was one of many agencies that testified about its electronic information plans. The subcommittee's hearings resulted in a report approved by the Committee on Government Operations entitled "Electronic Collec-

tion and Dissemination of Information by Federal Agencies: A Policy Overview" (H. Rept. 99–560).

The EDGAR authorization language in H.R. 2600 is consistent with the policy goals set out in that report. I want to thank Chairman MARKEY and Chairman DINGELL and the staffs of both committees for their interest, support, and cooperation. I am pleased that the work of my subcommittee was helpful.

I think that it is important that the authorization for EDGAR contains conditions, restrictions, and reporting requirements. The planning process for EDGAR over the last few years does not engender much confidence in the ability of the SEC to design and implement such a large computer system.

When former SEC Chairman John Shad testified before my subcommittee in 1985, he said that EDGAR wouldn't cost the Government a cent. He expected that a private contractor would spend $63 million to establish and operate EDGAR and would provide free service to the SEC. I said at the time that this was totally unrealistic.

Several months later, the SEC indicated that it might be necessary to pay the EDGAR contractor as much as half a million dollars annually. Still later, the SEC indicated that it would have to pay more of the costs in order to find a contractor to operate the system.

Now the SEC has finally recognized what was clear to others all along. EDGAR will not be free and it will not be cheap. The Government will have to pay its full share of the costs. As envisioned in H.R. 2600, the Government's contribution will be $46.5 million. This is a far cry from the cost-free system that the SEC originally promised. While it would be nice to get something for nothing, it is not very realistic.

H.R. 2600 imposes several reasonable conditions and reporting requirements for the EDGAR system. These are designed to ensure that the SEC will not continue to change the structure or the financing of EDGAR. We need to make certain that the Government's contribution is both reasonable and within budget. We now know that EDGAR will cost the Government more than $40 million in excess of the original estimate. We don't want to learn when it is too late that there will be another $40 million cost overrun.

The legislation also includes several operational requirements for EDGAR. The most important is a provision that allows information from the EDGAR system to be used, resold, or redisseminated without restriction and without payment of any additional fees or royalties. While this language primarily reflects current law regulating the sale of uncopyrighted Government information, it also helps to assure that no one will be able to establish a monopoly over securities information in electronic form. Those who obtain securities information directly from the EDGAR contractor or indirectly from other disseminators will be able to use and redisseminate the basic EDGAR data without restriction.

One consequence of unrestricted use and disclosure of EDGAR information is that the Commission's role in setting prices for wholesale services is likely to be of limited importance. If the market for information works according to theory, the market will not support a price for uncopyrighted information that is higher than the marginal cost of providing the information. If prices much higher than marginal cost are permitted, it is likely that a secondary wholesale market will be established to meet demand at a lower price. Since the information will be in the public domain, there is nothing to prevent a secondary market unless artificial barriers are created or tolerated by the SEC. The creation of any secondary wholesale market for EDGAR data will be evidence that the prices set by the SEC are too high. A complete analysis of the effect of access and use restrictions on the price of information can be found in report of the Committee on Government Operations Committee that I just mentioned.

Other language in the bill is also designed to assure a level playing field for all retail vendors of EDGAR information. This language provides that public information in the EDGAR system must be equally available on equal terms to all persons. I understand that this is intended to ensure that the EDGAR contractor has no financial or other advantage over others who will be competing to sell securities information in the retail marketplace.

I think that the Energy and Commerce Committee has done as good a job as it is possible to do in setting the legislative groundwork for EDGAR. But we have to recognize that some doubts about the viability of EDGAR remain. We cannot be sure that the SEC will be able to deliver the system that it has promised. There have been too many major changes in the structure of EDGAR over the past 2 years to allow anyone to feel comfortable with the SEC's current assurances.

We cannot be sure that EDGAR can be built and operated with the budget now envisioned. I think that there is a reasonable chance that EDGAR will cost far more than anyone now thinks. The company that wins the EDGAR contract will be taking a considerable financial risk. The risk is even bigger if the winning contractor expects the Congress to bail it out in a year or two.

We cannot be sure that EDGAR will work as planned. While the SEC has done a good job with the pilot for EDGAR, the full system will be so large that it may take a considerable period of time for the problems to be worked out. In order to avoid a disruption to the securities markets, the legislation provides for the continuation of paper filings until such time as EDGAR has been convincingly demonstrated to work. We have all lived through problems with new computer systems. We cannot take a chance with the Nation's securities markets until EDGAR has been demonstrated to be a success.

We cannot be sure that EDGAR will be effective in making securities information available to a broad audience. There is a chance that the SEC will approve a pricing structure for EDGAR information that will give its contractor a de facto monopoly over the data. If that happens, then EDGAR will have been a failure and it will be necessary for the Congress to reconsider the value and the structure of EDGAR.

Finally, one of my primary concerns about EDGAR and other similar Government information systems is that the economics of operating the systems will create a demand for restricting the information so that users can be charged higher prices. If, as I suspect, the SEC is not asking for enough money to fund the EDGAR system, then the SEC or its contractor may ask for authority to copyright or otherwise limit use of information in order to support higher prices. Any such restrictions on Government information would be contrary to the information policies of the United States for 200 years.

It is vital that routine Government information—like the information in the EDGAR system—remain uncopyrighted, readily available, and usable by the public without restriction. I will oppose any future attempts to restrict the availability or use of Government information that is now in the public domain.

EDGAR is not the first electronic information system to be the subject of legislation. In the last Congress, legislation was passed to regulate the creation of an electronic data base for patent and trademark information by the Patent and Trademark Office. In the future, I expect to see additional legislation authorizing, funding, and regulating large agency electronic information systems.

There is no question that electronic information systems offer an opportunity to increase the efficiency of agency information activities, make Government information more widely available, and permit agencies and others to make better use of the data. Yet the new technology is putting considerable pressure on the laws that were passed to regulate Government information policy when information only existed on paper or other hard copy formats.

There may soon be a need to revisit some of these laws in order to recognize the consequences of the new technology. For example, there may be a need to pass an Electronic Freedom of Information Act in order to make certain that the benefits of broad disclosure of Government information are not lost as Government information becomes electronic. We cannot allow the new information technology to undercut the basic principles of openness in Government that have served us so well in the last two decades. I feel confident that the bill we are considering today will preserve those principles for the EDGAR system.

Mr. RINALDO. Mr. Chairman, I have no further requests for time.

Mr. MARKEY. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by sections as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Mr. MARKEY. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2600

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities and Exchange Commission Authorization Act of 1987".

SEC. 2. AUTHORIZATION OF AND LIMITATIONS ON APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. (a) There are hereby authorized to be appropriated to carry out the functions, powers, and duties of the Commission (other than the functions, powers, and duties described in subsection (b)—

"(1) $133,900,000 for fiscal year 1988; and

"(2) $154,000,000 for fiscal year 1989.

"(b) In addition to the amounts authorized by subsection (a), there are authorized to be appropriated to the Commission for the purpose of funding a contract for the establishment and operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system—

"(1) $20,000,000 for fiscal year 1988; and

"(2) subject to section 35A(a)(2) of this title, $15,000,000 for fiscal year 1989.".

SEC. 3. REQUIREMENTS FOR THE EDGAR SYSTEM.

The Securities Exchange Act of 1934 is amended by inserting after section 35 the following new section:

"REQUIREMENTS FOR THE EDGAR SYSTEM

"SEC. 35A. (a)(1) Of the funds appropriated to the Commission pursuant to section 35 of this title for fiscal year 1988 which are available for establishment or operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system, the Commission shall reserve $15,000,000. None of the funds that are so reserved may be obligated or expended unless the Commission has made the certification required by subsection (c) of this section.

"(2) Notwithstanding section 35(b) of this title, no funds are authorized to be appropriated for fiscal year 1989, and no such funds may be obligated or expended, for the establishment or operation of the EDGAR system unless the Commission has—

"(A) filed each report required during fiscal year 1988 by subsection (b) of this section; and

"(B) made the certification required by subsection (c) of this section.

"(3) Amounts appropriated to the Commission for the EDGAR contract shall be the exclusive source of funds for the procurement and operation of the systems created under that contract by or on behalf of the Securities and Exchange Commission—

"(A) for the receipt of filings under Federal securities laws, and

"(B) for the automated acceptance and review of the filings and information derived from such filings.

"(b) The Commission shall submit a report to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives on the status of EDGAR development, implementation, and progress at six-month intervals beginning December 31, 1987, and ending at the close of 1990 (unless otherwise extended by the Congress). Such report shall include the following:

"(1) The overall progress and status of the project, including achievement of significant milestones and current project schedule.

"(2) The results of Commission efforts to test new or revised technical solutions for key EDGAR functions. In particular, the following functions shall be addressed and the indicated information provided:

"(A) Automating receipt and acceptance processing, including—

"(i) development and testing progress and results;

"(ii) actual versus estimated development cost; and

"(iii) actual effect of this function on Commission staff needs to assist filers.

"(B) Data tagging (identifying financial data for analysis by EDGAR), including—

"(i) description of the approach selected, identifying the types of financial data to be tagged and the calculations to be performed;

"(ii) comments by the filer population on the approach selected;

"(iii) the results of testing this approach, including information on the number of filers taking part in the test and their representatives of the overall filer populations;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(C) Searching text for keywords, including—

"(i) the technical approach adopted for this function;

"(ii) development and testing progress and results;

"(iii) data storage requirements and search response times as compared to EDGAR pilot system experience;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(3) An update of cost information for the receipt, acceptance and review, and dissemination portions of the system including a comparison of actual costs with original estimated costs and revised estimates of total system cost and total funding needs for the contract.

"(4) The status of Commission efforts to obtain and maintain staff with the proper contractual, managerial, and technical expertise to oversee the EDGAR project.

"(5) The fees, revenues, costs, and profits obtained or incurred by the contractor as a result of the required dissemination of information from the system to the public under the EDGAR contract, except that the information required under this paragraph (A) need be obtained from the contractor no more frequently than once each year, and (B) may be submitted to the Congress as a separate confidential document.

"(6) Such other information or recommendations as the Commission considers appropriate.

"(c) On or before the date the Commission enters into the contract for the EDGAR system, the Commission shall submit to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives a certification by the Commission—

"(1) of the total contract costs to the Federal Government of the EDGAR system for each of the 3 succeeding fiscal years;

"(2) that the Commission has analyzed the quantitative and qualitative benefits to be obtained by the establishment and operation of the system and has determined that such benefits justify the costs certified pursuant to paragraph (1);

"(3) that (A) the contract requires the contractor to establish a schedule for the implementation of the system; (B) the Commission has reviewed and approved that schedule; and (C) the contract contains adequate assurances of contractor compliance with that schedule;

"(4) of the capabilities which the system is intended to provide and of the competence of the contractor and of Commission personnel to implement those capabilities; and

"(5) that mandatory filings from a significant test group of registrants will be received and reviewed by the Commission for a period of at least six months before the adoption of any rule requiring mandatory filing by all registrants.

(d) The Commission, by rule or regulation—

"(1) shall provide that any information in the EDGAR system that is required to be disseminated by the contractor—

"(A) may be sold or disseminated by the contractor only pursuant to a uniform schedule of fees prescribed by the Commission;

"(B) may be obtained by a purchaser by direct interconnection with the EDGAR system;

"(C) shall be equally available on equal terms to all persons; and

"(D) may be used, resold, or redisseminated by any person who has lawfully obtained such information without restriction and without payment of additional fees or royalties; and

"(2) shall require that persons, or classes of persons, required to make filings with the Commission submit such filings in a form and manner suitable for entry into the EDGAR system and shall specify the date that such requirement is effective with respect to that person or class; except that the Commission may exempt persons or classes of persons, or filings or classes of filings, from such rules or regulations in order to prevent hardships or to avoid imposing unreasonable burdens or as otherwise may be necessary or appropriate; and

"(3) shall require all persons who make any filing with the Commission, in addition to complying with such other rules concerning the form and manner of filing as the Commission may prescribe, to submit such filings in written or printed form—

"(A) for a period of at least one year after the effective date specified for such person or class under paragraph (2); or

"(B) for a shorter period if the Commission determines that the EDGAR system (i) is reliable, (ii) provides a suitable alternative to such written and printed filings, and (iii) assures that the provision of information through the EDGAR system is as effective and efficient for filers, users, and disseminators as provision of such information in written or printed form.

"(e) For the purposes of carrying out its responsibilities under subsection (d)(3) of this section, the Commission shall consult with representatives of persons filing, disseminating, and using information contained in filings with the Commission.".

The CHAIRMAN. Are there any amendments to the committee amendment in the nature of a substitute?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore. [Mr. NATCHER] having assumed the chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2600) to extend and amend the authorization of appropriation for the Securities and Exchange Commission, and for other purposes, pursuant to House Resolution 257, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2600, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

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Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1452) to amend the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to make certain technical, clarifying, and conforming amendments, to authorize appropriations to the Securities and Exchange Commission, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1452

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 "Securities Law Technical Amendments Act of 1987".

TITLE I—AMENDMENTS OF SECURITIES ACT OF 1933

SEC. 101. Section 2(5) of the Securities Act of 1933 (15 U.S.C. 77b(5)) is amended by striking out "Federal Trade Commission" and inserting in lieu thereof "Securities and Exchange Commission".

SEC. 102. Section 2(6) of the Securities Act of 1933 (15 U.S.C. 77b(6)) is amended by striking out "Canal Zone,".

SEC. 103. Section 3(a)(1) of the Securities Act of 1933 (15 U.S.C. 77c(a)(1)) is amended by striking all that appears therein and inserting in lieu thereof "(1) Reserved."

SEC. 104. Section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)) is amended by striking out ", except that the foregoing exemption shall not apply with respect to any such security where the issuer takes from the total amount paid or deposited by the purchaser, by way of any fee, cash value or other device whatsoever, either upon termination of the investment at maturity or before maturity, an aggregate amount in excess of 3 per centum of the face value of such security".

SEC. 105. Section 6(e) of the Securities Act of 1933 (15 U.S.C. 77f(e)) is repealed.

SEC. 106. Section 9(a) of the Securities Act of 1933 (15 U.S.C. 77i(a)) is amended—

(1) by striking out "Circuit Court of Appeals" and inserting in lieu thereof "court of appeals";

(2) by striking out "Court of Appeals of the District of Columbia, by filing in such court" and inserting in lieu thereof "United States Court of Appeals for the District of Columbia, by filing in such Court"; and

(3) by striking out "sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 107. Section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of law, neither the Commission nor any other person shall be required to establish any procedures not specifically required by the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or by chapter 5 of title 5, United States Code, in connection with cooperation, coordination, or consultation with—

"(A) any association referred to in paragraph (1) or (3) or any conference or meeting referred to in paragraph (4), while such association, conference, or meeting is carrying out activities in furtherance of the provisions of this subsection; or

"(B) any forum, agency, or organization, or group referred to in section 503 of the Small Business Investment Incentive Act of 1980, while such forum, agency, organization, or group is carrying out activities in furtherance of the provisions of such section 503.

As used in this paragraph, the terms 'association', 'conference', 'meeting', 'forum', 'agency', 'organization', and 'group' include any committee, subgroup, or representative of such entities.".

SEC. 108. (a) Section 20(b) of the Securities Act of 1933 (15 U.S.C. 77t(b)) is amended by striking out the first sentence and inserting in lieu thereof the following: "Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation prescribed under authority thereof, the Commission may, in its discretion, bring an action in any district court of the United States, or United States court of any Territory, to enjoin such acts or practices, and upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

(b) Section 20(c) of such Act (15 U.S.C. 77t(c)) is amended to read as follows:

"(c) Upon application of the Commission, the district courts of the United States and the United States courts of any Territory shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission made in pursuance thereof.".

SEC. 109. Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(1) by striking out "United States, the" in the first sentence and inserting in lieu thereof "United States and";

(2) by striking out ", and the United States District Court for the District of Columbia"; and

(3) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code,".

TITLE II—AMENDMENTS OF SECURITIES EXCHANGE ACT OF 1934

SEC. 201. Section 3(a)(6)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)(C)) is amended by striking out "under section 11(k) of the Federal Reserve Act, as amended" and inserting in lieu thereof "under the authority of the Comptroller of the Currency pursuant to the first section of Public Law 87-722 (12 U.S.C. 92a)".

SEC. 202. Section 3(a)(16) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(16)) is amended by striking out "the Canal Zone,".

SEC. 203. Section 3(a)(22)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(22)(B)) is amended—

(1) by striking out "association or any" and inserting in lieu thereof "association, or any"; and

(2) by striking out "own behalf in" and inserting in lieu thereof "own behalf, in".

SEC. 204. Section 3(a)(34)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(C)) is amended by striking out "state" each place it appears and inserting in lieu thereof "State".

SEC. 205. Section 3(a)(39)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(B)) is amended—

(1) by striking out "months, revoking" and inserting in lieu thereof "months, or revoking"; and

(2) by striking out "barring his" and inserting in lieu thereof "barring or suspending for a period not exceeding 12 months his".

SEC. 206. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) by inserting after paragraph (46) the following:

"(47) The term 'securities laws' means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15

U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).''; and

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

''(49) The term 'person associated with a transfer agent' and 'associated person of a transfer agent' mean any person (except an employee whose functions are solely clerical or ministerial) directly engaged in the management, direction, supervision, or performance of any of the transfer agent's activities with respect to transfer agent functions, and any person directly or indirectly controlling such activities or controlled by the transfer agent in connection with such activities.''.

SEC. 207. Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

''(e) Notwithstanding any other provision of law, whenever any fee is required to be paid to the Commission pursuant to any provision of the securities laws or any other law, the Commission may provide by rule that such fee shall be paid in a manner other than in cash.''.

SEC. 208. (a) The Securities Exchange Act of 1934 is amended by inserting after section 4 (15 U.S.C. 78d) the following new sections:

''DELEGATION OF FUNCTIONS BY COMMISSION

''SEC. 4A. (a) In addition to its existing authority, the Securities and Exchange Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, an administrative law judge, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter. Nothing in this section shall be deemed to supersede the provisions of section 556(b) of title 5, or to authorize the delegation of the function of rulemaking as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of particular applicability, or of the making of any rule pursuant to section 19(c) of this title.

''(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, upon its own initiative or upon petition of a party to or intervenor in such action, within such time and in such manner as the Commission by rule shall prescribe. The vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review. A person or party shall be entitled to review by the Commission if he or it is adversely affected by action at a delegated level which (1) denies any request for action pursuant to section 8(a) or section 8(c) of the Securities Act of 1933 or the first sentence of section 12(d) of this title; (2) suspends trading in a security pursuant to section 12(k) of this title; or (3) is pursuant to any provision of this title in a case of adjudication, as defined in section 551 of title 5, United States Code, not required by this title to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a)(1) through (6) of such title 5).

''(c) If the right to exercise such review is declined, or if no such review is sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, shall, for all purposes, including appeal or review thereof, be deemed the action of the Commission.

''TRANSFER OF FUNCTIONS WITH RESPECT TO ASSIGNMENT OF PERSONNEL TO CHAIRMAN

''SEC. 4B. In addition to the functions transferred by the provisions of Reorganization Plan Numbered 10 of 1950 (64 Stat. 1265), there are hereby transferred from the Commission to the Chairman of the Commission the functions of the Commission with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to the Commission personnel, including Commissioners, pursuant to section 4A of this title.''.

(b) The Act of August 20, 1962 (Public Law 87-592; 76 Stat. 394) is hereby repealed.

SEC. 209. The first sentence of section 6(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(2)) is amended by striking out ''protection shall'' and inserting in lieu thereof ''protection of investors shall''.

SEC. 210. Section 6(c)(3)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(3)(A)) is amended by striking out ''association'' and inserting in lieu thereof ''associated''.

SEC. 211. Section 6(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(4)) is amended by striking out ''may (A) limit'' and inserting in lieu thereof ''may limit (A)''.

SEC. 212. Section 6(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(e)) is amended—

(1) by striking out ''paragraph (4) of this section'' in paragraph (1) and inserting in lieu thereof ''paragraph (3) of this subsection'';

(2) by striking out paragraph (3) thereof and by redesignating paragraph (4) as paragraph (3); and

(3) in paragraph (3)(E) (as so redesignated)—

(A) by striking out ''fixes'' and inserting in lieu thereof ''fixing'';

(B) by striking out ''paragraph (4)(A)'' and inserting in lieu thereof ''subparagraph (A) of this paragraph''; and

(C) by striking out ''paragraph (4)(B)'' and inserting in lieu thereof ''subparagraph (B) of this paragraph''.

SEC. 213. Section 11A of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1) is amended—

(1) by striking out ''transaction'' in paragraph (2) of subsection (b) and inserting in lieu thereof ''transactions''; and

(2) by striking out everything after the first sentence in paragraph (4) of subsection (c).

SEC. 214. Sections 11A(e) and 12(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(e) and 78*l*(m)) are repealed.

SEC. 215. Section 13(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(c)) is amended by striking out ''thereof of'' and inserting in lieu thereof ''thereof''.

SEC. 216. Section 13(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(h)) is repealed.

SEC. 217. Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(b)) is amended—

(1) by striking out ''fiduciary, or any'' in clause (ii) of subparagraph (B) of paragraph (4) and inserting in lieu thereof ''fiduciary, transfer agent, or'';

(2) by striking out subparagraph (C) of paragraph (4) and inserting in lieu thereof the following:

''(C) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.'';

(3) by striking out ''or seeking to become associated,'' in the first sentence of paragraph (6) and inserting in lieu thereof ''seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated''; and

(4) by striking out ''17A(b)(4)(B)'' in paragraph (10) and inserting in lieu thereof ''17A(b)(4)(A)''.

SEC. 218. Section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*-4(b)(2)(C)) is amended—

(1) by striking out ''security'' and inserting in lieu thereof ''securities'';

(2) by striking out ''or the securities''; and

(3) by striking out ''burden or competition'' and inserting in lieu thereof ''burden on competition''.

SEC. 219. Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*-4(c)(4)) is amended by striking out the first sentence and inserting in lieu thereof the following: ''The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with a municipal securities dealer, or suspend for a period not exceeding twelve months or bar any such person from being associated with a municipal securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted by any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).''.

SEC. 220. Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*-4(c)(6)(A)) is amended by striking out ''board'' and inserting in lieu thereof ''Board''.

SEC. 221. Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by striking out subsection (c)(2) and inserting in lieu thereof the following:

''(2) The appropriate regulatory agency for a clearing agency, transfer agent, or municipal securities dealer for which the Commission is not the appropriate regulatory

agency shall file with the Commission notice of the commencement of any proceeding and a copy of any order entered by such appropriate regulatory agency against any clearing agency, transfer agent, municipal securities dealer, or person associated with a transfer agent or municipal securities dealer, and the Commission shall file with such appropriate regulatory agency, if any, notice of the commencement of any proceeding and a copy of any order entered by the Commission against the clearing agency, transfer agent, or municipal securities dealer, or against any person associated with a transfer agent or municipal securities dealer for which the agency is the appropriate regulatory agency.";

(2) by adding at the end of subsection (f)(2) the following: "Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide the Commission and self-regulatory organizations designated by the Commission with access to all criminal history record information."; and

(3) by striking out "paragraphs (1) and (2)" in subsection (f)(3)(A) and inserting in lieu thereof "paragraph (1)".

SEC. 222. Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended—

(1) by inserting after "concerning such transfer agent" in subsection (c)(2) "and any persons associated with the transfer agent";

(2) by striking out "thirty" in subsection (c)(2) and inserting in lieu thereof "45";

(3) by redesignating subparagraphs (B) and (C) of subsection (c)(3) as subparagraphs (A) and (B), respectively, of new subsection (c)(4);

(4) by striking out subsection (c)(3)(A) and inserting in lieu thereof:

"(3) The appropriate regulatory agency for a transfer agent, by order, shall deny registration to, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such transfer agent, if such appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such denial, censure, placing of limitations, suspension, or revocation is in the public interest and that such transfer agent, whether prior or subsequent to becoming such, or any person associated with such transfer agent, whether prior or subsequent to becoming so associated—

"(A) has committed or omitted any act enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4); or

"(B) is subject to an order entered pursuant to subparagraph (C) of paragraph (4) of this subsection barring or suspending the right of such person to be associated with a transfer agent.";

(5) by inserting after subsection (c)(4)(B) (as redesignated) the following new subparagraph:

"(C) The appropriate regulatory agency for a transfer agent, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with the transfer agent, or suspend for a period not exceeding twelve months or bar any such person from being associated with the transfer agent, if the appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act enumerated in subparagraph (A), (D), or (E) or paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4). It shall be unlawful for any person as to whom such an order suspending or barring him from being associated with a transfer agent is in effect willfully to become, or to be, associated with a transfer agent without the consent of the appropriate regulatory agency that entered the order and the appropriate regulatory agency for that transfer agent. It shall be unlawful for any transfer agent to permit such a person to become, or remain, a person associated with it without the consent of such appropriate regulatory agencies, if the transfer agent knew, or in the exercise of reasonable care should have known, of such order. The Commission may establish, by rule, procedures by which a transfer agent reasonably can determine whether a person associated or seeking to become associated with it is subject to any such order, and may require, by rule, that any transfer agent comply with such procedures.";

(6) by striking out "clearing agency or transfer agent" in subsection (d)(3)(B) and inserting in lieu thereof "clearing agency, transfer agent, or person associated with a transfer agent"; and

(7) by striking out "or transfer agent" in subsection (d)(4), and inserting in lieu thereof ", transfer agent, or person associated with a transfer agent,".

SEC. 223. Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended—

(1) by striking out "Wherever" in subsection (d) and inserting in lieu thereof "Whenever";

(2) by striking out ", the United States District Court for the District of Columbia," in subsection (e); and

(3) by striking out the second sentence of subsection (g).

SEC. 224. Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended—

(1) by inserting "or" before "any self-regulatory organization" in the last sentence of paragraph (1); and

(2) by inserting "shall" after "section 19(b) of this title," in paragraph (3).

SEC. 225. Section 23(b)(4)(F) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)(4)(F)) is amended by striking out "The" and inserting in lieu thereof "the".

SEC. 226. Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended—

(1) by striking out ", the United States District Court for the District of Columbia,"; and

(2) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

SEC. 227. Section 28(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(c)) is amended by striking out "self-regulatory organization or a member thereof" and inserting in lieu thereof "self-regulatory organization on a member thereof".

SEC. 228. Section 28(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(d)) is amended by striking out "change is beneficial" and inserting in lieu thereof "change in beneficial".

SEC. 229. Section 28(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)(1)) is amended by striking out "Amendments in 1975" and inserting in lieu thereof "Amendments of 1975".

SEC. 230. Section 211 of the Securities Exchange Act of 1934 (15 U.S.C. 78jj) is hereby repealed.

TITLE III—AMENDMENTS OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

SEC. 301. Section 8 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79h) is amended by striking out "otherwise, —" and inserting in lieu thereof "otherwise —".

SEC. 302. Section 18 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 78r) is amended—

(1) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively; and

(2) in subsections (e) and (f) (as so redesignated), by striking out ", the district court of the United States for the District of Columbia,".

SEC. 303. Section 24 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 78x) is amended by striking out "sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 304. Section 25 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79y) is amended—

(1) by striking out ", the district court of the United States for the District of Columbia,"; and

(2) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347), and section 7, as amended, of the Act entitled 'An Act to establish a court of appeals for the District of Columbia', approved February 9, 1893 (D.C. Code, title 18, sec. 26)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

SEC. 305. Section 30 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-4) is amended by striking out the last sentence thereof.

TITLE IV—AMENDMENT OF TRUST INDENTURE ACT OF 1939

SEC. 401. Section 303(4) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(4)) is amended by striking out "undertakng" and inserting in lieu thereof "undertaking".

SEC. 402. Section 303(12) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(12)) is amended by inserting "(including a guarantor)" after "person" each place it appears.

TITLE V—AMENDMENTS OF INVESTMENT COMPANY ACT OF 1940

SEC. 501. Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)) is amended by inserting "completed" before "fiscal years" each place it appears.

SEC. 502. Section 2(a)(39) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(39)) is amended by striking out "the Canal Zone,".

SEC. 503. Section 2(a)(48)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)(B)) is amended by striking out "sections 55(a)(1) through (3)" and inserting in lieu thereof "paragraphs (1) through (3) of section 55(a)".

SEC. 504. Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended—

(1) by inserting "or" after "therefor;"; and

(2) by inserting a period after "guardian" and striking out all that follows through "principal to another or others.".

SEC. 505. Section 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(7)) is amended to read as follows:

"(7) Reserved.".

SEC. 506. Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(11)) is amended—

(1) by striking out "Code of 1954" each place it appears and inserting in lieu thereof "Code of 1986";

(2) by striking out "or which holds only assets of governmental plans" and inserting in lieu thereof "; or any governmental plan"; and

(3) by striking out "trusts;" and inserting in lieu thereof "trusts or governmental plans, or both;".

SEC. 507. Section 5(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-5(a)(2)) is amended by striking out "Close-end" and inserting in lieu thereof "Closed-end".

SEC. 508. Section 6(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-6(a)) is amended—

(1) by striking out "the Canal Zone," in paragraph (1); and

(2) by striking out paragraph (2) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

SEC. 509. Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended by striking out paragraphs (1) and (2) in subsection (a) and inserting in lieu thereof the following:

"(1) any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or".

SEC. 510. Section 12 of the Investment Company Act of 1940 (15 U.S.C. 80a-12) is amended—

(1) by striking out "Treasury" in subsection (d)(1)(A)(iii) and inserting in lieu thereof "treasury";

(2) by striking out "it reasonably possible" in subsection (d)(1)(G) and inserting in lieu thereof "is reasonably possible"; and

(3) by striking out "only thereof" in subsection (f) and inserting in lieu thereof "thereof only".

SEC. 511. Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended—

(1) by striking out "(40)" in subsection (d) and inserting in lieu thereof "(42)"; and

(2) by striking out the period at the end of subsection (B) of paragraph (3) of subsection (f) and inserting in lieu thereof a comma.

SEC. 512. Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by striking out the second sentence of each of subsections (h) and (i).

SEC. 513. Section 18(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(e)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 514. Section 20 of the Investment Company Act of 1940 (15 U.S.C. 80a-20) is amended—

(1) by striking out the second sentence of subsection (b);

(2) by striking out the first sentence of subsection (d); and

(3) by striking out "at any time after the effective date of this title" in subsection (d).

SEC. 515. Section 21(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-21(b)) is amended by striking out "to the extension or renewal of any such loan made prior to March 15, 1940, or".

SEC. 516. Section 22 of the Investment Company Act of 1940 (15 U.S.C. 80a-22) is amended—

(1) by striking out "subsection (b)(8)" in paragraph (1) of subsection (b) and inserting in lieu thereof "subsection (b)(6)";

(2) by striking out paragraph (2) of subsection (b) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(3) by striking out "section 15A(k)(2)" in subsection (b)(2) (as so redesignated) and inserting in lieu thereof "section 19(c)";

(4) by inserting in the first sentence of subsection (e) a comma after the word "redemption" where it first appears and where it appears for the third time; and

(5) by striking out the last sentence of subsection (e).

SEC. 517. Section 24(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(d)) is amended by inserting a period immediately after "issuer" in the second sentence thereof and by striking out all that follows in such sentence.

SEC. 518. Section 26(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(b)) is amended by striking out "intend" and inserting in lieu thereof "intended".

SEC. 519. Section 26(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(c)) is amended by striking out "contract of agreement" and inserting in lieu thereof "contract or agreement".

SEC. 520. Section 28(a)(2)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-28(a)(2)(B)) is amended by striking out "subsection" and inserting in lieu thereof "paragraph".

SEC. 521. Section 28(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-28(d)(2)) is amended by inserting "of" immediately before "subsection (a)".

SEC. 522. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a-35) is amended—

(1) by striking out "loans" in paragraph (4) of subsection (b) and inserting in lieu thereof "loads";

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated), by striking out "through (c)" and inserting in lieu thereof "and (b)".

SEC. 523. Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by redesignating subsection (e) as subsection (d).

SEC. 524. Section 53 of the Investment Company Act of 1940 (15 U.S.C. 80a-52) is amended by inserting a period in the first sentence thereof immediately after "1941" and by striking out everything that follows in such sentence.

SEC. 525. Section 54(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-53(a)) is amended by striking out "defined in sections" and inserting in lieu thereof "defined in section".

SEC. 526. Section 55(a)(1)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-54(a)(1)(B)) is amended by striking out "described in sections" and inserting in lieu thereof "described in section".

SEC. 527. Section 57(i) of the Investment Company Act of 1940 (15 U.S.C. 80a-56(i)) is amended by striking out "sections 17 (a) and (d)" each place it appears and inserting in lieu thereof "subsections (a) and (d) of section 17".

TITLE VI—AMENDMENTS OF INVESTMENT ADVISERS ACT OF 1940

SEC. 601. Section 202(a)(19) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(19)) is amended by striking out "the Canal Zone,".

SEC. 602. Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended—

(1) by inserting "transfer agent," after "fiduciary," in subsection (e)(2)(B);

(2) by inserting "transfer agent," after "government securities dealer," in subsection (e)(3);

(3) by striking out "or seeking to become associated" in the first sentence of subsection (f) and inserting in lieu thereof ", seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated"; and

(4) by striking out "subsection (d)" in subsection (g) and inserting in lieu thereof "subsection (c) or subsection (e)".

SEC. 603. Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended to read as follows:

"INVESTMENT ADVISORY CONTRACTS

"SEC. 205. (a) No investment adviser, unless exempt from registration pursuant to section 203(b), shall make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to enter into, extend, or renew any investment advisory contract, or in any way to perform any investment advisory contract entered into, extended, or renewed on or after the effective date of this title, if such contract—

"(1) provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

"(2) fails to provide, in substance, that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract; or

"(3) fails to provide, in substance, that the investment adviser, if a partnership, will notify the other party to the contract of any change in the membership of such partnership within a reasonable time after such change.

"(b) Paragraph (1) of subsection (a) shall not—

"(1) be construed to prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates, or taken as of a definite date;

"(2) apply to an investment advisory contract with—

"(A) an investment company registered under title I of this Act, or

"(B) any other person (except a trust, governmental plan, collective trust fund, or separate account referred to in section 3(c)(11) of title I of this Act), provided that the contract relates to the investment of assets in excess of $1 million,

if the contract provides for compensation based on the asset value of the company or fund under management averaged over a specified period and increasing and decreasing proportionately with the investment performance of the company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the Commission by rule, regulation, or order may specify; or

"(3) apply with respect to any investment advisory contract between an investment adviser and a business development company, as defined in this title, if (A) the compensation provided for in such contract does not exceed 20 per centum of the realized capital gains upon the funds of the business development company over a specified period or as of definite dates, computed net of all realized capital losses and unrealized capital depreciation, and the condition of section 61(a)(3)(B)(iii) of title I of this Act is satisfied, and (B) the business development company does not have outstanding any option, warrant, or right issued pursuant to section 61(a)(3)(B) of title I of this Act and does not have a profit-sharing plan described in section 57(n) of title I of this Act.

"(c) For purposes of paragraph (2) of subsection (b), the point from which increases and decreases in compensation are measured shall be the fee which is paid or earned when the investment performance of such company or fund is equivalent to that of the index or other measure of performance, and an index of securities prices shall be deemed appropriate unless the Commission by order shall determine otherwise.

"(d) As used in paragraphs (2) and (3) of subsection (a), 'investment advisory contract' means any contract or agreement whereby a person agrees to act as investment adviser to or to manage any investment or trading account of another person other than an investment company registered under title I of this Act.".

SEC. 604. Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by redesignating subsection (e) as subsection (d).

SEC. 605. Section 211(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11(b)) is amended by striking out "the Federal Register Act" and inserting in lieu thereof "chapter 15 of title 44, United States Code,".

SEC. 606. Section 213(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-13(a)) is amended by striking out "sections 239 and 240 of the Judicial Code, as amended" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 607. Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended by striking out "sections 128 and 240 of the Judicial Code, as amended, and section 7, as amended, of the Act entitled, 'An Act to establish a court of appeals for the District of Columbia', approved February 9, 1893", and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

TITLE VII—AUTHORIZATION

SEC. 701. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) in the first sentence, by striking out "and" immediately after "1982,";

(2) by inserting immediately before the period at the end of the first sentence the following: ", $158,600,000 for the fiscal year ending September 30, 1988, and $172,200,000 for the fiscal year ending September 30, 1989"; and

(3) in the last sentence, by striking out "fiscal year 1983" and inserting in lieu thereof "fiscal year 1989".

MOTION OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MARKEY, moves to strike out all after the enacting clause of S. 1452 and to insert in lieu thereof the provisions of the bill H.R. 2600, as passed by the House, with the following additional amendment:

At the end of the House amendment add the following new section:

SEC. 4. TECHNICAL AMENDMENTS RELATING TO THE GOVERNMENT SECURITIES ACT OF 1986.

(a) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—(1) Section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)(1)(B)(i)) is amended by striking out "When" and inserting "When such".

(2) Section 17(f)(1)(A) of such Act (15 U.S.C. 78q(f)(1)(A)) is amended by striking out "government securities," and inserting "securities issued pursuant to chapter 31 of title 31, United States Code,".

(b) AMENDMENT TO THE SECURITIES INVESTOR PROTECTION ACT OF 1970.—Section 16(12) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78111(12)) is amended by inserting before the period at the end thereof the following: "other than a government securities broker or government securities dealer registered under section 15C(a)(1)(A) of the 1934 Act".

Mr. MARKEY [during the reading]. Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. RINALDO. Reserving the right to object, Mr. Speaker, and I will not object, I ask that the gentleman from Massachusetts explain the underlying reasons behind the amendment and what the gentleman intends, why he requests that these amendments be enacted into law?

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

These are three technical amendments that are fully supported by the SEC. The amendments clarify: First, which Government securities brokers or Government securities dealers must file a notice with the Commission when they cease to do business; second, that if securities are lost or stolen they are only reported to the Secretary of the Treasury if they are Treasury Securities; and third, that Government securities brokers and government securities dealers who join a national securities exchange rather than the National Association of Securities Dealers do not thereby become members of SIPC, the Securities Investor Protection Corp.

These amendments therefore serve only to clarify technical aspects of the Securities Exchange Act of 1934 and the Securities Investor Protection Act of 1970.

Mr. RINALDO. Mr. Speaker, I want to thank the gentleman for the explanation. It is then my understanding that all he is doir- is making three technical corrections which are in conformity with what the SEC wants and the changes are required to bring these laws into conformity with the Government Securities Act which we enacted last year.

Mr. Speaker, in my view these amendments are consistent with the purposes of that legislation, and, therefore, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The text of H.R. 2600, as amended, is as follows:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities and Exchange Commission Authorization Act of 1987".

SEC. 2. AUTHORIZATION OF AND LIMITATIONS ON APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. (a) There are hereby authorized to be appropriated to carry out the functions, powers, and duties of the Commission (other than the functions, powers, and duties described in subsection (b))—

"(1) $133,900,000 for fiscal year 1988; and

"(2) $154,000,000 for fiscal year 1989.

"(b) In addition to the amounts authorized by subsection (a), there are authorized to be appropriated to the Commission for the purpose of funding a contract for the establishment and operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system—

"(1) $20,000,000 for fiscal year 1988; and

"(2) subject to section 35A(a)(2) of this title, $15,000,000 for fiscal year 1989.".

SEC. 3. REQUIREMENTS FOR THE EDGAR SYSTEM.

The Securities Exchange Act of 1934 is amended by inserting after section 35 the following new section:

"REQUIREMENTS FOR THE EDGAR SYSTEM

"SEC. 35A. (a)(1) Of the funds appropriated to the Commission pursuant to section 35 of this title for fiscal year 1988 which are available for establishment or operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system, the Commission shall reserve $15,000,000. None of the funds that are so reserved may be obligated or expended unless the Commission has made the certification required by subsection (c) of this section.

"(2) Notwithstanding section 35(b) of this title, no funds are authorized to be appropriated for fiscal year 1989, and no such funds may be obligated or expended, for the establishment or operation of the EDGAR system unless the Commission has—

"(A) filed each report required during fiscal year 1988 by subsection (b) of this section; and

"(B) made the certification required by subsection (c) of this section.

"(3) Amounts appropriated to the Commission for the EDGAR contract shall be the exclusive source of funds for the procurement and operation of the systems created under that contract by or on behalf of the Securities and Exchange Commission—

"(A) for the receipt of filings under Federal securities laws, and

"(B) for the automated acceptance and review of the filings and information derived from such filings.

"(b) The Commission shall submit a report to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives on the status of EDGAR development, implementation, and progress at six-month intervals beginning December 31, 1987, and ending at the close of 1990 (unless otherwise extended by the Congress). Such report shall include the following:

"(1) The overall progress and status of the project, including achievement of significant milestones and current project schedule.

"(2) The results of Commission efforts to test new or revised technical solutions for key EDGAR functions. In particular, the following functions shall be addressed and the indicated information provided:

"(A) Automating receipt and acceptance processing, including—

"(i) development and testing progress and results;

"(ii) actual versus estimated development cost; and

"(iii) actual effect of this function on Commission staff needs to assist filers.

"(B) Data tagging (identifying financial data for analysis by EDGAR), including—

"(i) description of the approach selected, identifying the types of financial data to be tagged and the calculations to be performed;

"(ii) comments by the filer population on the approach selected;

"(iii) the results of testing this approach, including information on the number of filers taking part in the test and their representativeness of the overall filer population;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(C) Searching text for keywords, including—

"(i) the technical approach adopted for this function;

"(ii) development and testing progress and results;

"(iii) data storage requirements and search response times as compared to EDGAR pilot system experience;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(3) An update of cost information for the receipt, acceptance and review, and dissemination portions of the system including a comparison of actual costs with original estimated costs and revised estimates of total system cost and total funding needs for the contract.

"(4) The status of Commission efforts to obtain and maintain staff with the proper contractual, managerial, and technical expertise to oversee the EDGAR project.

"(5) The fees, revenues, costs, and profits obtained or incurred by the contractor as a result of the required dissemination of information from the system to the public under the EDGAR contract, except that the information required under this paragraph (A) need be obtained from the contractor no more frequently than once each year, and (B) may be submitted to the Congress as a separate confidential document.

"(6) Such other information or recommendations as the Commission considers appropriate.

"(c) On or before the date the Commission enters into the contract for the EDGAR system, the Commission shall submit to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives a certification by the Commission—

"(1) of the total contract costs to the Federal Government of the EDGAR system for each of the 3 succeeding fiscal years;

"(2) that the Commission has analyzed the quantitative and qualitative benefits to be obtained by the establishment and operation of the system and has determined that such benefits justify the costs certified pursuant to paragraph (1);

"(3) that (A) the contract requires the contractor to establish a schedule for the implementation of the system; (B) the Commission has reviewed and approved that schedule; and (C) the contract contains adequate assurances of contractor compliance with that schedule;

"(4) of the capabilities which the system is intended to provide and of the competence of the contractor and of Commission personnel to implement those capabilities; and

"(5) that mandatory filings from a significant test group of registrants will be received and reviewed by the Commission for a period of at least six months before the adoption of any rule requiring mandatory filing by all registrants.

"(d) The Commission, by rule or regulation—

"(1) shall provide that any information in the EDGAR system that is required to be disseminated by the contractor—

"(A) may be sold or disseminated by the contractor only pursuant to a uniform schedule of fees prescribed by the Commission;

"(B) may be obtained by a purchaser by direct interconnection with the EDGAR system;

"(C) shall be equally available on equal terms to all persons; and

"(D) may be used, resold, or redisseminated by any person who has lawfully obtained such information without restriction and without payment of additional fees or royalties; and

"(2) shall require that persons, or classes of persons, required to make filings with the Commission submit such filings in a form and manner suitable for entry into the EDGAR system and shall specify the date that such requirement is effective with respect to that person or class; except that the Commission may exempt persons or classes of persons, or filings or classes of filings, from such rules or regulations in order to prevent hardships or to avoid imposing unreasonable burdens or as otherwise may be necessary or appropriate; and

"(3) shall require all persons who make any filing with the Commission, in addition to complying with such other rules concerning the form and manner of filing as the Commission may prescribe, to submit such filings in written or printed form—

"(A) for a period of at least one year after the effective date specified for such person or class under paragraph (2); or

"(B) for a shorter period if the Commission determines that the EDGAR system (i) is reliable, (ii) provides a suitable alternative to such written and printed filings, and (iii) assures that the provision of information through the EDGAR system is as effective and efficient for filers, users, and disseminators as provision of such information in written or printed form.

"(e) For the purposes of carrying out its responsibilities under subsection (d)(3) of this section, the Commission shall consult with representatives of persons filing, disseminating, and using information contained in filings with the Commission.".

SEC. 4. TECHNICAL AMENDMENTS RELATING TO THE GOVERNMENT SECURITIES ACT OF 1986.

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(b) AMENDMENT TO THE SECURITIES INVESTOR PROTECTION ACT OF 1970.—Section 16(12) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll(12)) is amended by inserting before the period at the end thereof the following: "other than a government securities broker or government securities dealer registered under section 15C(a)(1)(A) of the 1934 Act".

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to extend and amend the authorization of appropriation for the Securities and Exchange Commission, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2600) was laid on the table.

MR. HONECKER, TEAR DOWN THE BERLIN WALL

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLF. Mr. Speaker, I am introducing legislation today urging German Democratic Republic chief of state Erich Honecker to permanently repeal the order to East German border guards to "shoot to kill" anyone attempting to cross the Berlin Wall without authorization and to tear down the Berlin Wall.

As an executive committee member of the congressional human rights caucus, I am committed to working for freedom for people throughout the world. The Berlin Wall, erected in 1961, imprisons more than 17 million Germans behind an artificial barrier limiting access to the free world. It stands as a stark reminder that the East German Government routinely denies the human rights of its citizens.

Because of orders to East German border patrols to "shoot to kill," many East Germans have lost their lives attempting to reach freedom by scaling the wall. This barbaric policy cost three East Germans their lives in the past year alone.

These policies denying basic human rights are unacceptable to the American people. This legislation puts the U.S. Congress firmly on record in opposition to these policies by urging constructive action by the East German Government.

Mr. Speaker, the recent meetings between West German Chancellor Helmut Kohl and East German leader Erich Honecker have highlighted the importance of tearing down the Berlin Wall and repealing the "shoot to kill" order. I encourage my colleagues to join me in sponsoring this resolution.

H. CON. RES. 186

Concurrent resolution urging the German Democratic chief of state Erich Honecker to permanently repeal the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall and to issue an order to tear down the Berlin Wall

Whereas the United States is committed to promoting freedom for people throughout the world and recognizes that respect for basic human rights is the cornerstone of freedom;

Whereas the Berlin Wall was erected in 1961, more than a quarter-century ago, and has since imprisoned more than 17,000,000 East Germans behind an artificial barrier that limits access to the free world;

Whereas the Berlin Wall continues to serve as a cruel barrier between people and remains a stark reminder that basic human rights are denied to East German citizens by the East German government;

Whereas the East German government has issued orders to border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall;

Whereas East German guards have killed many East Germans in border incidents;

Whereas, in the year ending August 13, 1987, there were 63 attempted escapes from East Germany, 16 during which shots were fired, and 3 persons were possibly killed while attempting to escape;

Whereas these policies, which deny basic human rights and limit personal freedoms, are unacceptable to the people of the United States; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress urges the German Democratic chief of state Erich Honecker to permanently repeal the order directing East German border guards to shoot to kill anyone who, without authorization, attempts to cross the Berlin Wall and to issue an order to tear down the Berlin Wall.

TRIBUTE TO THE LATE AUSTIN G. SMITH, PROFESSIONAL STAFF MEMBER, HOUSE APPROPRIATIONS COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CHAPPELL] is recognized for 5 minutes.

Mr. CHAPPELL. Mr. Speaker, it is with a sense of deep sorrow that I announce the passing of a valued staff member of the Defense Appropriations Subcommittee, Mr. Austin G. Smith, on July 31, 1987.

Austin was born on January 2, 1929, and was a native of Tennessee. He served with the U.S. Army in Japan during the Korean war and moved to the Washington, DC, area in the mid-1950's.

He joined the Committee on Appropriations in 1962 and served the committee with distinction for some 22 years until his retirement on March 31, 1984.

On the Subcommittee on Defense, Austin specialized in military personnel matters and more particularly in military medical programs. He worked hard for the committee and served the Defense Subcommittee ably and professionally for many years. Austin will be sorely missed.

Our prayers are with Austin, his wife Jean, and their children in this time of deep sadness.

TRIBUTE TO ESSEX, MD, ON SEPTEMBER 13, ITS SPECIAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, on Sunday next, September 13, Essex, one of the most prominent communities in my district will again observe its special day, "Essex Day."

I would like to recount some of the history from the paper prepared by Paul Michael Blitz, archivist of the Heritage Society of Essex and Middle River:

Essex, Maryland has a long and proud history. The first settlers of the area; like the rest of America were the Indians. Over 700 Susquehannoughs inhabited the area. The fierce and warlike Susquehannoughs often waged war with the Massawomekes or the Iroquois. Captain John Smith, Founder of the colony of Jamestown in Virginia, sailed up the Chesapeake Bay in 1608. He was exploring Back River and Middle River or as he called them "Smals Poynt" and "Willowbyes" when he first encountered the Susquehannoughs. He was very impressed when they prostrated themselves in adoration of the European settlers. Like the Roman Empire, the Susquehannoughs were defeated. No, not by a neighboring tribe; but by Smallpox. We have evidence that the Indians lived in this area because arrowheads were found at Cox's Point and Deep Creek which are on display at the Heritage Society Museum.

In 1634, the colony of Maryland was founded. By 1658, settlers started moving into the Back River Neck Peninsula. One of the early families who settled here were the Stansburys. The Stansbury Family was a prominent family who also lived in the Patapsco Neck area. Reverend Tobias Stansbury had a farm located in the Patapsco Neck. It was on this farm where General Robert Ross was killed during the Battle of North Point in the War of 1812. Another member of the Stansbury Family; Elijah Stansbury would later become Mayor of Baltimore.

In 1659, Cecil Calvert, Second Lord Baltimore, granted 420 acres of land along the Chesapeake Bay to a prominent Virginia planter named William Ball. Later, William Ball would become the Great-Great Grandfather of another prominent Virginia planter named George Washington. Today, the tract of land William Ball received is now Rocky Point Golf Course. The manor house named for Ball is "Ballestone" and is open to the public.

By the 1700's, most of what is now Essex was made up of land grants. In 1736, Thomas Hines received 261 acres of land called "Hines Purchase". This land grant would later become "Essex". The original "Hines Purchase" marker is still standing on the corner of Mace Avenue and Franklin Avenue.

Industry came to the area in 1744 when the Principio Co. opened an iron furnace at the head of Back River. Augustine Washington, and his sons Lawrence and George Washington had stock in the company. A mansion was built for the Washington Family to stay when they visited the iron furnace. Later, the name was changed to the "Locust Grove" ore mine. It was in operation from 1845-1885. During the Civil War, it made weapons and employed 100 people. The Locust Grove Iron Furnace built Zion Evangelical Lutheran Church for its workers to have a place to worship.

In the 1800's, Elijah Taylor bought farmland which he called "Paradise Farm". This was the first time the area was united under one name—Paradise. Around 1860, James C. Tutchton and his wife Sarah rented Paradise Farm from Jacob Taylor. Later, the Taylor Family decided to have "Paradise" resurveyed. In 1909, the Taylor Land Co. divided the farm into lots and created the town of Essex, Maryland; named after a county in England. The Taylor Land Co. also donated lots for St. John's Lutheran Church, Essex Methodist Church, the volunteer fire company and the portable schools. Essex was a growing community and was called "The Rising Suburb of the East". Josenhans Corner and Bauern schmidt Manor (which was recently saved by a campaign headed by Jack Cougle of the Essex-Middle River Chamber of Commerce

and Paul M. Blitz Historian of the Heritage Society of Essex and Middle River is being restored to its original condition) were two of the early landmarks in Essex. The first house in Essex was the Schuster House located on the corner of Dorsey Avenue and Taylor Avenue. Some of the streets in Essex were named for the Taylor family. These include Taylor Avenue, Franklin Avenue, and Margaret Avenue.

In 1910, the oldest store in Essex was opened by Henry Guttenburger. His son, John (now in his eighties) still runs the store.

In 1915, the Vigilant Volunteer Fire Company was formed. Located at 518 Eastern Boulevard, it was the first firehouse in Essex. Up to that time, Essex had no fire protection. Upset by this, a group of concerned citizens formed the volunteer fire company. Because of the growth and development of Essex, bucket brigades were useless. After realizing this, the Vigilant Fire Company turned to horse drawn wagons. They, too, became obsolete. With the advent of the automobile, motorized fire pumps replaced horse drawn wagons. The Vigilant Fire Company purchased a 1914 Bessmer Motorized Chassis. It had the modern features of two pumps, fire hoses and a 40 foot ladder. A 35 gallon chemical tank was mounted behind the driver's seat.

By 1919 there were two paid fire houses in Baltimore County. One in Towsontown, the County Seat, and the other one was in Catonsville. In that same year, Essex had paid firemen stationed at the Vigilant Fire Company. The volunteer firemen soon became paid firemen and established a building and loan association which exists today. In 1920, a new firehouse was built next door to the Vigilant Building and Loan. This fire station is now the Heritage Society Museum.

Many people came to Essex to visit Hollywood Park. In addition to being an amusement park, Hollywood Park also offered picnic areas, swimming, fishing, and beer garden.

In 1929, Essex became well known when an Ohio businessman named Glenn L. Martin built an airplane plant in Middle River, Maryland. During World War II, 50,000 people worked at Martin's. The influx of people to the area came to get jobs at Martin's. This boost of population led the Glenn L. Martin Company to build company homes for its workers. Aero Acres and Victory Villa in Middle River, Maryland are two such communities.

After World War II, Essex experienced tremendous economic and social growth. As more and more people moved into the area, more businesses opened to meet their needs.

On August 3, 1957, tragedy struck Essex. A 10 alarm blaze gutted the entire 400 and 500 block of Eastern Boulevard. The fire caused more than 1 Million dollars worth of damage and took six hours before it was brought under control. Fire Officials said that the fire started in the Car-Mor Company warehouse in the basement of Arnold Department Store. No lives were lost in the fire.

The area was devastated by the fire. With the advent of shopping centers, businesses started moving out of the Essex business district to take advantage of shopping centers' store space and parking space. Essex experienced severe economic depression. This economic plight would continue into the 1960's and 1970's.

In 1968, the Heritage Society of Essex and Middle River was founded to protect and preserve the history of Essex and Middle River, Maryland. It is a non-profit organization staffed by volunteers. The old firehouse became a police station and later a courthouse. When the new fire station; police station; and courthouse were built, Baltimore County wanted to tear down the vacant building. Alex Bomgartner, The founder of the Heritage Society of Essex and Middle River and its members felt that the old building would be the ideal place to have a museum to display the artifacts that they collected. The Heritage Society of Essex and Middle River petitioned the County to save the building and use it as a museum. In 1975 after a three-year fight, Baltimore County agreed to save the building which is now The Heritage Society Museum. The Heritage Society of Essex and Middle River also engaged in a grassroots effort to save Ballestone Manor which the County also wanted to tear down to make way for Rocky Point Golf Course. The manor house was save and restored and opened to the public in 1977.

In 1972, Essex like most of Maryland, was hit by "Hurricane Agnes". Rising waters caused flooding in some areas and heavy winds knocked down trees, limbs, and power lines.

During the 1970's, a move was made for the "Revitalization" of Essex and the business district. It was an effort on the part of the Essex Development Corporation, Essex-Middle River Chamber of Commerce, elected officials, and the community to bring businesses and government offices to occupy the vacant buildings along Eastern Boulevard. The effort proved to be a great success.

By the 1980's, Essex was rejuvenated. Businesses relocated into the area. The Multi-Government Building and Eastside Occupational Building provide easy access to governmental agencies such as the Department of Motor Vehicles and Licenses and Permits.

In 1984, Essex celebrated its 75th Anniversary. To mark the occasion, Essex received a Presidential Citation from President Reagan. The following year, the Joint-Veterans Association erected a monument to honor those who died for their country in Korea and Vietnam. In 1988, The Heritage Society of Essex and Middle River will celebrate its 20th Anniversary. The future of Essex looks very optimistic and on Sunday Sept. 13, this community again will observe Essex Day.

Essex has survived fire, floods, hurricane, and economic depression. But Essex always rises up and becomes alive again. And with the help of the Essex Development Corporation; Essex-Middle River Chamber of Commerce; elected officials; and members of the community, Essex will again become "The Rising Suburb of the East". I salute this marvelous community.

AIRLINE SCHEDULES UNDER DEREGULATION IN A MESS

The SPEAKER pro tempore. Under a previous order of the House, the gentelman from Illinois [Mr. GRAY] is recognized for 5 minutes.

Mr. GRAY of Illinois. Mr. Speaker, during the August recess I had occasion to represent the House Committee on Veterans' Affairs in traveling to California to hold hearings, at the Veterans' Administration hospital in San Francisco on the subject of AIDS. During the time I first called the airport, Lambert Field in St. Louis, MO, consternation, false promises and delays were inherent in that entire trip all the way to California and back.

Before coming to the Congress, Mr. Speaker, I was a fixed-base operator. I think I know a little bit about flying. In fact, for 15 years while serving in this body I flew my own helicopter. I want to say without fear of contradiction that the airline schedules since deregulation is in a terrible mess. I think we must face reality that we are going to have to go back to regulation if we are to have safety in the skies and certainly if we are going to have any convenience for the American and foreign travelers.

On that trip that I mentioned a moment ago, Mr. Speaker, the flight was about an hour and a half late. When I arrived in California, it took at least 45 minutes to get my bags.

On the trip back—first let me say that the Committee on Veterans' Affairs had secured the ticket round trip. When I started back, the airline refused to accept the return trip without upgrading it for another $285. In fact, I am an auctioneer and when you call up on the phone to get a reservation, they start out with the very highest price and then the airline will say, "Well, if you can't afford that, then we will give you another price." You may get as many as seven or eight different price structures, all kinds of gimmicks that they will offer the traveling public to try to outdo the competition, completely disregarding their customers, the flying public.

So I think the time has come when we in the Congress must take action, not only to put on more air traffic controllers so the skies will be safer, but also to make absolutely certain that when an airline says they are going to depart at a certain time, they make every reasonable effort to leave at that particular time.

Concerning safety, I sat on the Public Works Committee 13 years ago and asked the then FAA Administrator what we were doing about collision avoidance devices.

Mr. Speaker, it is very strange, because the Administrator back then, General Kee, said, "We are just around the corner" from developing the collision avoidance systems.

I retired from this body, gone 10 years, came back to the same committee and last year I asked the FAA Administrator, Admiral Engen, "How are you coming on the collision avoidance devices?"

Mr. Speaker, you would think they rehearsed it; 13 years later he said exactly the same thing, "Just around the corner." Just around the corner, 13 years later.

We have the technology now to put in collision avoidance devices on our scheduled flights. We have TKASH-1,

TKASH-2, and now TKASH-3, which is a very sophisticated instrument. I think now Mrs. Dole, the Secretary of Transportation, has finally said, "Well let's get busy and go ahead and demand that the airlines install collision avoidance devices." I thank her for that, but more needs to be done.

Last year alone, Mr. Speaker, we had more than 900 near misses in the air just over the continental limits of the United States, not counting all the near misses in foreign countries where American carriers fly. I am sure there were many others not reported.

So I stand here today warning that we must absolutely do something to put on more air traffic controllers, and improve airline service.

Back when the air traffic controllers' strike occurred in 1981, when President Reagan laid off all the controllers, we had 16,000-plus air traffic controllers. Today, Mr. Speaker, we have 25 percent more airplanes in the air and we have just a little over 14,000 air traffic controllers. So you can see the number of planes in the air has gone up and the number of air traffic controllers down. That does not spell good safety, and certainly I think all Members ought to join with Congressman NORMAN MINETA, chairman of our Subcommittee on Aviation and JIM HOWARD our full committee chairman joined by Congressman HAMMERSCHMIDT ranking minority member of the full committee, and Congressman GINGRICH, ranking subcommittee member and push our legislation that will provide a bill of rights for the flying public including the possibility of going back to regulation if things don't improve at our airports and in the skies.

Thank you Mr. Speaker, for giving me the opportunity to speak a few words in behalf of the weary traveler.

THE IMPORT OF THE NOMINATION OF JUDGE BORK TO THE SUPREME COURT

The SPEAKER pro tempore (Mr. NATCHER). Under a previous order of the House, the gentleman from California [Mr. DYMALLY] is recognized for 60 minutes.

Mr. DYMALLY. Mr. Speaker, there are few times in the history of a nation, that a public servant is allowed the opportunity to impact the course of history. What we do this day is to pursue the preservation of democracy. We join together to engage the attention of the Nation, and that of our colleagues in the U.S. Senate, in scrutinizing the record and import of the nomination of Robert H. Bork to the Supreme Court. We stand in the well of the people's House, representing diverse geographic regions and philosophical perspectives, yet committed to one truth. And that is where there are those who would trammel the democratic spirit or the individual will, we must rise in unrelenting opposition. Therefore I come before you, as chairman of the Congressional Black Caucus, and on behalf of the millions of people of conscience who we represent, to state that the future of our country is imperiled by the nomination of Robert Bork. And to his defenders we state affirmatively, that any attempt to represent his judicial record as short of ominously regressive is blatantly untrue.

There are those who suggest that our discussion of these matters is inappropriate. To argue that the selection of the judiciary is above politics, is a refusal to appreciate the reality of the society in which men and women of the bench must operate. This is not just another political appointment, but the selection of an individual who could well change the face of American civil liberties for years to come. We, as elected officials, have a responsibility to replace fiction with fact, to combat a partisan-driven public relations ploy which would have us believe that Robert H. Bork is a progressive activist who has been victimized by a partisan democratic left. To the contrary, the real victims are "We the people" and a Constitution which stands in jeopardy of a wave of judicial review of its very intents and purposes.

To be sure, Robert H. Bork is no champion for equality of opportunity or a friend of individual freedoms. We do not have to speculate about the record, there is a documented trail of actions as lawyer, teacher, Government official, and member of the court of appeals.

In recognition of the Bork legacy of opposition to voting rights, civil rights, open and fair housing, and affirmative action, I was joined by each of America's national organizations of black elected officials in announcing our collective and unequivocal opposition to his nomination. By name these organizations are the Congressional Black Caucus, the World Conference of Black Mayors, the National Black Caucus of Local Elected Officials, the Democratic National Committee Black Caucus, the National Black Caucus of State Legislators, the National Conference of Black Mayors, the National Association of Black County Officials, the National Bar Association and the Judicial Council of the National Bar Association, and the National Political Congress of Black Women. These are but a few of the more than 100 civil rights organizations which have joined in a coalition dedicated to the rejection of the Robert H. Bork nomination. Yet, this is not a slick organizational campaign. For every institutional response there has been a commensurate level of attention and awareness among the grassroots electorate. Indeed, if there was any question of whether this decision would escape this scrutiny of the people, recent weeks have disabused the decision makers of that potentiality. Members of both Houses have been met head-on by an informed and gravely concerned constituency.

Indeed, if there is a true purveyor of justice, it is the ballot box—and our colleagues in the Senate have heard a clear message during these recent weeks of recess. The people do not view this appointment as one in the best interest of America.

Again, to those who would remove this process from political discourse, I call to their attention a recent offering of the New York Times Editoral Board—August 7—which made the following commentary:

> Americans hold the Supreme Court in such reverence that they are sometimes persuaded, haplessly, to try taking politics out of politics. As President Reagan's nomination of Judge Robert Bork to the Court reverberates, it becomes clear that this is such a time. The white marble and black robes radiate a virtue which transcends partisanship. That's exactly as it should be: Federal judges receive lifetime appointments in order to be free of any partisan debt or duty. Their unencumbered freedom to decide cases is, however, distinctly different from how the Senate should decide which nominees to approve for the Court. As the history of Reagan nominations illustrates, that is a political question, properly and always. To claim that it is improper to examine a nominee's philosophical positions misses the point. The wholly proper test is to discover and weigh what those positions are.

That argument is clearly on point, and as the paper has suggested:

> Just as a President reflects his political values by whom he nominates, the Senate needs to reflect its political values by whom it approves.

Let us, therefore take these moments to share with our colleagues the perspective of the people's House as they stand on the eve of the exercise of their constitutionally mandated responsibility of advice and consent. And let us implore that they reject the nomination of Robert H. Bork.

Mr. CLAY. Mr. Speaker, President Reagan's nomination of U.S. Court of Appeals Judge Robert H. Bork, to fill the seat on the Supreme Court vacated by Justice Lewis Powell, is ominous and unsettling. Judge Bork's views are antithetical to equal justice under the law and I encourage my colleagues in the Senate to reject his nomination.

The question at issue does not pertain to Judge Bork's credentials. He is a brilliant legal scholar. But his ideology, his rigid rightist viewpoint and his published reactionary beliefs about justice mandate that the Senate deny him confirmation. The Senate is required to look beyond the basic legal credentials of a Supreme Court nominee. Many judges are legally qualified to serve, but those who are appointed to the Supreme Court must be especially capable of understanding and adminis-

tering to the diverse interests and needs of our Nation. In my view, Judge Bork's record demonstrates that he is not prepared to serve our Nation's highest interests.

Judge Bork's reactionary record includes opposition to certain provisions of the 1964 Civil Rights Act—particularly in terms of public accommodations, his support of the death penalty, and his opposition to the Roe versus Wade abortion decision. The presence of Judge Bork on the highest court of the land could mean that State legislatures, instead of the courts, will make laws in violation of constitutional provisions, in matters such as affirmative action, freedom of choice for abortion, and search and seizure.

Judge Bork's ideological rigidity is a proper, legitimate question to be posed by the Senate. He is an arch conservative with views which oppose a free and equal society. If his confirmation is sustained by the Senate, it will be divisive and troubling for 240 million Americans; particularly, for blacks, women, and other minorities. The appointment of Judge Bork to the Supreme Court promises to trammel our Nation's progress toward equal justice under law.

Mrs. COLLINS. Mr. Speaker, next week, our distinguished colleagues on the Senate Judiciary Committee will begin consideration of the President's nomination of Judge Robert Bork to serve on the Supreme Court.

Over the past several years, the "scales of justice" have been tipped delicately on the Supreme Court with no one judicial viewpoint, liberal or conservative, dominating the other.

Clearly, however, if Judge Bork is confirmed, the scales will be tipped decidedly in favor of a rigid, conservative perspective. This is wrong!

Some people, particularly those in the Reagan administration, argue that ideology should not be a factor in deciding the merits of whether a person should serve on the Court. Instead, they suggest the focus should be on Judge Bork's reputation as a well-respected judicial scholar. The administration also has attempted to cast a new portrait of Judge Bork as a moderate judge.

In my view, these arguments are specious for several reasons. First, it ignores the Senate's "advise and consent" role in the nomination process. It is entirely legitimate for Senators to consider ideology and judicial perspective in evaluating the merits of a nominee. Second, the mere fact that someone is a judicial scholar is not sufficient to qualify them to serve on the Nation's highest court. Finally, it is outright deception to suggest Judge Bork is a moderate.

On the contrary, Judge Bork's writings and public statements reveal a man who is committed to protecting the interests of the Government and business against those of individual citizens.

A justice must have compassion for all people. Judge Bork's writings show no sensitivity toward any disadvantaged group. Twenty-five years ago, Bork opposed civil rights legislation requiring hotel and restaurant owners to serve blacks because it would trample "the freedom of the individual to choose with whom he will deal."

A justice must demonstrate an ability to listen to all points of view. Judge Bork's record on the appeals courts fails to demonstrate a balancing of competing viewpoints. According to Public Citizen, in seven split decisions involving a public interest group's challenge to a government regulation, Judge Bork favored the executive branch every time.

A justice must see the Constitution as a document which adapts to the changing circumstances of American society. Judge Bork's statements indicate he sees the Constitution as a rigid, static document which has not changed in 200 years. Over 20 years ago, for example, the Supreme Court held there was a constitutionally protected right of privacy. In law review articles and judicial opinions, however, Judge Bork has consistently challenged or tried to restrict this fundamental right.

As a woman and as a black, I am afraid he sees the Constitution of 1987 as the one of 1787. In that world, women had no legal standing. Worse, blacks were counted as only three-fifths of a human being.

If Judge Bork is seated, this myopic viewpoint could drastically shift the delicate balance which currently exists on the Court.

On a 5-to-4 vote this year, the Court upheld a temporary racial quota plan for Alabama State troopers. On a 5-to-4 vote this year, the Court affirmed the first amendment rights of a woman to make a disparaging remark about the President. And on a "soft" 6-to-3 vote, the Court approved an affirmative action program which recognized women had been the victims of past discrimination.

Next year, the Court will decide the validity of a woman's right to an abortion, the employment rights of gays, and a reverse discrimination case. If Judge Bork is confirmed, we already know the outcome of these cases.

It is a travesty of justice for any person to be seated on the Supreme Court who comes to the bench with such defined and preconcieved notions of justice. The next member of the Supreme Court must be a person of independence, impartiality, and integrity.

Judge Bork, however, does not meet these standards. Yesterday, a judicial colleague accused Bork of trying to substitute his minority viewpoint for the majority opinion in a case involving a House Republican challenge to the committee assignment process. As this judge said, this raises a serious question of Bork's "basic honesty."

For these reasons, I want to commend my colleagues in the Congressional Black Caucus for arranging this special order and I urge our colleagues in the other body to reject his nomination to the Supreme Court.

Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, Mr. DYMALLY, for reserving this time to address the impending consideration of the nomination of Judge Robert H. Bork to serve as the next Associate Justice of the U.S. Supreme Court.

Mr. Speaker, I wish to firmly add my voice to the ever-growing ground swell of opposition to this nominee, who in my view does not represent the kind of Supreme Court nominee that will best serve the interests of our Nation in the years to come. Unfortunately, the nomination of Judge Bork stands as the next and perhaps crowning legacy of an administration more committed to pursuing a regressive conservative ideology, which threatens to turn back the clock on America's hard-fought social progress, than it is committed to justice or decency.

It is Judge Bork's own record that stands as the strongest testimony to his absence of qualifications. In developing his judicial philosophy, Judge Bork has adopted the philosophy of "original intent," expounded by Attorney General Edwin Meese. Under this theory, which has been denounced by most legal scholars, Bork argues, like Meese, that "the only way in which the Constitution can constrain judges is if the judges interpret the document's words according to the intentions of those who drafted, proposed, and ratified its provisions and various amendments * * * original intent is the only legitimate basis for constitutional decision." By the application of this questionable theory, Justice Bork seeks to turn back the clock of jurisprudence in such key areas as the death penalty, homosexual rights, the right to privacy, and abortion. In these areas, Bork seeks to ignore the body of legal precedent, in order to return constitutional law to a position consistent with his interpretation of constitutional intent.

In the area of the death penalty, Bork has suggested that "it is a little hard to understand how a penalty that the framers explicitly assumed to be available, can somehow become unavailable because of the very Constitution the framers wrote * * *."

In the area of homosexual rights, Judge Bork has noted, "We would find it impossible to conclude that a right to homosexual conduct is 'fundamental' or 'implicit in the concept of ordered liberty,' unless any and all private sexual behavior falls within those categories, a conclusion we are unwilling to draw."

In the area of abortion, Judge Bork has said, "I am convinced * * * that Roe versus Wade is an unconstitutional decision, a serious and wholly unjustifiable usurption of State legislative authority."

In Judge Bork's view—and in the view of the administration which seeks to appoint him—the Supreme Court has misbehaved, making law where they should not, and doing social justice instead of law. The administration, in seeking to appoint Judge Bork, hopes to straighten out the Court, bringing the Court around to its view of the role of the Court in the arena of constitutional law.

What Judge Bork—and the administration—fails to recognize is that the law, especially constitutional law, is made incrementally, on a case-by-case basis. While he might disagree with legal precedents, no judge in our system can ignore or avoid precedent. And this, in essence, is the problem with Judge Bork's approach to the Supreme Court. Because he disagrees with what they've done, he seeks to ignore years of legal precedent and turn back the clock of jurisprudence. This, to me, is unacceptable.

The case against Judge Bork is not limited to his flawed theory of constitutional law. As Solicitor General, on October 20, 1973, Judge Bork became the center of another legal controversy, this being the "Saturday Night Massacre" firing of Watergate special prosecutor Archibald Cox. In that instance, Bork accepted President Nixon's order to fire Watergate special prosecutor Archibald Cox, even though

Attorney General Elliot Richardson and his deputy William Ruckelshaus both refused to carry out such a patently improper order, one resigning, and the other being fired for their refusal. I, for one, would be uncomfortable with a Supreme Court Justice who behaved with such disrespect for the legal process in an instance such as this.

Finally, I am seriously troubled by Judge Bork's record on civil rights. During the debate on the great public accommodations provisions of the Civil Rights Act of 1964, Judge Bork took the position that the owners of lunch counters have the right to segregate, ignoring the basic human right of millions of black citizens to be free of discrimination. Judge Bork's opposition to the public accommodations provisions is not an isolated example, but part of a pattern of unyielding resistance to civil rights. He is also on record as opposing progressive Supreme Court decisions which have invalidated poll taxes, upheld the Voting Rights Act of 1965, and provided remedies for school desegregation.

Although I believe in the President's right to nominate a candidate of his choice to fill a vacancy on the Supreme Court, I also believe in the right of the Congress to review the credentials of such an individual, to determine if he or she provides the kind of balance to the Court that serves the best interests of the American people. I do not believe that Robert Bork will provide such a balance, and you may therefore be assured that I will lend my support to opposing his nomination.

For these reasons Mr. Speaker, America is best served with the defeat of this candidates nomination to the Supreme Court.

Mr. DELLUMS. Mr. Speaker, I rise today to urge my colleagues in the other body to reject the nomination of Robert Bork to the position of Associate Justice of the U.S. Supreme Court.

In my judgment, the Senate must concern itself not only with the personal qualifications of this appointee, but also with the impact of that appointment on the Supreme Court, on the entire judicial branch, and congressional and State legislation.

Based on his previous judicial decisions, public statements, and published books and articles, I am very concerned that Judge Bork's appointment would radically transform present constitutional law, especially in the areas of civil rights and individual liberties.

To cite just a few examples: He denounced a civil rights bill banning racial discrimination in restaurants and hotels, saying that the law interfered with the majority's right to "decide with whom [they] will deal." He opposed the 1964 Civil Rights Act as "an extraordinary incursion into individual freedom." He also argued that a Virginia poll tax, clearly enacted to keep large numbers of poor blacks off the voter rolls, was not discriminatory.

His attitudes toward individual rights is even more reactionary. He publicly referred to civil rights demonstrators as "a mob * * * disturbing and coercing other private individuals in the exercise of their freedom." For him the individual's right of privacy is virtually nonexistent: As I said years ago, concept of the Constitution. In his mind, the Bill of Rights only protects "political" speech; anything else is fair game for Court censorship or condemnation. He has also argued that gays and lesbians do not have the same constitutional rights as homosexuals.

In short, I consider Judge Bork a clear and present danger to the progress made in civil rights and individual freedom in this society during the past 40 years. His unstinting opposition to existing Supreme Court decisions promoting the principle of one man, one vote, open housing, the abolition of racially restrictive covenants, the banning of literacy tests and poll tax requirements for voting, and his repeated denunciations of affirmative action programs all render him constitutionally unacceptable as a candidate for the highest court in the land.

In this year of the bicentennial of our Constitution, the Senate has a special obligation to pass upon the fitness of those who will be sworn "to uphold and defend the Constitution." Based on his past performance and public pronouncements, Judge Bork does not meet those requirements.

Mr. SABO. Mr. Speaker, although I am always reluctant to advise the Senate on how it should perform its duties, there is an issue about which I cannot remain silent. Many actions that Congress takes this fall will be important. But when historians look back, what I fear may stand out most is that Judge Robert H. Bork was confirmed by the Senate, ushering in a new era for the Supreme Court.

Under this scenario, we could see the start of a period in our history in which the Court reverses much of the progress we have made in the past three decades. Should the Senate confirm Judge Bork, I fear the Court may roll back many of the important advances for which we have fought for so long.

But this frightful vision of the future does not have to come to pass. The Senate can exercise its prerogative and reject Judge Bork's nomination.

We have fought and won important battles to protect basic individual rights and liberties, to enhance our democratic processes, and to expand economic opportunities so all American's can share in the American dream. Now is not the time to retreat from these victories. The American people do not want us to turn back the clock and revisit these issues. Instead we must move forward.

While we have been surprised in the past at the change in philosophy that has occurred in some justices once they joined the Court, we cannot gamble that this will happen with Judge Bork. It is clear—from his writings, lectures, and opinions covering 20 years—he has a unique view of the Court's role in our evolving democracy. He has a radical view of the Constitution itself.

Judge Bork disagrees with numerous landmark court decisions. What is most troublesome, however, is his nearly contemptuous disregard for precedents set by past Court decisions and his almost casual willingness to vote to overturn them. It is an almost arrogant lack of respect for the wisdom of past Courts and outcomes that the vast majority of Americans accept as the established law of the land.

The Constitution did not cease to live and grow once it was signed 200 years ago. It continues to grow and improve. Our history has been important and deserves respect.

It is especially ironic that as we celebrate the bicentennial of the U.S. Constitution, President Reagan has nominated a man who wants to tear that remarkable document to shreds. It is sad that he has chosen a man who could embark on a major assault against the Constitution.

I am sure that Judge Bork is a smart man. But intelligence is not the only criterion that should be used to evaluate whether he should serve on the highest court in the land. His philosophy and ideology are extremely important. Just as the President would not nominate a man whose views were opposite of his own, the Senate should not approve a man whose philosophy is so radically different from the mainstream of American thought.

The Court was never intended to be a tool by which the President alone could promote his ideology. It is not a subdivision of the executive branch of Government. Instead, it is a vital independent third branch of our Government. That is why the Senate has the authority to review and pass judgment on a President's recommendation.

The Senate in the case of Judge Bork has a grave responsibility to use its veto power over the President's nomination. I urge the Members of the other body to reject President Reagan's nomination of Judge Bork. In doing so, you will have the support and heartfelt thanks of many of us in this body, the American people, and future generations who want to move forward in the pursuit of justice, liberty, and democracy.

Ms. PELOSI. Mr. Speaker, the Senate is facing one of its most important pieces of business—the process of confirming or rejecting the nomination of Judge Bork to the Supreme Court.

The public debate on this nomination has focused on the powers of the Senate, as well as on the nominee's background and suitability. The Senate does not need to justify or to defend its powers. The framers of the Constitution gave the Senate the powers of advice and consent in the appointments to the judiciary in order to ensure the independence and sanctity of this third branch. Confirming appointments to the Supreme Court requires different consideration than confirming appointments to the executive branch. Cabinet members, serving at the pleasure of the President, are advisers who leave office with the President at the end of term. Supreme Court Justices, however, are supposed to function independently and they are appointed for life. Serious candidates for the Supreme Court, then, should neither be political extremists nor tied to a particular ideology. We look to the Supreme Court for judicial decisionmaking, not for an ideological agenda.

Many legitimate questions have been raised about Judge Bork's judicial philosophy. His record dramatically demonstrates a commitment to the reversal of the advances in individual liberties fought for and won in the Supreme Court over the past three decades.

Our Nation is based on a foundation of the primacy of individual rights. Designed to place basic freedoms beyond majority control, the Constitution guarantees the citizens of the United States those freedoms. The ninth amendment provides that fundamental rights

not specifically listed in the Constitution are still retained by our citizens. The right to privacy has been guaranteed through an entire line of Supreme Court decisions. Both conservative and liberal Justices of the Supreme Court have included the right to privacy in our guaranteed rights. Judge Bork disagrees. He has said that the right to privacy is not covered by the Constitution and that the Supreme Court's previous decisions upholding this right are wrong.

Bork believes that our freedoms should be more narrowly defined. In matters of sex, procreation and family, he would have the Court step aside. If for example, the Constitution does not specifically address birth control, Bork feels that access to them cannot and should not be protected by the Supreme Court. I believe that Judge Bork's philosophy not only violates our constitutionally mandated rights and freedoms, but also presents a highly dangerous threat to the American way of life. Sexual, reproductive, and familial choices should be a matter of individual choice.

Great strides on civil rights have been made in this country over the past three decades. While the road to equality for all, regardless of race, ethnicity, sex or sexual preference, still has some distance to go, we can feel pride in the progress made so far. Judge Bork, however, has played no role in pursuing civil rights and equality. He opposed what became the 1964 Civil Rights Act, which guaranteed that public accomodations be open to all races. He is on record as opposing most of the landmark decisions protecting civil rights and individual liberties rendered by the Supreme Court for 40 years. In fact, his theory of legal interpretation—judicial restraint—would not even have permitted the landmark civil rights cases to be heard.

Judge Bork's clear alignment with right wing ideologues makes him a political extremist and a danger to the independence of the Supreme Court. As our colleagues in the Senate undertake the confirmation process, I urge them to proceed carefully and thoughtfully.

The Senate has the powers and the obligation to reach a decision on the nomination of Judge Bork. Approximately 25 percent of those individuals nominated for the Supreme Court have not been confirmed by the Senate. The public interest will only be served if the Senate makes full and vigorous use of its powers. I strongly urge my colleagues in the Senate to exercise their constitutionally mandated powers and reject Judge Bork's nomination.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE 5 ADDITIONAL DAYS TO PRINT REPORT ON H.R. 2881, NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be given 5 additional legislative days in which to print its report on the bill, H.R. 2881, in the RECORD, including minority, dissenting, and supplemental views.

This request is being made on behalf of the minority to allow time for minority views to be prepared.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for the balance of today, this week, and prospects for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. First of all let me express my appreciation to the gentleman from Illinois [Mr. GRAY] for his useful and informative remarks in the well of the House.

I would advise the distinguished Republican leader that we have completed the business for today and for this week. The House will not be in session tomorrow and it will be my intention to ask unanimous consent when the House adjourns today to adjourn to meet at noon on Monday next.

On Monday we intend a pro forma session.

On Tuesday, September 15, the House will meet at noon and consider two bills under the suspension rule, House Resolution 192, concerning the denial of freedom of religion and other human rights in Soviet-occupied Lithuania; and House Resolution 243, expressing the sense of the House on the occasion of the 25th anniversary of the independence of Jamaica.

On Wednesday and the balance of the week, September 16, 17, and 18, the House will meet at 10 a.m. and consider H.R. 1154, the Textile and Apparel Trade Act of 1987, with a closed rule, with 3 hours of debate; H.R. 3030, Agriculture Credit Act of 1987, subject to a rule; and H.R. 442, Civil Liberties Act, subject to a rule.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. Speaker, I might say that on Tuesday, September 15, we intend to postpone recorded votes until after the debate on all suspensions, but at the present time with only two suspensions being scheduled Members should be advised that there will probably be early votes ordered on Tuesday, and we are assuming that there will be votes on Tuesday.

We do not intend to schedule a Friday session next week but if I may respond to the Republican leader's inquiry, the following week, which would be the week of September 21, we intend to have a schedule which will be announced next week for Monday, Tuesday, and Wednesday; that is, votes will be held on Monday, Tuesday, and Wednesday.

Of course, when the House adjourns on Wednesday, we will adjourn for the Jewish high holidays, so we will not be meeting on Thursday or Friday, September 24 and 25.

Mr. MICHEL. The gentleman may or may not be aware that today the gentleman from Mississippi [Mr. LOTT] and I addressed a letter to the Speaker pointing up the closing of dates upon us here with the fiscal year ending September 30, and while we passed nine appropriation bills and the other body has not passed any yet, I do not see any of the remaining appropriation bills scheduled, for example, for next week or that following week.

I am just wondering, coming into the deadline, the debt ceiling needing to be extended, are we headed for another temporary extension?

Mr. FOLEY. Mr. Speaker, it is my hope, personally, that the conference committee on the extension of the debt ceiling will be able to reach agreement on the issues that are presently before it, and I cannot predict that, no one can, as to the precise time but, personally, I think with goodwill and strong effort that the conference committee should be ready to report well before September 23, which is the current deadline for the extension of the debt ceiling. As far as the appropriation bills are concerned, while I cannot announce the schedule for the week after next today, I anticipate the possibility of an appropriation bill being scheduled for the week after next. It is probably unlikely that before the first of October the Senate would be able to take up and act on all appropriation bills passed by the House and conclude a conference with the House.

None of them has been adopted by the Senate at this time even though, as the gentleman pointed out, we have passed nine and reported from the committee at least two others.

So we are well on our way to completing the work of appropriations which is our responsibility in the initial instance, but the Senate, for reasons that I will not digress on, has

been unable to take up the appropriation bills and act on them.

The probability is that we would need to meet the October 1 deadline with some omnibus appropriation or continuing resolution in order to permit the continued function of the Government. That is not our desire, it is not our wish, it was not our hope, but while we have undertaken assiduously to meet our responsibilities on this side of the Capitol, unfortunately we have not been able to bring together conference committees because the other body has not acted on any of the other appropriation bills.

Mr. MICHEL. Does the gentleman have any intelligence on when they would begin over there on the other side to even report appropriation bills let alone consider them on the floor of the Senate?

Mr. FOLEY. I think there will be an effort to do that but, as the gentleman knows and even under our expanded rules, we probably should not digress too much about the problems of the other body, but there have been problems in bringing bills to the floor. The schedule has been complicated there and I cannot predict exactly what will happen.

I do think there will be obviously an effort to proceed on the appropriation bills, but we are faced with the end of the fiscal year on midnight, September 30, despite our efforts and our success in meeting our responsibilities in this regard. It is difficult to presume the Senate would be able to conclude all of the appropriation bills and be able to conclude all of the conferences and conference bills and send them to the President in what is now 20 days before the end of the fiscal year. It stretches a bit even a confident prediction.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I would be happy to yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

I just want to find out, if I could, if we could get a little more elaboration on the schedule for next week.

As the gentleman well knows, we will have the celebration of the Constitution here in this town on Wednesday, and I think the schedule has been done to accommodate that particular celebration on Wednesday. I think the gentleman is also aware, however, that there is to be a major celebration, national celebration, in Philadelphia the next day. I think there was some hope that Congress would be able to participate as an optional kind of thing in Philadelphia that day.

It appears to me from the schedule that that has not been taken into account at all. I wonder if the gentleman could at least maybe inform the Members how many votes might be expected, what bills will be up specifically on Thursday that Members might have to look at if they would decide to go the national celebration that is to be held in Philadelphia?

Mr. FOLEY. Mr. Speaker, I would be glad to respond to the gentleman's question if the distinguished minority leader would yield to me.

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, we are currently scheduling the bill H.R. 442, the Civil Liberties Act, for Thursday. There has been inquiry about why the House did not simply abandon legislative work on Thursday in view of the fact that there are some celebrations in various parts of the country. I think the answer to that is that first of all we did participate, as the gentleman knows, the House and the Senate did participate very extensively in celebration in Philadelphia already. We are having recognition of this important anniversary on Wednesday, the 16th, and the House made a judgment not to have a 1-day national holiday on Constitution Day, so it seems that we should go forward with the work of the House on that day.

In the event that there is any change in the schedule, and I am not predicting any, but in the event there should be any change in the schedule we will try to announce that promptly. At the present time we are scheduling H.R. 442 for Thursday. The number of votes on that bill would be, again purely speculative, but I guess we would have to assume there would be rollcall votes and amendments are in order, or will be in order, I am sure, subject to the rule.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I certainly understand what the distinguished majority leader, the gentleman from Washington, is telling us, and the House did make a determination not to spend several hundred million dollars in order to have a holiday that day. I think there is somewhat of a difference between what Congress schedules in terms of that celebration and an overall national holiday, since the Congress in times past has shut down for things like Boston Celtics basketball games and a number of other things. It seems to me that we could maybe accommodate something which is of fairly monumental significance in the history of this country for Members of Congress. If the House determines that that is not appropriate, Members I guess will have to understand.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I would have to disagree with my distinguished friend. We have emphasized in fact the importance of this historic year and in addition to participating at Philadelphia already in moving ceremonies, the House and the Senate were to consider legislation which was before the House for a one-time, 1-day national holiday to give further emphasis and celebration to the historic occasion. I am not quarreling with the decision. The House has spoken on that, but the House decision was not to have such a holiday and consequently for Americans who might want to celebrate this day, they are not going to be celebrating it on a holiday.

I think it was our assumption that what was the situation for the rest of the country might be appropriately the situation for the House, namely, that it was a day which would be a working day although obviously in our consideration on Wednesday the previous day and our past celebrations in Philadelphia and in all of our actions on the 17th we would reflect on the historic importance of this day and there was no difference between us on that issue. It is in fact a day which we thought deserved a 1-day national holiday.

In any event I understand the gentleman's concern that there are local celebrations that Members might want to attend. At the present time, in answer to his question, we have an important bill on the floor. If there should be any change in that, and I am not predicting it, but if there should be any change in that we would immediately notify our friends on the minority side and so the Members could be advised.

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Mr. MICHEL. Mr. Speaker, I yield to the gentleman from Pennsylvania who also has I think some concern about that coming from the immediate area where this matter is focused.

Mr. COUGHLIN. Mr. Speaker, I wish to add my voice to the voice of my colleague from Pennsylvania. The 17th is indeed the anniversary of the signing of the Constitution of the United States, that day that we have been building up to for the entire year. It seems peculiar that we do very little on Monday and Tuesday and put all of the work of the week into the 2 days that are the most important in terms of the celebration of the bicentennial of our Constitution. I would hope that some consideration might be given by the leadership and by the distinguished majority leader to some variation of that on that Thursday which is indeed an important day, not

just in Philadelphia but around the Nation where celebrations are being held, in schools, in towns, in villages, in communities all around our country in commemoration of the bicentennial of the Constitution.

Mr. FOLEY. Mr. Speaker, I respond to the gentleman from Pennsylvania, if the gentleman from Illinois will yield further, that we are sensitive to the concerns and interests not only of the gentleman from Pennsylvania, which is the historic State where these great events transpired, but also the Members from other parts of the country where there are local celebrations. While I cannot announce any change in the program because the program is as I announced, if there is any change—and all such announcements carry the admonition that further changes may be announced later—if there is any change we will assiduously pursue prompt notification of the Members for their information and reaction.

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 14, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ANNOUNCEMENT BY THE MAJORITY LEADER

Mr. FOLEY. Mr. Speaker, may I conclude by again reminding Members that on Wednesday, the 16th of September, that is Wednesday next, there will be an official photograph taken of the House of Representatives.

I believe it is the first order of business of the day. All Members are encouraged to be present in the Chamber so that that photograph may reflect the totality of the House of Representatives.

A BIPARTISAN INSPECTION OF SOVIET RADAR FACILITIES

The SPEAKER pro tempore. Under a previsous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, as a freshman Member of this Congress, this historic 100th Congress, I have attempted to specialize in those areas where I feel that I have background or expertise that will allow me to contribute significantly to the conduct of the business of this body. As such, one of the areas I have attempted to focus on is the relations between this country and the Soviet Union.

One of my undergrad degrees, Mr. Speaker, is in Soviet-American relations, Soviet studies.

In addition, I have been involved extensively over the last 5 years in Soviet-American exchange programs. I have had discussions, formal discussions and debated with young Soviet leaders on three occasions, twice in this country and once when I traveled extensively throughout the Soviet Union in December 1985.

In addition, in working with the American Council of Young Political Leaders, Washington-based group which fosters improved relations between this country and other nations of the world, I have attempted to assist in every sense in every possible opportunity in improving relations between our countries and I have hosted Soviet delegations on numerous occasions in my first 8 months as a freshman legislator in this body.

In all the discussions and the studies and the work that I have done in Soviet-American relations I have consistently also been concerned with treaties that we enter into as nations and the adherence to those treaties by both nations.

As on the discussions of the Defense authorization bill this past spring and the discussion which focused around the strict versus broad interpretation of the ABM Treaty, I thought it appropriate to offer an amendment to the Defense authorization bill that would point up what I felt and what many felt was to be an obvious violation of the ABM Treaty, the installation of the Krasnoyarsk radar facility in Siberia.

So, Mr. Speaker, I brought that amendment to the House floor. I led the discussion on the floor of the House, brought in the statements by many notable officials of both political parties and all political ideologies throughout this country. I even quoted a notable Soviet general who acknowledged that Krasnoyarsk was in fact a violation of the ABM Treaty, as well as many of my colleagues in this body who have publicly gone on this record as stating that Krasnoyarsk was in fact a violation of the ABM.

Mr. Speaker, when that amendment came up for a vote on the floor of the House it passed the House of Representatives by a vote of 418 to 0.

Not one Representative of this body disagreed with me that Krasnoyarsk was in fact a violation of ABM.

The reason I mention all of this, Mr. Speaker, is that I was somewhat dismayed to read and to hear on the national press and in the media over this last weekend and yesterday and today that a partisan delegation of this body made a special trip to Krasnoyarsk, a partisan delegation of this body including three Members of this body, two staff members of two Members of this body as well as a reporter from one of our national newspapers along with the National Resources Defense Council, made a special trip to Krasnoyarsk.

Now I applaud anyone who is attempting to get any more information about Soviet violations and about whether or not Krasnoyarsk was in fact a violation. I would have felt better if it had in fact been a bipartisan delegation that made the trip to Krasnoyarsk that could come back and report to us so we can take appropriate action.

I look forward to meeting with the Members of this body who went to Krasnoyarsk. I look forward to hearing their firsthand account of what they saw. But, Mr. Speaker, I also think that we need to look beyond Krasnoyarsk, make comparisons with our Soviet installations and therefore, Mr. Speaker, what I have done today and which I am announcing here is that I have sent a letter that is being personally delivered to the Soviet Embassy with copies to the Politburo members of the Soviet Union, asking that I be permitted to travel to Krasnoyarsk with a bipartisan delegation of Members of this body as well as to see the Krasnoyarsk facility and to also visit the Pechora facility so we can make an adequate comparison of these two facilities to see whether or not Krasnoyarsk is a violation of the ABM.

My letter will be delivered today. I would hope that the Soviet Union would want to have a bipartisan look at Krasnoyarsk and I would hope that the purpose of the Soviet Union allowing five Members of one party in this country or three Members and two staff persons of two other Members to visit Krasnoyarsk was not simply a political ploy in light of the upcoming visit of Foreign Minister Eduard Shevardnadze to this country in anticipation of his talks so that that could be acknowledged that we had lawmakers visit that facility and have downplayed the importance of Krasnoyarsk in relation to the ABM Treaty. And I would hope that the Soviet Union, in receiving my letter, would look at that

letter in the spirit of what I think to be and I hope to be their openness in wanting to have this body to have a full assessment of Krasnoyarsk and its long-term implications of our relations and more importantly of the ABM Treaty and its adherence itself.

So I anxiously await the Soviet response and I would hope, as I said here today, that the invitation to those Members of one political party in this country is not done in the spirit of partisanship but is done and was done in the spirit of allowing us to assess Krasnoyarsk in light of other Soviet installations and allowing us to fully assess the implications that Krasnoyarsk and Pechora have on the ABM Treaty itself.

Mr. Speaker, I yield back the remainder of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COATS) to revise and extend their remarks and include extraneous material:)

Mr. BOULTER, for 60 minutes, on September 29 and 30.

Mr. HORTON, for 60 minutes, on September 29.

Mrs. BENTLEY, for 5 minutes, on September 10.

Mr. ARMEY, for 60 minutes, on September 15.

(The following Members (at the request of Mr. GRAY of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FRANK, for 60 minutes, on September 15.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GRAY of Illinois, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.

(The following Member (at the request of Mr. DYMALLY) to revise and extend his remarks and include extraneous material:)

Mr. KLECZKA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COATS) and to include extraneous matter:)

Mr. GOODLING.

Mr. LAGOMARSINO.

Mr. GRADISON.

Mr. CRANE.

Mr. RITTER.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. ROSTENKOWSKI.

Mrs. BOXER.

Mr. FAZIO.

Mr. BERMAN in two instances.

Mr. PRICE of Illinois.

Ms. SLAUGHTER of New York.

Mr. CLARKE.

Mr. RODINO in two instances.

Mr. LANTOS.

Mr. MONTGOMERY.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 548. An act to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees, and for other purposes; to the Committee on the Judiciary.

ADJOURNMENT

Mr. DYMALLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 47 minutes p.m.), under its previous order, the House adjourned until Monday, September 14, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2062. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting the Department's study with respect to converting the military family housing maintenance function at Laughlin Air Force Base, TX, and that performance under contract is the most cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); to the Committee on Appropriations.

2063. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Japan for defense articles estimated to cost $50 million or more, pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

2064. A letter from the Executive Director, D.C. Retirement Board, transmitting the Board's fiscal year 1986 annual report, pursuant to D.C. Code sections 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

2065. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Audit of the Public Service Commission and the Office of the People's Counsel Miscellaneous Taxicab Accounts," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

2066. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend various health authorities, and for other purposes; to the Committee on Energy and Commerce.

2067. A letter from the Secretary of Health and Human Services, transmitting a discussion of amendments with regard to H.R. 1327; to the Committee on Energy and Commerce.

2068. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Japan for defense articles and services estimated to cost $80 million, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2069. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed letter(s) of offer to Korea for defense articles and services estimated to cost $77 million, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2070. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State, transmitting the determination that it is in the national interest to grant assistance to Niger even though it is in default on loans made under the FAA, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

2071. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting the agency's notice of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2072. A letter from the National President, Women's Army Corps Veterans' Association, transmitting the financial statement of Women's Army Corps Veterans' Association for fiscal year July 1, 1986 through June 30, 1987, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

2073. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report on the transfer of property under the Panama Canal Treaty of 1977, pursuant to 22 U.S.C. 3784(b); to the Committee on Merchant Marine and Fisheries.

2074. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 8 of the Eastern Pacific Tuna Licensing Act of 1984; to the Committee on Merchant Marine and Fisheries.

2075. A letter from the Director, Office of Personnel Management, transmitting the first annual report evaluating the performance management and recognition system covering the first two cycles of pay increases and awards under the PMRS Program, pursuant to 5 U.S.C. 5408; to the Committee on Post Office and Civil Service.

2076. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed use of R&D funds for the design and construction of a spacecraft solid rocket motor [SRM] high energy x-ray facility at Kennedy Space Center, FL, pursuant to Public Law 99-170, section 103 (99 Stat. 1014); to the Committee on Science, Space, and Technology.

2077. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to provide for improved representation of Federal departments and agencies on the Secretary of Labor's Committee on Veterans' Employment, and for other purposes; to the Committee on Veterans' Affairs.

2078. A letter from the Acting Administrator, Agency for International Development, transmitting a report on the origin, contents, destination and disposition of humanitarian goods and supplies transported by the Department of Defense pursuant to Public Law 98-525, section 1540(e) (98 Stat. 2638); Public Law 99-145, section 306(a) (99 Stat. 617); Public Law 99-661, section 331(b) (100 Stat. 3857); jointly, to the Committees on Armed Services and Foreign Affairs.

2079. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to protect the confidentiality of data made available to the Bureau of Labor Statistics and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MATSUI (for himself, Mr. DUNCAN, and Mr. COELHO):

H.R. 3250. A bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules for determining contributions in aid of construction; to the Committee on Ways and Means.

By Mr. FASCELL (for himself and Mr. ANNUNZIO):

H.R. 3251. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the U.S. Congress; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILLER of Ohio:

H.R. 3252. A bill to create a national education savings trust; to prescribe the powers and duties of the trust and of its board of trustees; to provide for advance tuition payment plan agreements; to establish an advance tuition payment fund and to provide for its administration, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. PANETTA:

H.R. 3253. 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; to the Committee on Energy and Commerce.

By Mr. WOLF (for himself and Mr. BROOMFIELD):

H. Con. Res. 186. Concurrent resolution urging the German Democratic chief of state Erich Honecker to permanently repeal the order directing East German border guards to shoot to kill anyone who without authorization, attempts to cross the Berlin Wall and to issue an order to tear down the Berlin Wall; to the Committee on Foreign Affairs.

By Ms. OAKAR:

H. Res. 259. Resolution designating membership on certain standing committees of the House; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

199. The SPEAKER presented a memorial of the Legislature of the State of Illinois, relative to the Equity in Employment Security Financing Act; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 124: Mrs. BENTLEY.

H.R. 192: Mr. WOLPE.

H.R. 622: Mr. NEAL, Mr. BARNARD, Mr. OWENS of Utah, and Mr. GUNDERSON.

H.R. 792: Mr. HEFLEY and Mr. MCEWEN.

H.R. 916: Mr. FROST.

H.R. 1028: Mr. GRADISON.

H.R. 1601: Mr. GUNDERSON.

H.R. 1707: Mr. DEWINE, Mr. BLAZ, Ms. PELOSI, Mr. HASTERT, Mr. LANTOS, Mr. HUBBARD, Mr. BENNETT, Mr. COELHO, Mr. AKAKA, Mr. ROEMER, Mr. COATS, Mr. STANGELAND, Mr. UDALL, Mr. HUTTO, Mr. THOMAS of Georgia, Mr. MARKEY, Mr. KOLTER, Mr. NICHOLS, and Mr. PEPPER.

H.R. 1721: Mr. SCHUETTE.

H.R. 2153: Mr. FOGLIETTA.

H.R. 2228: Mr. WEBER, Mr. LIGHTFOOT, Mr. PENNY, and Mr. DUNCAN.

H.R. 2248: Mr. FIELDS, Mr. SCHAEFER, Mr. RINALDO, Mr. WEBER, Mr. HEFLEY, and Mr. HUGHES.

H.R. 2323: Mr. SLATTERY and Mr. DUNCAN.

H.R. 2497: Mr. MOODY.

H.R. 2498: Mr. MOODY.

H.R. 2532: Mr. SIKORSKI, and Mr. TOWNS.

H.R. 2603: Mr. BOULTER, Mr. CRAIG, and Mr. THOMAS of California.

H.R. 2607: Mr. LEVIN of Michigan and Mr. FOGLIETTA.

H.R. 2640: Mr. ROGERS, Mr. AKAKA, Mr. PRICE of North Carolina, Mr. RINALDO, Mr. WOLF, Mr. MCEWEN, Mr. MOLLOHAN, Mr. ATKINS, Mr. COELHO, Mr. VENTO, Mr. CARR, Mr. ST GERMAIN, Mr. TORRICELLI, Mr. BILBRAY, Mr. DAVIS of Michigan, Mr. RAY, Mr. SYNAR, and Miss SCHNEIDER.

H.R. 2690: Mr. OWENS of Utah, Mr. DUNCAN, and Mr. EVANS.

H.R. 2697: Mr. JACOBS, Mr. NICHOLS, and Mr. BEREUTER.

H.R. 2759: Mrs. BENTLEY.

H.R. 2793: Mr. CHANDLER, Mr. FLIPPO, Mr. ANDREWS, Mr. AKAKA, Mr. BARNARD, Mr. CAMPBELL, Mr. DAUB, Mr. FRANK, Mr. LAGOMARSINO, Mr. NEAL, Mr. NOWAK, and Mr. RICHARDSON.

H.R. 2844: Mrs. BYRON and Mrs. BENTLEY.

H.R. 2887: Mr. KOLBE, Mr. DUNCAN, and Mr. FOGLIETTA.

H.R. 2929: Mr. TAUKE and Mr. JACOBS.

H.R. 3021: Mr. SENSENBRENNER, Mr. DURBIN, Mr. BURTON of Indiana, and Mr. NELSON of Florida.

H.R. 3057: Mr. DEFAZIO.

H.R. 3071: Mr. STARK.

H.R. 3083: Mr. WORTLEY, Mr. GRAY of Illinois, and Mr. DAVIS of Illinois.

H.R. 3143: Mr. ATKINS, Mr. MARKEY, Mr. BIAGGI, and Mr. KANJORSKI.

H.R. 3161: Mr. EVANS.

H.R. 3180: Mr. DWYER of New Jersey, Mr. HOWARD, and Mr. DORNAN of California.

H.R. 3228: Mr. MONTGOMERY, Mr. RANGEL, and Mr. DOWNEY of New York.

H.J. Res. 112: Mr. UDALL, Mr. DICKS, Mr. JOHNSON of South Dakota, Mr. STUDDS, Mr. CONYERS, Miss SCHNEIDER, Mr. SMITH of New Jersey, and Mr. LEVINE of California.

H.J. Res. 227: Mr. ANDREWS, Mr. MACK, Mr. MARTINEZ, Mr. ESPY, Mr. DYMALLY, Mr. BRYANT, Mr. STOKES, Mr. ATKINS, Mr. LEVIN of Michigan, Mr. WORTLEY, Mr. BORSKI, Mr. LEHMAN of California, Mr. CALLAHAN, and Mr. FIELDS.

H.J. Res. 308: Mr. TOWNS, Mr. HEFNER, Mr. KASICH, Mr. SHUMWAY, Mr. KOLTER, Mr. CONYERS, Mr. LEVINE of California, Mr. MORRISON of Connecticut, Mr. MARTINEZ, Mr. ROBERTS, Mr. GARCIA, Mrs. BENTLEY, Mr. JENKINS, Mr. BONER of Tennessee, Mr. FAWELL, Mr. ANDERSON, Mr. APPLEGATE, Mr. HANSEN, Mr. FLIPPO, Mr. HUNTER, Mr. LANTOS, Mr. LATTA, Mr. LEACH of Iowa, Mr. LIVINGSTON, Mr. MCDADE, Mr. MARTIN of New York, Mr. MATSUI, Mr. MILLER of Ohio, Mr. SUNIA, Mr. TORRICELLI, Mr. YOUNG of Alaska, Mr. NEAL, Mr. GALLO, Mr. LEWIS of California, Mr. BUSTAMANTE, Mr. JONES of North Carolina, Ms. OAKAR, Mr. FAUNTROY, Mr. BLAZ, Mr. DYMALLY, Mr. DANIEL, Mr. BROWN of Colorado, Mr. COATS, Mr. TALLON, Mr. BROWN of California, Mr. KOSTMAYER, Mr. HOWARD, Mr. GRAY of Illinois, Mr. FIELDS, and Mr. VOLKMER.

H.J. Res. 326: Mr. YOUNG of Florida, Mr. DINGELL, Mr. VANDER JAGT, and Mr. YATRON.

H.J. Res. 328: Mr. HOYER, Mr. RAHALL, Mr. MCCLOSKEY, and Mr. ECKART.

H.J. Res. 353: Mr. MARTINEZ, Mr. THOMAS of Georgia, Mr. PARRIS, Mr. BONER of Tennessee, Mr. HUBBARD, Mr. YATRON, Mr. MARTIN of New York, Mr. KOLBE, Mr. DUNCAN, Mr. CARDIN, and Mr. MCMILLEN of Maryland.

H.J. Res. 355: Mr. HOWARD, Mr. LUJAN, Mr. WILSON, Mr. MCGRATH, Mr. SMITH of New Hampshire, Mrs. BENTLEY, Mr. DREIER of California, Mr. TAUKE, Mr. GREEN, Mr. COURTER, Mr. PETRI, Mr. MINETA, Ms. OAKAR, Mr. MCDADE, Mrs. BYRON, Mr. FLORIO, Mrs. SAIKI, Mr. THOMAS A. LUKEN, Mr. RANGEL, Mr. BLILEY, Mr. MILLER of Washington, Mr. CRANE, Mr. LOTT, Mr. DIOGUARDI, Mr. SKEEN, Mr. COUGHLIN, Mr. ROE, Mr. SMITH of Florida, Mr. WORTLEY, and Mr. DEFAZIO.

H.J. Res. 356: Mr. CARPER, Mr. FAUNTROY, Mr. TALLON, Mr. CALLAHAN, Mr. BUSTAMANTE, Mr. LEWIS of California, Mr. HANSEN, Mr. LEHMAN of Florida, Mr. DOWDY of Mississippi, Mr. BOUCHER, Mr. SABO, Mr. LIPINSKI, Mr. FRANK, Mr. PARRIS, Mr. TORRICELLI, Mr. KOSTMAYER, Mr. VOLKMER, and Mr. RUSSO.

H. Res. 185: Mr. CARDIN, Mr. CARPER, Mr. THOMAS of Georgia, Mr. GINGRICH, Mrs. MORELLA, Mr. DELAY, Mrs. BENTLEY, Mr. CALLAHAN, Mr. MAZZOLI, Mr. LEACH of Iowa, Mr. RITTER, Mr. HOWARD, Mr. MFUME, Mr. BEVILL, Mrs. BOXER, Mr. HOYER, Mr. VALENTINE, Mr. STARK, Mr. VENTO, Mr. MCCLOSKEY, Mr. COELHO, Mr. SOLOMON, Mr. ROBINSON, Mr. ANDERSON, Mr. KOLBE, and Mr. STALLINGS.

SENATE—*Thursday, September 10, 1987*

The Senate met at 10 a.m. and was called to order by the Honorable FRANK R. LAUTENBERG, a Senator from the State of New Jersey.

PRAYER

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

Let us pray:

But the wisdom that is from above is first pure, then gentle, peaceable, and easy to be entreated, full of mercy, and good fruits without partiality and without hypocrisy and the fruit of righteousness is sown in peace of them that make peace.—James 3:17-18.

Mighty God, all wisdom, all power and inexhaustible grace, manifest Yourself in this place, in the hearts of the Senators and all who labor here. Our leader has set the stage, outlined the agenda, and suggested the spirit by which we are to face these final weeks. Grant to the Senators the will, the wisdom, and the way to fulfill this ambitious program. May adjournment find us profoundly satisfied with achievement—with no regrets—and our Nation strong and just, prosperous and in peace.

Father in heaven, as Pope John Paul II begins his brief tour of the United States we pray for Your blessing upon his life and ministry. Protect him throughout his journey and annoint him by Your spirit with the voice of truth and justice and righteousness, that repentance, healing and renewal may come to our land and its people. In His name Who is the way, and the truth, and life. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 10, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable FRANK R. LAUTENBERG, a Senator from the State of New Jersey, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, 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.

ORDER OF PROCEDURE

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.

A ROCK AND A HARD PLACE: FEDERAL RESERVE CHAIRMAN GREENSPAN'S FIRST MOVE

Mr. BYRD. Mr. President, over the past week, the administration has been quick to turn its spotlight on the domestic economy. It has taken pride in the continuation of the current recovery, spotted though it is; and let us keep in mind that many places in the country have had no recovery, have not experienced any recovery, very little of that, and there are a good many areas in my State that fall into that category.

It has taken pride in the historically high but stable unemployment rate; and let us keep in mind here, also, as we talk about the rise in employment and the creation of new jobs, that the new jobs that are being created are service jobs. They pay less. The jobs that are being created are not the jobs that are higher paying, the jobs in the smokestack industries, the jobs in the strong manufacturing and industrial base of this country, but they are service jobs. We are happy for those. We are glad to see an increase in services. But let us keep in mind, as we talk about increases in the number of jobs, what kind of jobs we are talking about. Let us keep in mind, also, that a good many or our people are employed part time.

But not all the signs are positive. The trade deficit continues to add to our external debt. Hundreds of thousands of dislocated workers are still reeling from the loss of decent-paying jobs. Agriculture is in a depression. The oil-producing States are not much better off. And the financial industry is still struggling with the burden of nonperforming real estate, energy, agricultural, and Third World loans.

What troubles me most about this mix of economic rainy days and sunny afternoons are the underlying trends of persistent trade deficits, the build-up of foreign debt, and the growing dependence on overseas capital.

These trends were very much in play when Alan Greenspan, the new Chairman of the Board of Governors of the Federal Reserve System, raised the discount rate. As a result of the Fed action, major commercial banks raised the rate they charge to their prime corporate customers. Mortgage rates were quick to follow, with VA loans going up and FHA loans going up. Anyone who is borrowing can expect to pay more. A college education is being priced out of the range of too many of our young people. And the American dream of homeownership is slipping out of the grasp of young couples around the country.

Mr. Greenspan certainly knew the costs of his action. But he felt compelled to act, in part to strengthen his credentials as an inflation fighter. He will be meeting shortly with European bankers, and the rise in the discount rate was a kind of calling card for the club. But he was also reacting to financial markets that were nervous about the fall of the dollar that could translate into more rapid inflation. The markets were also concerned that a falling dollar would keep foreign investment overseas.

The problem that I see is less with Mr. Greenspan's specific action than that he was in a situation were he felt forced to act. The combination of huge trade deficits, falling domestic savings, and large budget deficits left the country so dependent on foreign investment that Mr. Greenspan felt forced to raise interest rates or see an increase in inflation.

From the beginning, the risk of higher interest rates has been inherent in the administration's economic policies. We were reminded last Friday of the long-term cost of shortsighted policies—policies that can narrow the ladder of opportunity and downsize the American dream.

In the coming days, I shall be taking a look at what the Reagan economic policies may mean for the future of that dream and explore some of the fundamental changes which the people of our Nation will experience as a result of the Reagan era.

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

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

BICENTENNIAL MINUTE

SEPTEMBER 10, 1935: SENATOR HUEY LONG DIES

Mr. DOLE. Mr. President, 52 years ago today, on September 10, 1935, Louisiana Senator Huey Long died in Baton Rouge, the victim of an assassin's bullet 2 days earlier. The Senator's shocking demise cut short one of the most dramatic political careers of the 20th century, just as it was reaching its apex.

Born in Louisiana in 1893, Huey Long worked as a traveling salesman to earn money for law school. The canvassing experience he gained on Louisiana's back roads later proved politically advantageous. The young attorney began his career by attacking the enemy he would grapple with so flamboyantly all his life—the concentration of wealth.

In 1918, Long, a Democrat, was elected "public service commissioner" and enhanced his reputation as a foe of corporate interests. From a power base anchored in the rural poor, he was elected Governor in 1928. As Governor, he sponsored "The people's" reforms—free textbooks for schoolchildren and the repeal of the poll tax—all the while, creating a powerful political machine.

Huey Long entered the U.S. Senate in 1932. An expert at courting the press, he quickly gained a national following by his advocacy of the "share-our-wealth" plan, which promised every American family a $5,000 "homestead allowance," and a guaranteed annual income of at least $2,000. By 1935, the "Kingfish," as he was called, had become a vitriolic critic of the "New Deal," and he was considered a possible third-party candidate for the 1936 Presidential election.

Senator Long's widow, Rose McConnell Long, briefly succeeded him. And, in 1948, Senator Long's son, Russell Long, with whom many of us had the privilege of serving, was elected to the Senate and served for 38 distinguished years. The Long family is the only one that can claim the distinction of having father, mother, and son serve in the Senate.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 20 minutes, with Senators permitted to speak therein for 5 minutes each.

Mr. PROXMIRE. Mr. President, will the majority leader yield me an additional 3 minutes?

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

The ACTING PRESIDENT pro tempore. Five minutes and thirteen seconds.

Mr. BYRD. I thank the Chair. I yield it all to the distinguished Senator.

Mr. PROXMIRE. I thank my good friend, the majority leader.

WHAT'S RIGHT ABOUT THE CONGRESS?

Mr. PROXMIRE. Mr. President, the Congress of the United States always—and I mean always—takes a bum rap. It's time someone said at least one small word for the Congress. I intend to do just that in this speech. So, here's a small word.

Why is it always open season on the Congress? Some 60 years ago, Will Rogers wisecracked that the United States has only one native criminal class—the Congress. Millions of Americans chuckled and nodded agreement.

This summer, Congress held a series of historic hearings on very serious foreign policy and military blunders by the executive branch. The hearings dramatically exposed a Niagara Falls of lies, deceptions, and fraudulent misuse of congressionally appropriated money. The administration had for many months told the Congress, the American people and, indeed, the world that it vehemently opposed selling arms to Iran. It had also made a cardinal point of telling the world never to pay ransom for hostages. And what did the Iran-Contra congressional hearings reveal? They revealed that at the very time the administration was loudly telling other nations not to sell arms to the Iranians, it was selling arms to the Iranians. The congressional hearings also disclosed why the administration was selling arms to Iran. It was selling arms to Iran in express violation of its own loudly announced policy not to sell arms to Iran, or to ransom hostages. It was doing both. Here was a historic example of hypocrisy so gross it would have been funny if it were not so tragic.

And what was the public reaction? The administration suffered a minor drop in popularity. The prime agent advancing the administration's deception—and hypocrisy—Lt. Col. Oliver North, became a national hero. And Congress—the agency that brought the administration to account, that fought the good fight for a responsible democracy got little or no credit by administration critics and a torrent of criticism from administration supporters.

Why is this? Why does the Congress of the United States even when it is doing what it does best take it on the chin? It's ridiculous. A big majority of Americans like their Congressman. In fact, the last congressional elections presented the most sweeping triumph for incumbent Congressmen in history. It was phenomenal. More than 97 percent of the Congressmen running for reelection were returned to office in 1986.

Opinion polls show that the public has more confidence in Congress than in the President on foreign policy. For instance, the New York Times/CBS News poll twice recently asked this question: "Who do you trust more to make the right decision on foreign policy—Ronald Reagan or Congress?" In November 1986, as the first big Iran-Contra story broke 61 percent answered Congress—27 percent the President. Just this last July 8 months later right after the testimony of Colonel North and a surge of support for the President on Nicaragua, 60 percent answered Congress, only 25 percent President Reagan. There is so little support for the President's foreign policy that this response does not represent much real evidence of popular confidence in the Congress.

But walk into any general store or bar or airport, or union hall in the country and just listen. Whenever the conversation gets around to politics and the National Government the President has his detractors but he also has his staunch in fact, his fervent defenders. But no one and I mean nobody ever defends the Congress. In more than 30 years in this branch of the Congress, and in literally tens of thousands of conversations back in my State with people of every political persuasion I have yet to hear one kind word, one whisper of praise, one word of sympathy for the Congress as a whole. In fact, the only sympathetic voice for the Congress this Senator ever hears is from that remarkable man, our Senate chaplain, Richard Halverson when he prays for us before each session.

Now let me tell you why I think this is so. The people of this country think the Congress is the pits because we in the Congress tell them we are the pits. I have listened to many Members of this body who have made a career out of attacking the Congress. Every time they make a speech on the floor, in committee, to constituents, the Congress is the one sure, predictable object of their scorn, their ridicule, their derision. To listen to Members of the Congress we are individually a choir of angels. Collectively we are the devil incarnate. So, of course, the American people rate the Congress consistently low. After all, who's the local expert on the Congress? Answer: The local Congressman. If he says Congress is no good, who is to dispute him? And that's not all. All of us know that individuals who have a low sense of self-esteem and who constantly prate about how weak and dumb and mean they are, quickly earn a reputation of being weak and dumb and mean.

So my colleagues let us try whenever possible, to stand up for this institution. When the Congress deserves a pat on the back, as it does for the Iran-Contra hearing and for its willingness to stand up against a popular President and for its election of competent, responsible, intelligent congressional leadership, let us give it a pat on the back—not just for individual Members of Congress but for the whole body.

Mr. BYRD. Mr. President, will the Senator yield at a point?

Mr. PROXMIRE. That is it. I am finished.

Mr. BYRD. Mr. President, I want to comment on what the Senator has stated and I will try to do so briefly. I laud him for what he is saying.

I am sorry he is going to be leaving the Senate. I want to make a statement on that later today. There are other Senators who will want to speak in morning business, but I will take this moment to call attention to the fact that on last evening—I have been following this quite a long time—last evening I asked to be brought up to date on the number of votes that Senator PROXMIRE has cast since he has been in the Senate, and he has cast a total of 11,572 votes during his tenure in the Senate, which began on August 28, 1957, over 30 years ago.

He has cast 9,700 consecutive votes.

Now, a little later today I will elaborate on this just a bit. But it appears from the research that I have done on this matter that no other Senator ever has cast as many votes in the Senate as has Senator PROXMIRE.

According to my research, Senator STENNIS is second among those of us who are now serving. He is second to Senator PROXMIRE for all time, and I am third.

Mr. PROXMIRE. I say among the Senators who now serve in this body, the Senator who has cast practically as many votes as I have is Senator ROBERT BYRD of West Virginia; is that right?

Mr. BYRD. Yes, that is correct. But the Senator from Wisconsin has the alltime record not only for the most votes cast. Beyond that and aside from that, he also has the alltime record for the greatest number of consecutive votes cast, having not missed a roll call vote in 9,700. No other Senator can even come close to touching that record. I am not sure that we will ever see another who has been able to do that.

I will have more to say about Senator PROXMIRE a little later.

Let me just comment now on what he was talking about—the fact that everybody takes a lick at Congress. Franklin Roosevelt said, "If we were to eliminate the Congress, we would automatically cease to be a republic." Think about that.

What the Senator was saying reminded me of one of Plutarch's Lives, Gaius Marcius Coriolanus. Shakespeare wrote a tragedy in drama titled Coriolanus. Coriolanus was a Roman general in the early part of the fifth century and on this particular occasion to which I refer, Plutarch mentions, and so does Shakespeare, that the Roman Senate was in fear of the general populace, which was so critical of the Senate's actions, that the Senators were forced to remove themselves from the place.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. DASCHLE). The Senate will be in order.

Senators will cease audible conversation.

Mr. BYRD. So upon this occasion Menenius Agrippa went out to speak to the populace. They were there with staves and sticks and stones and they were very threatening of the Senate.

Menenius Agrippa said, "Let me tell you a tale. I want to tell you an old tale about the belly. All of the other members of the human body were critical of the belly. They were saying that the belly was idle and useless and was not working as were the other members of the body for the general good of the body and that the belly took all of the food into its storehouse and did not do the work of the arm, it did not do the work of the eye, it did not do the work of the ear, it did not do the work of the feet. They were very critical of the belly, and the belly listened and then said, and I paraphrase:

"Yes, I will have to agree, I am the storehouse. I am the shop. And all of the food the various members bring into the body comes to me. But I must also remind you that it is through my work, that this food is reassembled, sent out to the shop of the heart, and the base of the brain, and out to the small, insignificant veins and the large arteries, and the nerves. And while all of the members do not see what each individual member is receiving back from me, I can make you an audit to show that it all goes back to the body members through the work that I do. And the various members end up getting the flour while I am left with the bran."

Agrippa then said to his hostile audience: "I want to remind you that the belly was like the Roman Senate." He said, "It is through the work of the Roman Senate that you receive all the public benefits that you get. You are critical of the members of the Roman Senate. And yet there is not a public benefit that you receive that does not come through this Senate."

Well, it seems to me that what Menenius Agrippa was saying in support of the Roman Senate fits very well with what the distinguished Senator from Wisconsin has said about the Congress. It has always been a target from the very beginning of its life, of its history. It is a moving target. It is a faceless target. Everybody likes to attack it—the columnists, the editorialists, the cartoonists. It is just something everybody can jump on. And, the unfortunate thing about it is that too many of Members of Congress like to play to the galleries and get a laugh out of the galleries by excoriating the very institution of which we all are a part. And there is not a Senator here who would not have given his right arm or his left arm, depending on whether he is right handed or left handed, to come to this Senate or the House. They would get down and eat dirt to be elected. They would willingly run their heads into that wall just to get to the Senate—almost anything to become a Member of Congress.

Once they become a Senator or a Member of the House—and I have been in both Houses—all too many are quick to pick up the little jokes and poke fun at the institution.

Well, I have never poked fun at the institution. I might poke fun at myself. Each of us is subject to criticism, the Senate as a whole is subject to some criticism, but we should not criticize the institution and we ought to stand up for the institution. "He that makes himself an ass must not take it ill if men ride him," said Thomas Fuller.

And it is the same way with the Congress. If Members want to foul their own nest then they cannot blame the general public for thinking little of the institution of which we are a part.

And I go back to what Franklin Roosevelt said—"If we were to eliminate the Congress, we would automatically cease to be a republic."

I know that the distinguished Senator, when he teaches in his classes in the future, he is going to be one person out there who will be teaching those young people that Congress is one of the three equal coordinate branches under the Constitution and it is your Congress. If you are going to find fault with it, get out there and run for Office. Clean it up from the inside if you see something wrong with it.

After all, it is not the institution, it is the people who are in it. And we are just like the people on the outside. We come from all walks of life—teachers, preachers, business people, coal miners, butchers, welders, lawyers, whatever.

Somebody ought to stand up for the Congress of the United States. Like Menenius Agrippa, look at whatever legislation you want—veterans legislation, Social Security, Medicare, health care, education funding, whatever legislation it is—highway funding, safety laws—it comes from this place here. And while we all may find at times

that we are not happy with the work of the Senate or the work of the House, we have to remember that without this institution we would cease to be a republic.

One good thing about this republic is that anybody can criticize the President, the executive branch, the judiciary, we can criticize the nominees of the President, we can vote them down, we can criticize the Congress. But let us not yield to the temptation of lessening the public faith in the institution itself.

I commend the distinguished Senator. I am going to have more to say at some point today, as I said, about his services here and how he will be missed.

Mr. President, I wish to apologize to the other distinguished Senator from Wisconsin, who has been patiently waiting to speak. So I take my seat.

The PRESIDING OFFICER. The Senator from Wisconsin.

RETIREMENT OF BILL PROXMIRE

Mr. KASTEN. Mr. President, it is very appropriate that I have the opportunity to speak after the distinguished majority leader because I rise today to give voice to the gratitude of the people of the State of Wisconsin for the long and distinguished career of our senior Senator, WILLIAM PROXMIRE. I am confident that I speak for all in this Chamber when I express the esteem of the U.S. Senate for BILL both as a colleague and as a true friend.

A British journalist of the 19th century defined statesmanship in words that could just as easily stand as a description of BILL PROXMIRE. A statesman, said Walter Bagehot, is "a man of common opinions and uncommon abilities."

The bond that BILL PROXMIRE shares with the people of Wisconsin, the bond the people reasserted more and more strongly every 6 years, was made possible because BILL embodied the basic beliefs of his constituents.

For the last three decades there has been no place in Wisconsin too distant, no area too sparsely populated to enjoy the personal attention of BILL PROXMIRE. His intimate, one-on-one style of politics made him beloved at every early morning plant gate in the State. He feels at home when he is with the people of Wisconsin, and we feel at home with him.

The people of Wisconsin love BILL PROXMIRE because he is one of us. But BILL'S almost legendary support among the people of our State did not arise solely or even chiefly from the affection of the people of our State. It arose from the perseverance and intellect of the man himself.

BILL PROXMIRE was not awarded the respect and trust of the people of Wisconsin on a silver platter. He earned our admiration by dint of hard political labor, bouncing back from not one, not two, but three painful electoral defeats back in the 1950's. BILL PROXMIRE kept on going because he believed in the people of Wisconsin.

Since his first election to the Senate in 1957, the people of Wisconsin have kept reelecting BILL PROXMIRE because they believe in him.

BILL'S a Democrat, but Republicans and Independents have joined Democrats in respecting him and voting for him. That's because BILL harks back to the old bipartisan tradition that the public good should always come before party interest. As I can tell you based on my own experience, BILL PROXMIRE will not slam the door on you just because you do not put a little letter "D" after your name.

For 30 years BILL PROXMIRE has been true to his principles and true to the State that elected him. He was a fiscal conservative long before the political consensus started paying even lip service to the ideal of fiscal responsibility and balanced budgets. Our alarm over today's out-of-control budget deficits is just belated recognition that BILL PROXMIRE was right all along about the spending monster.

BILL was ahead of us all on the issue of excessive Federal spending. But being ahead of the conventional wisdom on issues is BILL PROXMIRE'S accustomed place in the political arena. For BILL more than for most politicians, ideas matter. And he's never been one to sit on the bench and wait for others to come around to his position before he takes a stand.

It takes a man of uncommon dedication to principle to take the Senate floor every single day for 19 years and to argue for an idea he believes in. And that's just what BILL PROXMIRE did, until the Senate finally caught up with his thinking and approved the Genocide Treaty.

When BILL knows he's right, he won't back down—no matter how powerful his opponents may be. Starting with Senate Majority Leader Lyndon B. Johnson back in 1957, BILL PROXMIRE has tangled with a Who's Who of political heavyweights—including committee chairmen and even Presidents.

For 30 years BILL PROXMIRE has been a Senator of almost legendary independence. But every bit as important to BILL as his own opinions on issues is his commitment to serving the people of Wisconsin. And having served for 6 years as BILL'S colleague from Wisconsin, I can tell you that no two senatorial staffs have worked together more closely than have mine and BILL PROXMIRE'S. That's the tone BILL PROXMIRE likes to set. And it's an example all of us would do well to follow.

BILL'S three decades in the Senate are a living monument to the principle that "he serves his party best who serves the country best." After this Congress BILL PROXMIRE will retire from the Senate. We'll miss him. But we owe it to ourselves and to our country to continue in his spirit.

Thank you.

Mr. PROXMIRE. Mr. President, would the Senator yield? Just permit me to take 30 seconds?

Mr. KASTEN. I would be pleased to yield.

Mr. PROXMIRE. BOB, that was a most gracious, generous, and undeserved tribute. I deeply appreciate it. I will never forget it. It was something that I will always treasure. Thank you very, very much

Mr. KASTEN. Thank you. I am proud to have had the opportunity to stand on the Senate floor and say those words.

The PRESIDING OFFICER. The Senator from Nevada.

CAMPAIGN REFORM

Mr. REID. Mr. President, we have just returned from a break which has given each of us time for reflection, and an opportunity to take our constituents' political pulse. I had the pleasure of traveling throughout Nevada, from her stunning wilderness lakes, to the sturdy citizenry of mining towns, to the bright lights of her cities.

At every stop, various themes repeated themselves. Nevadans are concerned about nuclear waste, they care about the education of their children, and about adequate facilities for senior citizens. The questions and the comments varied, but the underlying thoughts were the same, as they must have been for each of my colleagues.

One of those universal themes, however, was of particular importance to this body. When, I was repeatedly asked, are you going to do something about the cost of elections? When are you going to reform a system which permits increasingly more expensive and lengthy campaigns? Why don't you do something?

My friends, I cannot believe I was the only one to hear those concerns. Nor can I believe that I was the only one to be able to give my constituents an answer which satisfied their questions. That answer was S. 2.

S. 2 is the answer, and it is a good one. As the bill now stands, it eliminates to a very large extent the public financing aspects which many of us found so troubling. The bill achieves, in the final instance, what many of us feared was the impossible dream; it establishes constitutionally viable spending limits without sinking deeply into the Federal trough.

We have had an opportunity to go home and hear the voice of the people. We have had an opportunity to reflect

on the problems inherent in longer and longer, and bigger and bigger campaigns. We have had an opportunity to ponder the value of compromise. Now is the time to act.

I was delighted to hear that the honorable junior Senator from Kansas has decided that the compromises reached in the effort to bring this bill to the floor are at last enough. The good Senator has reserved the right to oppose portions of the bill. She has reserved the right to speak against it if further change is not obtained.

But, I think it highly significant that my colleague from the other side of the aisle has found enough movement by the bill's sponsors to support bringing the matter to the floor for a vote. We will be voting on that issue today. Shall this body permit forward movement on legislation which resolves an issue of vital importance to the American people? Given the compromises reached, and the outstretched hand offered, will not my colleagues from the other party permit this bill to reach the floor for a vote? Let it come out, and if certain portions of the vehicle seem ineffective or inappropriate, then argue for amendment on a case-by-case basis.

We have shown a willingness to compromise, and have gone more than half way. I urge the Members of this body to allow S. 2 to reach the floor, and to permit the Congress to vote on this issue which I know is as important to their constituents, as much as it is vital to the people of Nevada.

Thank you.

The PRESIDING OFFICER. The Senator from Utah.

THE NOMINATION OF ROBERT H. BORK

Mr. HATCH. Judge Robert Heron Bork's résumé—excellent trial lawyer, renowned law professor, Solicitor General, and Federal appellate judge—speaks for itself. In fact, President Reagan's best strategy for confirmation is Judge Bork himself. Particularly in his areas of academic expertise, constitutional and antitrust law, Judge Bork is unrivaled.

Accordingly, the longer he testifies before the Judiciary Committee, the more persuasive and reasoned his philosophy of judicial restraint will sound. If you are looking for a secret weapon in the upcoming confirmation struggle, it is Judge Robert Bork.

Judge Bork's superb qualifications, however, highlight a tragic irony of this proceeding. Despite his demonstrated capabilities—never reversed by the Supreme Court in 423 appellate cases—he has still been subjected to an unprecedented ideological inquisition. The real tragedy is not any smirching of Judge Bork's reputation because he is likely to surprise his detractors. Nor is the real tragedy any delay in the Supreme Court's docket. The real tragedy is the potential implication of this inquisition on the independence and integrity of the Federal judiciary.

Federal judges are not politicians and ought not to be judged like politicians. If we do so, we strip the judicial office of all that makes it distinct amongst the separated powers.

Unfortunately the vicious attacks on Judge Bork's record have already fallen into a familiar pattern. Questions are raised in politically inflammatory terms. The nominee is accused of favoring literacy tests or poll taxes, or racial covenants. In fact, the record shows that the judge has taken no position on the social or political merits of these questions, but only raised legal questions about the source of constitutional authority in those areas. In each case, the judge is supported by numerous Justices, judges, and scholars. This is what I mean about injecting politics into judicial matters. We have come to expect this type of distortion in political campaigns, but can you imagine what might happen if judges had to worry about the political implications of their decisions?

The greatest irony is that some fine legal scholars, who should appreciate the distinction between legal and political issues, are assisting the onslaught against Judge Bork.

And that bothers me a lot. It causes me a great deal of concern. Because if we politicize this Court, I think we are going to see a lot of problems in this country well into the future.

In particular, I would like to comment about the errors and omissions in the response prepared to the White House analysis of Judge Bork's record, which Senator BIDEN has issued.

In a recent trip to Utah, constituents stopped me and asked what I thought was the most important branch of the Government: the executive, legislative, or judicial branch. There is no clean-cut answer, of course. I mean, which is the most important leg of the three-legged stool? One weak leg, and you have an unbalanced stool. This is why the nomination of a U.S. Supreme Court Justice is so important. I am concerned about politicizing this process.

In particular, I do not question Senator BIDEN for the scholarship in the article or in the matters that he published. But I do question the people who pass themselves off as fair and objective law school professors who are anything but fair and objective.

So, Mr. President, at this time I ask unanimous consent that I may put into the RECORD at this point my analysis of the so-called Biden report on Judge Bork's record.

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

ERRORS AND OMISSIONS IN THE "RESPONSE PREPARED TO WHITE HOUSE ANALYSIS OF JUDGE BORK'S RECORD"

The Response Prepared to White House Analysis of Judge Bork's Record commissioned by Senate Judiciary Committee Chairman Joseph Biden (hereafter the "Biden Report") contains numerous errors, mischaracterizations, and omissions. More than seventy of the most significant errors are described in this report.

SECTION I—THE BIDEN REPORT'S SUMMARY

1. The *Biden Report* states that "members of the D.C. Circuit charged Judge Bork with attempting to 'wipe away selected Supreme Court opinions in the name of judicial restraint' and with 'conducting a general spring cleaning of constitutional law.'" The charges are taken from a *dissenting opinion, Dronenburg v. Zech,* 746 F.2d 1579, denying rehearing of 741 F.2d 1388 (D.C. Cir. 1984). A majority of the D.C. Circuit evidently did not feel that Judge Bork's opinion did anything of the sort, since it let the opinion stand. Carter appointee Judge Ruth Bader Ginsburg wrote separately in order to explain specifically why she felt there was nothing improper about Judge Bork's opinion, and stated that the dissenters' use of the term "bends 'judicial restraint' out of shape." 746 F.2d at 1581 n. 1.

2. The *Biden Report* fails to include any of the subsequent history of the case in which those charges were made, which demonstrates that they were baseless:

A year and a half later, in *Bowers v. Hardwick,* 106 S. Ct. 284 (1986), the Supreme Court reached the same conclusion that Judge Bork arrived at in the opinon the dissenters were criticizing, ruling 5–4 that the Constitution does not protect private homosexual conduct. It specifically noted, as a reason for construing its prior privacy decisions narrowly, that "[t]he Court is most vulnerable and comes nearest to illegitimacy when it deals with judge-made law having little or no cognizable roots in the language or design of the Constitution."

Finally, Justice Powell specifically stated in a concurrence in that case that "there is no fundamental right, i.e., no substantive right under the Due Process Clause, to engage in" private homosexual conduct. 106 S. Ct. at 2847.

3. The *Biden Report* fails to indicate that the opinion of Judge Bork to which the judges were referring refused to find a constitutional right to engage in private homosexual conduct, a right whose existence the Supreme Court also had not recognized at the time.

4. The *Biden Report's* claim that "Judge Bork has repeatedly rejected *[Griswold v. Connecticut,]* the decision upholding the right of married couples to use contraceptives" is misleading. Judge Bork has never ruled on a case involving married couples' use of contraceptives. Nor has he stated or indicated anywhere that if he had to decide such a case as a lower court judge, he would do anything other than follow the relevant Supreme Court case. Nor has he stated that he would overrule that case as a Supreme Court Justice.

5. Judge Bork has merely criticized the Supreme Court case's *reasoning* and declined to extend that reasoning to new areas such as homosexual rights. That is a very common approach for judges to take toward precedents with which they disagree. See, e.g., *Shearson American Express v. McMahon,* 107 S. Ct. 2332 (1987). It is a lawyer's profession to recognize the difference be-

tween disagreeing with a case's reasoning and declining to extend that reasoning, on the one hand, and disregarding or overruling it, on the other. But the *Biden Report's* use of the verb "reject" in instances such as this, where all Judge Bork has done is either criticize or at most refuse to extend a precedent, could lead a reader to believe that in all those instances Judge Bork would also disregard or overrule the precedent. Thus, the report's selection of a verb that confuses the two questions is hard to understand. See also *Biden Report* 3 ("Judge Bork has repeatedly and consistently rejected the right to be free from governmental interference with one's private life"); *Biden Report* 4 ("Judge Bork has rejected many of the Supreme Court's leading antitrust decisions"); *Biden Report* 4 ("in the area of church-state relations, Judge Bork has rejected several Supreme Court decisions").

6. The *Biden Report's* characterization of Judge Bork as some kind of antitrust radical is unfounded. *Biden Report* 3-4. As noted in a letter signed by 15 past chairmen of the American Bar Association's Antitrust Section, Judge Bork's seminal work, *The Antitrust Paradox*, has been relied on in opinions written or joined by all nine of the current Supreme Court Justices.

7. The *Biden Report's* statement that "Judge Bork's writings show that he would protect only speech that is tied to the political process, and that he would not protect artistic and literary expression such as Shakespeare's plays, Rubens' paintings, and Barishnikov's ballet" is flatly incorrect. As Judge Bork stated in his Worldnet interview:

"there is a spectrum . . . I think political speech—speech about public affairs and public officials—is the core of the Amendment, but protection is going to spread out from there, as I say, into moral speech and scientific speech, into fiction and so forth."

8. The *Biden Report's* reference to "Judge Bork's willingness to overturn numerous landmark Supreme Court decisions," *Biden Report* 5, is utterly without basis. Judge Bork has never stated that he would overturn any Supreme Court cases—as the *Report* tacitly recognizes earlier ("Judge Bork . . . has never said that the Supreme Court should not overturn its prior decisions establishing and extending the right to privacy," *id.* at 3).

9. The *Biden Report's* claim that "Judge Bork's extensive record shows that he has opposed virtually every major civil rights advance on which he has taken a position, including such issues as the public accommodations [sic] bill, open housing, restrictive covenants, literacy tests, poll taxes, and affirmative action" is utterly unfounded. The facts show that it was Judge Bork, who briefed and argued and won, among others, *Runyon v. McCrary*, 427 U.S. 160 (1976), a case significantly extending the civil rights laws' coverage of private conduct, and *Lau v. Nichols*, 414 U.S. 563 (1974), a case establishing the illegality of conduct with no discriminatory intent but only discriminatory effects. The individual who won many major civil rights advances can hardly be considered opposed to ". . . virtually every major civil rights advance on which he has taken a position."

10. The *Biden Report* fails to indicate that in every instance the *Biden Report* cites as evidence for its claim except for the 1963 Public Accommodations bill (with respect to which, as the *Report* recognizes, Judge Bork later changed his mind) Judge Bork in no way disagreed with the policy ends sought to be accomplished by the proponents of the civil rights measures. Moreover, there is nothing in Judge Bork's life that in any way suggests any form of bigotry.

11. Instead, what Judge Bork has done is criticize the reasoning of several decisions. The *Biden Report's* analysis of these criticisms is misleading because it fails to indicate that they are part of a broad scholarly consensus on those cases. With respect to *Shelley v. Kraemer*, 334 U.S. 1 (1948), the racial covenants case, and *Reitman v. Mulkie*, 387 U.S. 369 (1967), the open housing case, for example, Professor Tribe stated in *American Constitutional Law* that "[t]o contemporary commenators, *Shelley* and *Reitman* appear as highly controversial decisions" and that "the critical consensus has it [that] . . . the Court's finding of state action [is not] supported by any reasoning which would suggest that 'state action' is a meaningful requirement rather than an empty formality." See also *id.* at 1157 n. 37 ("The standard critique of *Shelley* is definitively stated in Wechsler, 'Toward Neutral Principles of Constitutional Law,' 73 Harv. L. Rev. 1, 29-31 (1959). The *Reitman* opinion has been criticized even by defenders of its result.")

SECTION II—ESTABLISHING THE CONTEXT

12. The single major distortion in this section is that the effect of a Bork appointment would be to permit "a determined President . . . [to] bend [the Court] to political ends that he can not achieve through the legislative process."

The *Biden Report* cites no instance of how Judge Bork's appointment would have that effect.

Even if its apocalyptic claims regarding Judge Bork's willingness to reverse prior constitutional cases were true, as they are not, the authors of the *Report* know full well that the only effect would be to *permit* the political process to decide questions that the courts have placed beyond its reach. For example, even if *Roe v. Wade* or *Griswold v. Connecticut* were reversed, the effect would *not* be that abortion or access to contraceptives would suddenly become illegal. Rather, Congress or the states would have to pass laws to that effect.

13. Thus even accepting its premises, the *Biden Report's* claim that a Bork appointment would permit the President to accomplish his social agenda through the Supreme Court is extremely misleading. All it could possibly do is allow the President and the Congress to fight out these issues in the political arena.

SECTION III—JUDGE BORK'S RECORD OF JUDICIAL RESTRAINT

14. The *Biden Report* claims that Judge Bork's perfect record of nonreversal by the Supreme Court is "uninformative." (*Biden Report* at p. 14) Thus, it misleadingly—dismisses five years and hundreds of opinions and votes that are incontestably the best evidence of Judge Bork's measure as a Justice. As Lloyd Cutler has said, Bork's opinion in *Ollman v. Evans* alone "tells us far more about how Bork would perform as a justice than his professorial writings ten to twenty-five years ago."

15. The *Biden Report's* rationale for its remarkable exclusionary rule—that "[a]s an intermediate court judge, the nominee has been constitutionally and institutionally bound to respect and apply Supreme Court precedent"—fails to acknowledge the challenge and difficulty of an appellate judgeship. Without doubt *all* lower court judges are "constitutionally and institutionally bound" to apply the Supreme Court's precedents; the real question is whether they are willing and able to fulfill that obligation. Many of Judge Bork's colleagues on the U.S. Courts of Appeals have been repeatedly reversed by the Supreme Court for ignoring or misreading binding precedent; *e.g.*, the five occasions on which the Supreme Court overruled D.C. Circuit majority opinions and adopted Judge Bork's dissents.

16. Contrary to the *Biden Report's* conclusion, Judge Bork's impeccable record of nonreversal shows his respect for *stare decisis* and his skill at conscientiously applying existing Supreme Court caselaw to facts. This faithful application of law and precedent over his entire tenure as a judge augurs well for his service on the Supreme Court and renders the *Biden Report's* account of his record misleading.

17. The *Biden Report* (p. 15) does not fully report the Supreme Court's decision in *Meritor Savings Bank v. Vinson*, 106 S. Ct. 2399 (1986). The *Report's* claim that the *Vinson* Court unanimously rejected the reasoning of Judge Bork's dissent leaves out the most telling facts. As even the *Report* concedes, "[t]he Court did agree with Judge Bork on the evidentiary issue." Examination of the opinions makes clear that the Court agreed with the substance of Judge Bork's reasoning on liability, as well. It is the *Biden Report*, not the White House position, which supplies a "factually inaccurate and misleading description" of *Vinson*.

18. The *Biden Report* (at p. 16) mischaracterizes Judge Bork's position in *Planned Parenthood Federation v. Heckler*, 712 F.2d 650 (D.C. Cir. 1983), in which he agreed with the majority in rejecting the claim of statutory authority advanced by the Reagan Administration, which premised its family-notification requirements on a 1981 amendment to Title X. Judge Bork's disagreement with the majority belies the *Biden Report's* claim that his opinion was "anything but deferential and non-activist": he would have followed the Supreme Court's well-settled rule in *SEC v. Chenery* by remanding to the agency for articulation of alternative bases for its holding. It is difficult to understand how Judge Bork's proposal to remand to the agency for further consideration is less "deferential" to its administrative expertise than the majority's final and conclusive ruling, which left no further scope for agency consideration. It is misleading to suggest that Judge Bork's deference to the agency was somehow "activist."

19. The *Biden Report* apparently attempts to diminish the significance of Judge Bork's perfect record of nonreversal by the Supreme Court by emphasizing that the Supreme Court has until recently never granted review for one of Judge Bork's majority opinions (*Biden Report* at p. 17). The report apparently implies that one therefore cannot assume anything about the quality of his opinions—which is akin to saying that you can't judge whether someone is law-abiding because he has never been arrested and tried. If Judge Bork were writing activist opinions that departed from the law, the losing litigants would appeal. The fact that fewer than one in ten of the losing litigants in his cases sought Supreme Court review is a sign of the strength of his opinions, not an indication that they can be discounted. The same inference should be drawn from the fact that until this term the Supreme Court never chose to grant review of any of his opinions: the Court's writ of certiorari (literally, to make more certain) is principally used to rectify what the Justices perceive as

important errors in lower court opinions. Their failure to grant review for his opinions is a significant compliment, not a slight.

20. The *Biden Report* employs a double standard on this point, because it argues later that many of Judge Bork's opinions have been important and radical departures from binding precedent. *If Judge Bork's record were really the parade of horribles that the report claims, it would be inconceivable that the Supreme Court would not grant certiorari and reverse him.*

21. The *Biden Report's* disingenuousness is particularly apparent because it glosses over without mention the fact that none of the more than 300 majority opinions joined but not authored by Judge Bork over his five years on the bench has ever been reversed—a remarkable and highly unusual testimonial to his legal judgment. Similarly, the *Biden Report* ignores the fact that although Judge Bork rarely dissents (he has been in the majority of his court 94% of the time) his dissents carry great weight with the Supreme Court, which has repeatedly adopted his rationales over the holdings of the majority.

22. The *Biden Report* further attempts to exclude the most probative evidence of Judge Bork's suitability by distorting his own statements about his cases. The report cites Judge Bork's statement that the ideological divisions on his court make no difference in 9/10's of all his cases, then goes on to give the following grossly inaccurate summary of his remarks: "According to Judge Bork, therefore, 90% of his cases on the D.C. Circuit are non-ideological and, consequently, non-controversial." (*Biden Report* at p. 17). Aside from putting words in the Judge's mouth, the authors' assumption that only ideologically charged cases are difficult, controversial, or worthy of the public's or the Supreme Court's attention says a great deal about their own distorted view of the law—a view that enables them to assert, and apparently to believe, that Judge Bork's "circuit court record says nothing about his suitability for the Supreme Court. . . ." (*Id.*)

23. In fact, Judge Bork's statements about the irrelevance of ideology to his work on the court show his own professionalism, and they echo the professionalism of his colleagues on the bench across the political spectrum—an attitude towards the law strikingly at odds with that shown in the *Biden Report.* Judge Bork's colleague Judge Harry Edwards, a Democratic appointee, has written that "efforts to tag judges as 'liberal' or 'conservative' are fundamentally misguided," citing as evidence of this the remarkable degree of agreement on decisions between himself and Judge Bork. And Chief Judge Patricia Wald, another Democratic appointee, wrote a blistering critique of lawyers who "simplistically characterize" judges as "liberal" or "conservative," warning lawyers "not [to] try to handicap old myths about nonexistent fueds or rumors about philosophic differences between us." It is a warning the authors of the *Biden Report* should reread.

24. The *Biden Report* short-changes the similarity between the judicial philosophies of retiring Justice Lewis Powell and Judge Bork. It incorrectly claims that no similarity can be discerned in the fact that Justice Powell and Judge Bork voted substantially the same way in nine of the ten cases that went before the Supreme Court, because "a careful analysis . . . shows that Judge Bork and Justice Powell both wrote opinions in only two [of the cases]." (*Biden Report* at p. 18). This so-called "careful analysis does not explain why we should disregard the fact that the two jurists joined in substantially the same conclusions—whether they actually wrote or not—in nine of ten cases.

25. Neither President Reagan nor Judge Bork has ever claimed that Justice Powell's jurisprudence is identical to that of Judge Bork. It is the opponents of Judge Bork who argue that Lewis Powell's successor should be required to replicate his jurisprudence—a jurisprudence that, in many areas, these same opponents have scathingly criticized in the past. Judge Bork's proponents have merely pointed out that he is a fairminded proponent of judicial restraint—a judicial conservative, not a political one. Lloyd Cutler, President Carter's Counsel, has written that while all judges pay lip service to judicial restraint, "few rigorously observe it. Justices Oliver Wendell Holmes, Louis D. Brandeis, Felix Frankfurter, Potter Stewart, and Lewis F. Powell, Jr., were among those few, and Judge Bork's articles and opinions confirm that he would be another." The President himself has merely stated that "[i]t's hard for a fairminded person to escape the conclusion that if you want someone with Justice Powell's detachment and statesmanship, you can't do better than Judge Bork"—a demonstrably true statement.

26. The *Biden Report* fails to take account of the evidence which indicates that even beyond the question of general judicial temperament and craftsmanship, however, there are broad convergences between the jurisprudence of these two judges. Justice Powell, for example, has been a leading architect of the reinvigoration of the doctrines of standing and justiciability for which Judge Bork has been so roundly criticized. And Justice Powell cast the decisive vote in *Hardwick v. Bowers,* which reached the same result that Judge Bork propounded in *Dronenburg v. Zech,* 741 F.2d 1388 (D.C. Cir. 1984)—that the Constitution and Supreme Court precedent did not vouchsafe a right to practice homosexual sodomy. (*See also,* Nos. 1-3 above).

27. In criminal jurisprudence Justice Powell, like Judge Bork, has been a leading exponent of the truthseeking function of criminal trials. For example Justice Powell has repeatedly, over more than a decade, rejected the arguments that capital punishment is *per se* unconstitutional. Similarly, Judge Bork has repeatedly refuted these same arguments in print. Just last term, Justice Powell cast the decisive vote in the *McClesky* case, a 5-4 decision that rebuffed an equal protection challenge which would have effectively ended capital punishment.

28. The *Biden Report* fails to acknowledge another interesting parallel between Justice Powell and Judge Bork: Justice Powell, like Judge Bork, was vituperated by leftist feminist and civil rights organizations and spokesmen during his confirmation hearings for the Supreme Court.

Congressman Conyers on behalf of the Black Caucus testified that Powell was "inconsistent with the kind of jurist [who] . . . is desperately needed for the Court in the 1970's and 1980's." (Senate Hearings on the Confirmation of Louis Powell, 1971).

Henry L. Marsh III, testifying on behalf of the Old Dominion Bar Association of Virginia, stated that Powell's confirmation in the face of his "record of continued hostility to the law, his continual war on the Constitution, would . . . demonstrate to us that this Senate is not concerned with the rights of black citizens in this country." (*Id.*)

Wilma Scott Heide, the President of the National Organization of Women, testified that Powell's confirmation would mean that "justice for women would be ignored or further delayed which means justice denied." (*Id.*)

Catherine G. Rohraback, President of the National Lawyers' Guild, testified that nominees Powell and Rehnquist "would be incapable of dealing fairly and impartially with issues arising out . . . the struggle of blacks, other third world people, women and other oppressed groups for social, political and economic equality." She stated that Powell had defended "unconstitutional" wiretapping, and that "[i]n his political views, Mr. Powell does not 'bend' or 'twist' the Constitution, to use the President's language. Rather, he totally ignores it." (*Id.*)

Paul O'Dwyer, a prominent New York liberal attorney, testified that Justice Powell and his fellow nominee William H. Rehnquist had been "eloquent spokesmen for wiretapping and other insidious governmental techniques designed to stifle dissent and to challenge personal liberties guaranteed by the Constitution and the Bill of Rights. . . ." He told the Judiciary Committee that in national security cases "Mr. Powell claim[s] that the President is above the law, the Constitution, and the fourth amendment. . . ." On the Supreme Court, O'Dwyer said, Powell "would be but [the] echo" of the executive branch. (*Id.*)

The charges brought by these groups against distinguished judicial appointees are as false with respect to Judge Bork as they were with respect to Justice Powell.

29. The *Biden Report* distorts Judge Bork's opinion in *Dronenburg v. Zech,* 741 F.2d 1388 (D.C. Cir. 1984). In *Dronenburg* Judge Bork reviewed Supreme Court precedents on the right to privacy and concluded that they did not encompass a constitutionally-protected right to practice homosexual sodomy. Although the Supreme Court later reached precisely the same conclusion in *Hardwick v. Bowers*—a decision in which Justice Powell concurred—the report misleadingly claims that "Judge Bork's theory of lower court constitutional jurisprudence in *Dronenburg* . . . has never been expressed or endorsed by the Supreme Court." (*Biden Report* at p. 18). The *Biden Report* goes on to cite from the dissent in *Dronenburg* to prove that Judge Bork's opinion was judicially 'unrestrained'—a peculiar way to prove the point, since both a clear majority of Judge Bork's own court and the Supreme Court shared his 'activist' and 'unrestrained' view of this area of the law. It is interesting that Professor Archibald Cox's new book *The Court and the Constitution* took *Dronenburg* as a paradigmatic case and noted that while the author "would give the Court a somewhat larger and more creative role," Judge Bork's opinion in the case "stated the conservative judge's reasons clearly and persuasively."

30. The *Biden Report* inaccurately implies that the criticisms contained in the majority opinion in *United States v. Meyer,* No. 85-6169 (D.C. Cir. July 31, 1987) are in some way directed at Judge Bork personally, rather than at the jurisprudence of the almost one-half of the D.C. Circuit that jointly issued a dissent to the majority's reversal of course. Though the report asserts that Judge Bork is the "head of the faction" seeking rehearing en banc of the cases, there is not a scrap of evidence in the opinions—either majority or dissent—to suggest that this is the case or that the majority was specifically stigmatizing Judge Bork's

jurisprudence (*Biden Report* at p. 19). The report's attempt to depict a broadside fired at virtually half the D.C. Circuit as a personal critique of Judge Bork's jurisprudence is unsupported by any evidence.

31. The *Biden Report's* characterization of Judge Bork's view of the privacy cases as "indicative of [his] willingness to discard the text, history and tradition of the Constitution in order to achieve the results he desires" is Orwellian (*Biden Report* at pp. 20-26). It suggests that Judge Bork personally "desires" outlawing contraceptives [*Griswold*], mandatory sterilization of criminals [*Skinner*] and workers [*American Cyanamid*], denial of divorced parents' visitation rights to children [*Franz*], outlawing of the teaching of foreign languages [*Meyer*] or of parochial schools [*Pierce*]. The *Biden Report* does not produce one shred of evidence that this is the case. These suggestions overlook the distinction between politics and the law. No one would suggest, for example, that Justice Frankfurter dissented in *Screws v. United States* because he "desired" racist murders.

32. The *Biden Report* assertions about Judge Bork's personal policy views are also contradicted by the many instances on which Judge Bork has, on legal grounds, opposed laws that further policies of which he affirmatively approves, such as a balanced budget amendment. Thus, Judge Bork's legal views of cases tell us exactly nothing about his policy preferences, indicating that he is willing to set them aside in deciding legal issues. As the revered civil libertarian Justice Hugo Black wrote in dissenting from *Griswold*, "I like my privacy as well as the next one, but I am nevertheless compelled to admit that a government has the right to invade it unless prohibited by some specific constitutional provision. . . ."

33. The *Biden Report* quotes Judge Bork's legal criticisms of *Roe v. Wade* but attempts to dismiss as irrelevant the fact that they were expressed in testimony opposing the "Human Life Bill"—conservative legislation to strip the courts of jurisdiction to hear abortion cases (*Biden Report* at p. 20). It is unclear why an alleged result-oriented activist—as they claim Judge Bork is—would have so many scruples about the legislature trampling on the Constitution and so few about the courts doing so. This fact rebuts the *Biden Report's* charge that Judge Bork's only concern is "to achieve the results he desires." (*Id.*)

34. The *Biden Report* could cause confusion about the holding of *Oil, Chemical and Atomic Workers International* v. *American Cynamid Co.*, 741 F.2d 444 (D.C. Cir. 1984) by juxtaposing it with *Skinner* v. *Oklahoma*, 316 U.S. 535 (1942), a constitutional law case (*Id.* at 21). In fact, *American Cynamid* was a straight statutory construction issue which had nothing to do with constitutional law, much less the right to privacy or *Skinner*.

35. the *Biden Report's* presentation of Judge Bork's legal views on *Meyer* v. *Nebraska* and *Pierce* v. *Society of Sisters* obscures the fact that his views are thoroughly representative of scholarly opinion (*Biden Report* at pp. 22-23). The opinions in these cases were written by conservative Justice McReynolds, of whom one authority on the Court has written that "[p]olitically and jurisprudentially . . . [he] came to embrace a philosophy of reaction to progress second to none, and in his personal demeanor on the bench was a disgrace to the Court [because of his anti-Semitism and racism] . . . . Certainly, [he] deservedly earned the all but unanimous condemnation of the Court experts, who have rated him at the top of their brief list of failures." (Abraham, *Justices and Presidents* 176, 177-78 (2d ed. 1985)). The *Report* also fails to indicate that *Meyers* was dissented from by Oliver Wendell Holmes.

36. The *Biden Report* inaccurately states that Judge Bork "ignores the famous dissent of Justice Brandeis" in *Olmstead* v. *United States*, 277 U.S. 438 (1928), in which Justice Brandeis discussed the protections of privacy afforded by the Fourth and Fifth Amendments as being "intended to secure conditions favorable to the pursuit of happiness," including "the right to be left alone—the most comprehensive of rights and the right most valued by civilized man." (*Biden Report* at p. 25). In fact, Judge Bork's jurisprudence is firmly based on the insight of Brandeis' *Olmstead* dissent, which sought to apply the guarantees of the Fourth Amendment to wiretapping—a technology nonexistent at the time of the Constitution's adoption. Judge Bork incorporated this expansive view of original intent into his most famous opinion, *Ollman* v. *Evans:*

"It is the task of the judge in this generation to discern how the framers' values, defined in the context of the world they knew, apply to the world we know. The world changes in which unchanging values find their application. "The fourth amendment was framed by men who did not foresee electronic surveillance. But that does not make it wrong for judges to apply the central value of that amendment to electronic invasions of personal privacy." (750 F.2d at 995).

37. More generally, Judge Bork recognizes that the Constitution contains a right to privacy—not the generalized, judge-made, open-ended "right" scathingly criticized by Justice Black and others, but the specific guarantees of the Fourth Amendment, fairly read to accommodate the changes wrought by two centuries. It is the authors of the *Biden Report*, not Judge Bork, who have failed to take Justice Brandeis' teaching in *Olmstead* properly into account.

38. The *Biden Report* is again misleading in its claim that Judge Bork's views are "fundamentally at odds with those of Justice Harlan." (*Biden Report* at p. 25). Judge Bork has repeatedly expressed his admiration for the views of Justice John Marshall Harlan, whose scholarly and conservative outlook on the law has led many eminent lawyers and scholars to class Judge Bork with him jurisprudentially. Justice Harlan's views of the Due Process Clause of the Fourteenth Amendment, which were based on the "ordered liberty" test propounded in *Palko* v. *Connecticut*, were not the basis for the Court's decisions in *Griswold* and *Roe.* It is thus out of context for the authors of the report to criticize Judge Bork for his respectful disagreement with this aspect of Justice Harlan's jurisprudence, given the wide areas of agreement stated by these two jurists.

39. The *Biden Report* misrepresents the mainstream view of the 9th Amendment in criticizing Judge Bork's refusal to use that Amendment to create new law (*Biden Report* at p. 26). Characteristically, the authors present their own extremist ideology as if it were governing precedent. They neglect to mention that the Supreme Court has *never* upheld a claim under the 9th Amendment. As with *Dronenburg* and antitrust law, the *Report* pillories Judge Bork for taking positions which are in the mainstream of American jurisprudence and which have been authoritatively stated by the Supreme Court.

40. The *Biden Report* distorts Judge Bork's view of the Bill of Rights, maintaining that he seeks "the 'narrowed' definition of individual rights that the framers feared." (*Id.* at p. 27). This is nonsense. Judge Bork's record as Solicitor General and as an appellate court judge establishes his devotion to the Bill of Rights. And he is no exponent of "narrow" interpretations: as he told the Judiciary Committee in 1982 prior to his unanimous confirmation to the Court of Appeals, judicial imperialism is a better term than activism for courts that have "gone too far and lost [their] roots in the Constitution," because *"a court should be active in defending those rights which the Constitution spells out."* ("Confirmation of Federal Judges," *Hearings Before the Judiciary Committee,* 1982, at 14) (Emphasis supplied.)

41. The *Biden Report* distorts Judge Bork's views of standing. Contrary to its claims that Bork has taken a "very narrow," "crabbed," "novel and unprecedented" view of standing, Judge Bork's views of standing are thoroughly in the mainstream. It is the *Report* that is advocating "novel" legal views. Justice Powell has taken the lead in reinvigorating the doctrines governing access to the courts in his opinions in *U.S. v. Richardson, Warth v. Selden* and *Simon v. Eastern Kentucky Welfare Rights Organization.* His views—repeatedly attacked by liberal commentators—are indistinguishable from Judge Bork's.

42. The *Biden Report* misrepresents Judge Bork's opinion in *Vander Jagt v. O'Neill,* 699 F.2d 1166 (D.C. Cir. 1983). In *Vander Jagt,* the supposedly political and reactionary Judge Bork voted to reject a suit by House Republicans against the Democratic leadership—a fact that sheds light on the *Report's* claims about his "activism." Unmentioned by the *Report* is the fact that the Supreme Court in *Allen v. Wright* quoted approvingly and at length from Bork's "novel" opinion in *Vander Jagt* to reach its conclusion. Clearly it is Judge Bork who is in the mainstream on access cases, and the authors of the report who are outside it.

43. The same is true of the *Biden Report's* distortions of Bork's antitrust record. As was stated in a letter from 15 past chairmen of the ABA's Antitrust Section, "Judge Bork's writings in this area have been among the most influential scholarship ever produced . . . [N]o one has helped promote [the mainstream view of antitrust] more than Judge Bork." The chairmen's letter points out that Judge Bork's leading work on antitrust, the *Antitrust Paradox,* has been referred to in 75 decisions of the Supreme Court and the courts of appeals in the ten years since its publication, and has been cited in opinions written or joined by all nine present Justices of the Supreme Court.

44. The *Biden Report* misrepresents Judge Bork's decision in *Rothery Storage & Van Co. v. Atlas Van Lines, Inc.*, 792 F.2d 210 (D.C. Cir. 1986). Far from "promot[ing] his extreme views . . . [and] [s]ingle-handedly repudiating numerous Supreme Court cases to the contrary," as the *Report* claims, Judge Bork conscientiously parsed conflicting Supreme Court precedent to follow the latest expression of the Court's views. Whatever else the *Report* could have called Bork's efforts in *Rothery,* they were not "single-handed": his opinion was joined *in toto* by Carter appointee Ruth Bader Ginsburg, while fellow Carter appointee Judge Wald "concur[red] in the result and much of the reasoning of the panel's opinion."

SECTION IV—SPECIFIC QUESTIONS

Civil rights

45. The *Biden Report* claims that Judge Bork's dismay over the possibility that a male-only draft might be challenged under the Equal Protection Clause indicates that he is skeptical as to whether *women* are protected under that provision. (*Biden Report* at 49). To the extent this obviously off the cuff statement indicates much of anything, it indicates instead that he is skeptical whether *men* are protected under that clause, since the likely plaintiff in such a suit would not be a woman seeking to be drafted, but a man objecting to being drafted.

See also Nos. 9–12 above.

Freedom of the press

46. The *Biden Report* misreads Judge Bork's record on the First Amendment. The *Biden Report* claims that "Judge Bork has cast doubt on leading Supreme Court decisions limiting governmental prior restraints on speech." It relies for that purpose on an ambiguous statement in an unpublished speech Judge Bork gave at the University of Michigan. It omits any discussion of Judge Bork's only case on point, *Lebron v. Washington Metropolitan Area Transit Authority*, 749 F.2d 893 (D.C. Cir. 1984). In that case, Judge Bork ruled that a D.C. regulation barring deceptive advertisements was invalid on the ground that it constituted a prior restraint, rather than limiting himself to the ground preferred by Judge Starr that the advertisement at issue was not deceptive. Especially given that the narrower ground was clearly available, Judge Bork's conscious decision to rely on the broader one as well is a much clearer indication of his commitment to the bar on prior restraints than the Michigan speech is an indication of any reservations about it. The *Biden Report*'s failure even to mention the case in this context practically inverts Judge Bork's record in this area.

47. The *Biden Report*'s claim that "Judge Bork has sharply criticized key Supreme Court decisions limiting the power of government to punish publication," coupled with the evidence it cites for that claim, almost speaks for itself. The "sharp critici[sm]" to which it refers is from the same Michigan speech, and consists of the statement that "one may doubt that press freedom" required the release of the name of a rape victim or information from a secret inquiry into judicial misconduct.

48. The same can be said of the *Biden Report*'s attempt to contrast Judge Bork's position regarding reporter's claims to a First Amendment right to refuse to disclose confidential sources with Justice Powell's view on the matter. Actually, Justice Powell wrote an opinion noting that it was a hard question, to be decided case by case, but that generally there is no such right in the absence of harassment by state authorities. Judge Bork wrote an article stating that it was a close question that could be decided either way.

49. The *Biden Report's* claim in the text of the full report that Judge Bork would restrict First Amendment protection to "speech that relates to the political process" is simply misleading (as opposed to the claim in the executive summary that he would not protect literary and artistic speech, which is incorrect). As Judge Bork's *Worldnet* interview made clear, in his view the First Amendment provides some protection for "moral and . . . scientific speech" and "fiction and so forth," although probably not pornography. While the interview indicates that he would not extend as much protection to speech that is not expressly political as to speech that is, it says nothing about how much protection he would extend to the former. Since Judge Bork's *Ollman* opinion would provide more protection for political speech than present law, there is ample room for him to protect speech that is not expressly political less than political speech and still protect it at least as much as the Supreme Court. While Judge Bork also indicates that "pornography and things approaching it" probably are not protected, there is no basis whatsoever for the *Report's* conclusion that he would include among such things a Rubens painting or an Alvin Ailey Troupe Performance, or that his views on pornography are any different from the Supreme Court's.

Bork on the establishment clause

50. In its discussion of Judge Bork's views on the Establishment Clause, the *Biden Report* misconstrues his views on the clause generally and about particular cases. The *Report* states that Judge Bork "*has endorsed* the view that the framers intended the Establishment Clause to do no more than ensure that one religious sect should not be favored over another" (*Biden Report* at p. 57). (Emphasis supplied.) In fact, Judge Bork has never "endorsed" a particular view of the Establishment Clause—at most he has observed that:

"The establishment clause *might have been read* merely to preclude the recognition of an official church, or to prevent discriminatory aid to one or a few religions . . . Instead [it has] been interpreted to give [it] far greater breadth and severity." ("Religion and the Law," *University of Chicago*, Nov. 13, 1984, at 1–2).

51. The *Biden Report* is misleading in describing Judge Bork's views on the leading prayer in school case, *Engel v. Vitale*, 370 U.S. 421 (1962). The report does not give sufficient weight to Judge Bork's statement to the *Washington Post* that he has not taken a position on the constitutionality of school prayer. Instead, the report concludes, based on a letter sent to Judge Bork discussing a speech he made at the N.Y.U. Law School, that Judge Bork has "rejected" this case (*Biden Report* at p. 57. See also Appendix B, *Biden Report*).

52. The *Biden Report* excludes substantial evidence that supports Judge Bork's claim that he has not addressed the issue:

No text of Judge Bork's address at N.Y.U. is available. The written notes from which he spoke make no mention of *Engel*. The relevant portion states:

"I want to draw your attention to two other features of non-I[nterpretivist] judicial review—the *nationalization* of a single set of moral values and what I call the *gentrification* of the Constitution.

Roe v. Wade is the classic case of each.

The dramatic expansion of const[itutional] rights under E[qual] P[rotection] clause, substantive version of D[ue] P[rocess] Cl[ause], 1st Amendment—nationalizes moral and social values although there is no national consensus."

No other person present at the event recalls Judge Bork criticizing the *Engel* case.

Judge Bork made no mention of how he would vote on the school prayer cases in the two other significant occasions on which Judge Bork discussed his view of religion and the law: (1) an address at the University of Chicago on November 13, 1984 and (2) an address at the Brookings Institution Seminar for Religious Leaders on September 12, 1985 (*See* Washington Post, letter to the editor from Rabbi Joshua Haberman, August 6, 1987).

53. In alleging that Judge Bork criticized *Engel v. Vitale* in the 1982 N.Y.U. Law School speech, the *Biden Report* relies entirely upon the recollection of one attendee, Dean Norman Redlich. The report cites a letter sent by Dean Redlich to Judge Bork shortly after the address. However, the text of the Redlich letter does not substantiate the *Biden Report* claim that "Dean Redlich took issue with Judge Bork's assertion that the Court had strayed from 'interpreting' the Constitution in *Engel* and that the decision was therefore, in Bork's terms, 'non-interpretivist.'" (*Biden Report* at 57). Rather, the letter included the following passage:

"I do not understand why you lumped together the issues of school prayer, busing, and abortion, although I recognize that at one point in your remarks you said you were concentrating on *Roe v. Wade*. The present attack on the courts derives from all three issues and you failed to distinguish among them. I agree that *Roe v. Wade* can be attacked as non-interpretavist [sic]. *Engel v. Vitale*, however, was an interpretation of the establishment clause. The attacks on that decision were no less strident because it was interpretivist. The result, not the method, sparked the criticism." (Dean Redlich Letter at p. 1).

It appears more likely, however, that Judge Bork focused on *Roe v. Wade* as his example as a non-interpretivist decision, and discussed school prayer only as an issue which, as a factual matter, had sparked political opposition to the courts. This political opposition created a climate in which jurisdiction-stripping legislation, which Judge Bork opposed, was being seriously considered. This observation is one which Judge Bork has made in other speeches as well. This reconstruction of his spoken remarks is supported by Dean Redlich's letter, which described Judge Bork's reference to *Engel* in the context of "the present attack on the courts" since Judge Bork had never before criticized the decision in *Engel*.

54. The *Biden Report* misconstrues Judge Bork's criticism of the three part test set forth in *Lemon v. Kurtzman*, 403 U.S. 602 (1971). In his speech at the University of Chicago Judge Bork stated that his criticism of *Lemon* is that the three part test "is not useful in enforcing the values underlying the establishment clause." (*University of Chicago* speech at pp. 4–5) He points out that the Supreme Court itself has not always applied the test (*Id.* at 6–7). Contrary to the premise stated in the *Biden Report*, Judge Bork's remarks about *Lemon* are not a criticism of the viewpoint that the government should be entirely neutral towards religion. Rather, they are a comment that the test is flawed in its ability to promote another value—strict separation of religion from all government action, a value the court precedents do not support.

55. The *Biden Report* is at best incomplete and at worst misleading in its omission of the fact that Judge Bork's criticism of the *Lemon* test is well within the mainstream of American legal scholarship. Judge Bork himself states that his thoughts are not original, but can be found in Dean Jesse Choper's writings (*University of Chicago* speech at p. 5). In addition, Senator Daniel Patrick Moynihan and others have criticized the Supreme Court's jurisprudence on the Establishment Clause by citing numerous contradictory and inexplicable results:

A state may lend to parochial school children geography textbooks that contain maps of the United States, but the state may not lend maps of the United States for use in geography class.

A state may lend textbooks on American colonial history, but it may not lend a film on George Washington, or a film projector to show it in history class.

A state may lend classroom workbooks, but may not lend workbooks in which the parochial school children write, thus rendering them non-reusable.

A state may pay for bus transportation to religious schools, but may not pay for bus transportation from the parochial school to the public zoo or Natural History Museum for a field trip.

A state may pay for diagnostic services conducted in the parochial school, but therapeutic services must be given in a different building.

Speech and hearing "services" conducted by the state inside the sectarian school are forbidden, but the state may conduct speech and hearing diagnostic testing inside the sectarian school.

Exceptional parochial school students may receive counselling, but it must take place outside the parochial school, such as in a trailer parked down the street.

A state may give cash to a parochial school to pay for the administration of state-written tests and state-ordered reporting services, but it may not provide funds for teacher-prepared tests on secular subjects.

Religious instruction may not be given in public school, but the public school may release students during the day for religious classes elsewhere, and may enforce attendance at those classes with its truancy laws.

56. The *Biden Report* accurately reports that Judge Bork has criticized *Aguilar v. Felton*, 473 U.S. 402 (1985). But the report's description of the case fails to indicate that the decision has been roundly criticized both by other members of the Supreme Court and the legal academic community. In *Aguilar* the Court struck down public funding for non-religious programs which supplied state-employed special education teachers for deprived children who attended parochial schools. In *Aguilar* there was a valid secular motive of providing remedial help to underprivileged children, and there was no hidden subsidy of religion (since the program was optional and not otherwise offered by the schools). Indeed, the sole reason the Court found the program violated the establishment clause was *that the system of monitoring that New York City had adopted in order to ensure that the program was not unconstitutionally religious in content constituted excessive entanglement of church and state.* It is small wonder that Judge Bork cited *Aguilar* as illustrative of why he believes "present doctrine is so unsatisfactory." As he noted in his Brookings speech, "it has been suggested that the program struck down in *Aguilar* might become constitutionally permissible if the teachers were placed in trailers *outside* the schoolhouse, with the children coming to them rather than the other way around. Odd as it may seem, precedent supports the idea that the crucial issue is whether the publicly-funded teachers physically entered the private building." This echoes a point made by Justice O'Connor's dissent: "Impoverished children who attend parochial schools may also continue to benefit from Title I Programs offered off the premises of their schools—possibily in portable classrooms just over the edge of school property." *Aguilar*, 105 S. Ct. at 3248 (O'Connor, J., dissenting.)

SECTION V—BORK'S ROLE IN WATERGATE AND "NADER V. BORK"

57. The *Biden Report* contains serious errors and omissions in its discussion of Judge Bork's role in firing the first Watergate Special Prosecutor, Archibald Cox. By focusing exclusively on the court case, *Nader v. Bork*, 366 F. Supp. 104 (D.D.C. 1973), the report ignores Judge Bork's substantial role in securing the appointment of a second special prosecutor and in ensuring that the Watergate prosecution would continue after Professor Cox was fired.

58. The *Biden Report's* discussion of *Nader v. Bork* is seriously misleading because it conceals the fact that the decision by Judge Gesell was later vacated upon the order of the D.C. Circuit Court of Appeals (*See* Unpublished Order, U.S. Court of Appeals for the D.C. Circuit, August 20, 1975, amended October 22, 1975). Thus, the *Biden Report* fails to indicate that the decision is of no legal precedence whatsoever. The Court of Appeals held that the case was moot.

59. The *Biden Report* fails to indicate that the significant reason that Judge Gesell dismissed the cause of action by Ralph Nader was because he was not an injured party (366 F. Supp. 104). The person who could claim he was injured, Archibald Cox, refused to join the suit. He stated at his press conference that precipitated the firing that "Of course there are ways of firing me." Later Professor Cox testified to Congress that he believed the President, through the Attorney General had the authority to discharge him (*See* "Senate Hearings on the Special Prosecutor," October 31, 1973, at p. 102).

60. The *Biden Report* implies that the Watergate Special Prosecutor was established pursuant to a special act of Congress (*Biden Report* at p. 61). Rather, the office was created by Attorney General Eliott Richardson pursuant to his general statutory authority to create positions in the Justice Department (*See* 28 U.S.C. § 508-510). In fact, these statutes specifically allow the Attorney General to transfer functions among different officials at the Department of Justice. While Attorney General Richardson had promised the Senate that he would create an independent prosecutor during his confirmation process, this action could not create special statutory authorization for the position.

61. The *Biden Report* implies that the opinion in *Bork v. Nader* is significant because it declared the discharge of Professor Cox to be illegal. The opinion itself recognizes that the relevent Supreme Court case (*Humphrey's Executor*) relied heavily upon the fact that in that case Congress had expressly legislated to restrict the President's ability to remove a government official. As discussed above, there is no such Congressional Act with respect to the Watergate Special Prosecutor.

62. The *Biden Report* mischaracterizes the issues of "whether the firing [of Professor Cox] itself was lawful" as the "threshold question" in the *Nader* case. Since the independence granted to the Watergate Special Prosecutor was derived solely from the Attorney General's regulations, the White House paper correctly analyses the question of whether these regulations were validly rescinded as the threshold question and determines that they were.

63. The *Biden Report* fails to inform the reader that Judge Bork's position that the delay in rescinding the Attorney General's regulations (from Saturday night when Professor Cox was fired until Tuesday, the next working day) was widely supported. Professor Cox himself referred to the delay as a "technical defect." (*See* "Senate Hearings on the Special Prosecutor," October 31, 1973, at p. 102).

64. The *Biden Report* misstates the grounds upon which Judge Gesell found the rescission of the Attorney General's regulations arbitrary and unreasonable. Judge Gesell's opinion relied upon the fact that a new special prosecutor was appointed three weeks later under substantially identical regulations to conclude that the rescission of the initial regulations was an arbitrary and unreasonable act, done solely to replace Professor Cox, which could not be done under the terms of the regulations (386 F. Supp. at 109). Although the *Biden Report* quotes this passage, the report then manufactures from whole cloth the rationale that the firing was arbitrary and unreasonable because of the circumstances leading up to the discharge (*i.e.*, that Professor Cox had decided to defy President Nixon and go to court for the White House tapes). The *Biden Report* uses this novel argument to bootstrap its conclusion that the firing would have been illegal even if the rescission of the regulation had been completed before the discharge.

SECTION VI—STARE DECISIS

65. The *Biden Report's* discussion of Judge Bork's views on *Stare Decisis, i.e.*, the adherence to prior precedent, in constitutional law is fundamentally flawed by a complete lack of understanding of the theories Judge Bork has articulated on precedent. Repeatedly the *Biden Report* equates criticism by Judge Bork of a prior decision with the conclusion that he would overrule the decision once on the Supreme Court. (This conceptual error is not only logically fatal to the authors' arguments about *Stare Decisis*, but also permeates the discussion of cases in Appendix B).

66. The *Biden Report* fails to recognize Judge Bork's complete views on *Stare Decisis.* First, the *Biden Report* omits Judge Bork's statement to the Senate Judiciary Committee during his confirmation hearings for the D.C. Court of Appeals in 1982, when he was asked by Senator Baucus, "While I have you here . . . do you have any general guiding principles as to when a Supreme Court judge should adhere to the principle [of Stare Decisis] in looking at, revisiting Supreme Court cases?" Bork responded:

"Well, yes. I think it is a parallel to what [Professor] Thayer said about the function of a judge when he is reviewing a legislative act for constitutionality. He said he really ought to be absolutely clear that it is unconstitutional before he strikes down the legislative act, if not absolutely clear, awfully clear.

I think the value of precedent and of certainty and of continuity in the law is so high that I think a judge ought not to overturn a prior decision unless he thinks it is absolutely clear that that prior decision was wrong and perhaps pernicious." ("Confirmation of Federal Judges," *Hearings Before the Judiciary Committee*, 1982, at 14)

67. The *Biden Report* fails to take into account that Judge Bork has articulated a two part method of determining when a given precedent should be overtuned. The *Biden*

Report merely recites (in an incomplete quote on p. 70) the second and ultimate determination that Judge Bork has repeatedly stated must be made before a prior constitutional decision is overturned:

"There are some constitutional decisions around which so many other institutions and people have built that they have become part of the structure of the nation. They ought not be overturned, *even if thought wrong*" ("A Talk with Judge Robert H. Bork," *District Lawyer* 29 at 32. *See also* "Bork on Judicial Restraint," *Manhattan Report* 14 at 15) (Emphasis added.)

The remainder of the *Biden Report* ignores this second test in its analysis of cases that Bork might some day overturn.

68. The *Biden Report* does not cite to a single instance where Judge Bork has stated that any prior Supreme Court decision should be overturned in support of its allegation that "The Record Strongly Suggests That Judge Bork, If Confirmed, Would Vote To Overturn A Substantial Number of Supreme Court Decisions." (Biden Report, p. 68). Instead, the report relies upon circumstantial conclusions drawn from flawed legal reasoning.

69. The *Biden Report* is misleading when it states that "On several occasions, Judge Bork has expressed a clear willingness to overturn precedent." The *Report* then quotes out of context to say that "an originalist judge would have no problem whatever in overruling a non-orginalist precedent" (Remarks, First Annual Lawyers Convention of the Federalist Society, cited at p. 66 of the *Biden Report*). What the *Biden Report* fails to indicate is that this remark was part of Judge Bork's explanation that a judge must *first* determine that the precedent was wrong. As part of the same remarks Judge Bork then goes on to explain that in some instances a judge should not overturn clearly incorrect precedent, because it is too damaging to social and economical institutional arrangements that have grown up as a result of the decision.

70. The *Biden Report* fails to note that Judge Bork was booed at the Federalist Society conference for stating that he would not overturn the commerce clause precedents. (*Washington Post*). This indicates that Bork is well within the mainstream of legal thought since some members of the legal profession believe his position on *stare decisis* is *too deferential* to prior decisions.

71. The *Biden Report* also creates a misleading impression that Bork is not in the mainstream of legal thought when he states that courts can overturn constitutional precedent more easily than common law or statutory precedent (*Biden Report* at p. 67). This position has long been commonly accepted by most constitutional scholars. It was first stated by Justice Brandeis:

"*Stare Decisis* is usually the wise policy . . . This is true even where the error is a matter of serious concern, provided correction can be had by legislation. But in cases involving the Federal Constitution, where correction through legislative action practically impossible, this Court has often overruled its earlier decisions." *Burnet v. Coronado Oil & Gas Co.*, 285 U.S. 393, 405-408 (1932).

This error is all the more surprising since one of the reviewers of the *Biden Report*, Professor Laurence Tribe, has noted this rationale:

"For most of us, the proper role of precedent in constitutional adjudication will be found at the end of a middle road. The nation needs and deserves to have a steady hand at the Constitution's wheel, but the Supreme Court occassionally must overrule its earlier cases because legislative correction of a *constitutional* decision is all but impossible." (Tribe, L., *God Save This Honorable Court* at p. 102 (1985)) (Emphasis in the original.)

72. The *Biden Report* attacks Judge Bork because he may consider overturning *Roe v. Wade* and the right of privacy cases. This attack is inconsistent with even liberal judicial philosophy, again as expressed by Laurence Tribe, one of the reviewers of the report:

"On the other hand, those candidates [for the Supreme Court] who would, for example, refuse even to consider modifying, say, *Roe v. Wade*, . . . simply *because* they are established precedents, are equally unsuited for a seat on the Supreme Court, and should be voted down by any Senator who views constitutional principles as subject to reexamination when circumstances so require." (*Id.*) (Emphasis in the original.)

73. By quoting out of context from Judge Bork's interview with Philip Lacovara in the *District Lawyer*, the *Biden Report* creates the false impression that Judge Bork's views on all constitutional issues will not change when he is on the bench. The *Biden Report* highlights Judge Bork's general answer (that "[M]y views have remained about what they were. . . . So when you become a judge, I don't think your viewpoint is likely to change greatly," *Biden Report* at p. 65) without indicating that the answer was made to a very specific and limited question:

"Q. Before you ascended to the bench, and indeed in lectures and writings even since that time, you have been among the people who have challenged the role of what you and they have called the "imperial judiciary." Has your view of the possible usurpation of political functions by courts changed since you ascended to the bench? Either become stronger or perhaps more diffuse?" *District Lawyer Interview* at p. 31)

74. The *Biden Report* incorrectly uses a statement by Judge Bork in the *District Lawyer Interview* regarding a candidate's published record as evidence that the *White House* is disingenuous in suggesting that there is a distinction between a candidate's judicial opinions and his writings as an academic. (*Biden Report* at p. 65) Judge Bork was not involved in selecting the criteria used by the White House or the Justice Department in selecting him as the nominee, and his prior description of the process sheds no light on what distinctions were made by the Executive Branch.

75. Additionally, the *Biden Report* quotes Judge Bork out of context to imply that a nominee's academic writings are on an equal footing with his prior judicial decisions. Judge Bork was responding to a question that implied that appellate court judges are under stress because they know that their decisions are reviewed by the Department of Justice in selecting Supreme Court nominees. He responded that he had not observed anything which would corroborate such a concern. In the passage cited in the *Biden Report* Judge Bork merely stated that there should not be any concern about reviewing *opinions*. In fact, Judge Bork believes that it is very difficult to determine how a future Supreme Court Justice will vote, "predictions of what new judges will do being so perilous." ("Judicial Review and Democracy," *Society*, Nov/Dec. 1986, at p. 6) (The authors of the *Biden Report* must certainly have been aware of this fact, since they quote from the same paragraph in the *Society* article. *See*, No. 76 below).

76. The *Biden Report*'s discussion of Judge Bork's views on the appointment power fails to substantiate the report's claim that they indicate "That He Would Overturn Many Landmark Supreme Court Decisions." (*Biden Report* at p. 66) The report misquotes from Judge Bork's review of a biography of Felix Frankfurter. The quote is part of a discussion of Frankfurter's rejection in the 1920's of proposals to eliminate judicial supremacy. The unedited quote reveals this:

"Perhaps Frankfurter was right about the inadvisability of formal mechanisms for checking the Court, though; since none have been tried, that is hard to say. But his hopes for legal education after fifty years certainly seem misplaced. Today, in fact, it is probably true that most professors of constitutional law teach and write from an activist perspective. What the solution should be is no more clear now than it was in 1921. If it is not to be a new constitutional mechanism, the *answer [to 'judicial excesses'] can only lie in the selection of judges, which means that the solution will be intermittent depending upon the President's ability to choose well and his opportunities to choose at all.*" ("'Inside' Felix Frankfurter," *The Public Interest*, Fall Book Supplement, 1981, at 110). (Emphasis to show the edited quote in the *Biden Report* at p. 66)

A full and careful reading of the passage makes it clear that Judge Bork was not discussing overruling prior cases at all. Rather, he was discussing the appointment power as the only way of affecting the Court's style of judicial reasoning and rejecting (in the immediately preceding paragraphs) such proposals as the use of the Exceptions Clause to strip the Supreme Court of jurisdiction over controversial constitutional issues.

77. The insertion of the phrase "to 'judicial excesses'," which the *Biden Report* claims to be quoting from the previous page indicates that the report attempted to use the quote from the Frankfurter book review to distort Judge Bork's position. The phrase is taken from a theoretical discussion of constitutionally provided checks on the Supreme Court's power:

Amending the Constitution is not a general solution to *judicial expansionism;* there are too many serious judicial excesses to make amendment a feasible tool of correction." (*Id.* at p. 109) (Emphasis to show the edited quote in the *Biden Report* at p. 66)

Indeed, Judge Bork then goes on to say: "The only safeguard we have at the moment is the self-discipline and capacity for self-denial of our judges." (*Id.*)

78. The other quotes cited in the *Biden Report* also conceal that Judge Bork's comments about the appointment of judges are all in the context of theoretical discussions of what checks there are in the Constitution of judicial power. An examination of the full context of the quote from Judge Bork's testimony before the Senate reveals this fact. After a series of questions about Judge Bork's opposition to proposals to strip the Supreme Court of jurisdiction to hear a Federal constitutonal question, Senator Baucus continued to question him:

"Senator BAUCUS. Could you tell me your view of whether the constitutional amendment process as outlined in Article V of the Constitution is sufficient to enable the country and the Congress to respond to what it regards as improper Supreme Court decisions?

Mr. BORK. I think there is a real dilemma, Senator. I think in a variety of areas the

Court over a period of years has reached results that were not intended by the framers of the Constitution or by the framers of various amendments. I think to that degree the Court has stepped into areas that do not belong to it. It is that form of judicial activism or judicial imperialism that the chairman asked me about.

I do not think there is an adequate way of checking the Court provided in the Constitution, and I think the reason for that is that the framers never anticipated judicial review could become the enormous power that it has become. There was no court at the time that had any power resembling that.

The only cure for a Court which oversteps its bound that I know of is the appointment power, and in addition to that the power of debate, political rebuke, and I hope one day a better understanding by the profession and by the judges of what the limits of judicial power are." ("Confirmation of Federal Judges," *Hearings Before the Judiciary Committee,* 1982, at 7.) (Emphasis to show the edited quote in the *Biden Report* at p. 66)

79. Similarly, the *Biden Report* quotes out of context from Judge Bork's writings on structural restraints in the Constitution on judicial power:

"Moreover, jurisdiction removal does not vindicate democratic governance, for it merely shifts ultimate power to different groups of judges. *Democratic responses to judicial excesses probably must come through the replacement of judges who die or retire with new judges of different views.* but this is a slow and uncertain process, the accidents of mortality being what they are and prediction of what new judges will do being so perilous. ("Judicial Review and Democracy," *Society,* Nov/Dec. 1986, at p. 6) (Emphasis to show the edited quote in the *Biden Report* at p. 66)

80. The *Biden Report* misquotes Judge Bork's discussion of the evolution of constitutional law in this century to imply that he would overturn a substantial number of Supreme Court decisions reached over the last thirty years. Compare the *Biden Report* excerpt:

" '[T]he Court . . . began in the mid-1950's to make . . . decisions for which it offered little or no constitutional argument-. . . . Much of the new judicial power claimed cannot be derived from the text, structure, or history of the Constitution.' " (*Biden Report* at p. 68 quoting from "Judicial Review and Democracy," *Encycolopedia of the American Constitution,* Vol. 2, at 1062 (1986).) (Emphasis added in the *Biden Report.*)

With a full review of the comment in its proper context, which reveals that Judge Bork was not discussing *stare decisis* at all:

"Nevertheless, if *the Court* stopped defending economic liberties without constitutional justification in the mid-1930's, it *began in the mid-1950's to make* other *decisions for which it offered little or no constitutional argument.* It had been generally assumed that constitutional questions were to be answered on ground of historical intent, but the Court began to make decisions that could hardly be, and were not, justified on that basis. Existing constitutional protections were expanded and new ones created. Sizable minorities on the Court indicated a willingness to go still further. The widespread perception that the judiciary was recreating the Constitution brought the tension between democracy and judicial review once more to a state of intellectual and political crisis.

Much of the new judicial power claimed cannot be derived from the text, structure, or history of the Constitution. Perhaps because of the increasing obviousness of this fact, legal scholars began to erect new theories of the judicial role. These constructs, which appear to be acepted by a majority of those who write about constitutional theory, go by the general name of the noninterpretivism. . . ." ("Judicial Review and Democracy," *Encyclopedia of the American Constitution,* Vol. 2, at 1062 (1986).)

Mr. HATCH. Mr. President, I think that those who read the response to his record submitted by Senator BIDEN, who will take the time to read my analysis of the errors and omissions in that response, will be appalled at the professors who have participated in the vilification of Judge Bork in, I think, one of the most reprehensible ways I have found since I have been here.

It bothers me a lot, because it is my understanding that my friend and someone for whom I have a lot of regard, Robert Tribe, has rubberstamped that report. It is his scholarly effort out of the past, and I hope it is not a presage to the scholars we have in the future. I think he should read these a little more carefully than he did in this particular instance.

Mr. President, I yield the floor.

THE DISARMAMENT DELUSION—PAST AND PRESENT

Mr. HELMS. Mr. President, less than 2 weeks ago in a letter published by the New York Times, former Secretary of State Dean Rusk admitted that the dismantling of U.S. Jupiter missiles in Turkey, following the United States-Soviet October missile crisis of 1962, was a quid pro quo for the withdrawal of Soviet missiles from Cuba. In the words of former Secretary Rusk:

> It was clear to me that President Kennedy would not let the Jupiters in Turkey become an obstacle to the removal of missile sites in Cuba.

There is no longer any doubt, as historians have discovered over the past decade, that a definite linkage existed between the removal of the Soviet missiles from Cuba and the removal of the Jupiters from Turkey.

It is important to note, Mr. President, that the Turkish Government desired that the 15 Jupiter missiles remain on Turkish soil. Like the present West German Government, the Turkish leaders only allowed the withdrawal of those missiles under strong American pressure. Then, as now, there was no NATO decision made to have the missiles removed. In fact, symbolically and practically, the removal of the Jupiter missiles in 1962, as with the impending withdrawal of the Pershing 1A missiles, represented a NATO defeat or at least a serious undermining of the political and military NATO deterrent.

The real truth of the matter is, to rework the famous statement of Secretary Rusk, that we stood eyeball to eyeball with the Soviets, and then we put on a blindfold. We did send a signal to the Soviets, but that signal was not the one generally associated with the October missile crisis. The signal was, in effect, an admission that enough pressure on the United States from the Soviet side will result in the United States comprising, withdrawing, and giving in. The message to our allies then, as now, was loud and clear. It is not accidental, Mr. President, that after the alleged Cuban missile Crisis, the Soviet Union attained parity with the United States in the nuclear arms arena.

The Kennedy administration had gained a media triumph as a result of the Cuban missile crisis, although the United States had actually engaged in a private trade—a trade that seriously weakened the nature of the United States deterrent. Subjected to a public humiliation by the American Government, the Kremlin leaders resolved never to let that situation reoccur. In the decade following the Cuban missile crisis, United States nuclear superiority was lost. The Soviets pulled even or surpassed, American nuclear capabilities, and thus set the stage for the next delusive arms control agreement—the ABM Treaty of 1972.

It is still difficult for me to understand what the Nixon administration was trying to accomplish with SALT I. President Nixon confided to a New York Times columnist in 1974 that "[t]he Soviets now have three times the missile strength [ICBM] of ourselves. * * *" Within a very short time, "they will pass us in submarines carrying nuclear missiles." He further conceded that a major Soviet goal in securing the SALT I Agreement was "to limit our ABM defensive systems because they knew our technology was better." And the United States, according to Nixon, needed to limit the Soviet offensive weapons, the ones that really count, "because they were moving faster than we were." This tied in with the Kissinger philosophy of when push comes to shove, the United States is likely to be pushed around, so that we should compromise and accommodate instead of standing firm and resolute.

Secretary Kissinger believed America to be in decline on the global scene and negotiated accordingly. We did slide backward because of such beliefs and the consequent actions associated with them.

I have already pointed out in great detail, Mr. President, the expanding number of Soviet violations of the SALT I and other arms control treaties. As I have stated numerous times on this floor, there is a repeated pattern of Soviet arms control violations.

The failure to have onsite inspection in the 1972 ABM Treaty constituted a serious deficiency in that agreement. The ABM Treaty attempted to bind our hands with respect to existing defensive weapons, while allowing the Soviets to increase their offensive nuclear capability. Now that we have threatened to catch up under the Reagan administration, and managed to have a credible theater nuclear deterrent, the Soviets have undertaken to delude us once again into believing that an unverified intermediate missile arms limitation treaty is in the best interests of the United States. Mr. President, it definitely is not.

Not only have the Soviets been engaged in a series of ongoing violations of several arms control agreements, but also they have never shared even minimal information with us about their nuclear weapons. Now we have again as in the past, I am sad to say, backed away from our previous insistence upon onsite inspection of the Soviet SS-20 missile production facilities. The inventor of the neutron bomb, Sam Cohen, recently observed in the Washington Times that "the entire history of nuclear arms control has been one of the Soviets refusing to allow realistic onsite inspection and the United States refusing to get realistic on this all-important issue." He goes on to say, and this is of the greatest significance, that "the Soviets have set us up to believe we can verify" without any onsite inspection. This is a naive delusion of the worst kind.

Gen. Bernard Rogers, the retiring Commander of NATO, has severely criticized recently enunciated U.S. arms control goals in Europe. Achievement of these goals will make the Soviets stronger in their military posture in Europe than they have been in a generation. Or as David Ignatius of the Washington Post has put it. "[w]ith the Pershings and cruise missiles gone, Europe will go back to the old leaky and unreliable American umbrella." The end result of that fallacious policy has to be a resurgence of neutralism in Western Europe and a severe erosion of the NATO Alliance. With the intermediate nuclear force weapons the lessons of history are foredoomed to repeat their failures. We have not paid attention to the historical record. We have allowed ourselves to be deluded by the siren song of negotiation with those who only negotiate agreements beneficial to themselves and detrimental to us. I cannot believe that we will continue to be so confused as to fail to distinguish what our security demands. The projected INF Treaty is a dangerous illusion of a peace that does not exist and a world which does not conform with the reality of international life. We must become more realistic in our arms control dealings with the Soviets, for the alternative is unthinkable, and, I hope, unimaginable.

NED DAY

Mr. REID. Mr. President, they had a memorial service for Ned Day last Tuesday. Las Vegas turned out to say goodbye to a man who had become a part of their lives; a part they hadn't thought of losing.

Ned Day was 42. He had been writing in Nevada since his early thirties. In the little more than a decade that he worked for the Las Vegas media, he touched innumerable lives. Mine was one of them.

When I met Ned he worked for the Valley Times, a struggling Las Vegas paper which was read by Nevada's powerbrokers first thing every morning. It was then that Ned established his reputation for getting the story; for getting it right, getting it first, and getting it no matter what the obstacles.

Ned was a reporter; I was in public life. If both sides are honest, that is never a simple relationship. Ours certainly wasn't easy, but it was strongly based on mutual respect.

The more I knew Ned Day the more convinced I became that he called the shots the way he saw them, without fear of anyone, and with an unshakable commitment to whatever he believed to be right. He offered advice, he offered criticism, he offered praise; always in public, and always without malice.

Many of us, I think, find it difficult to comprehend a person who is so dedicated to institutional concepts that his positions cross all party lines, and his arrows strike targets in all directions and of every stripe. In Ned's case, I think I came to understand something about him. He was utterly and totally attached to the concept of the first amendment, and of the journalist as the eyes, ears, and especially the voice of the people.

It was that attachment that made Ned work so hard. He never wrote a story he hadn't double checked. He never took a shot if he hadn't given its target an opportunity to respond in advance. He never backed away when the rights of the little guy or of the people at large were involved. And Ned Day was always big enough to admit in print on the rare occasions when he was wrong or had made a mistake.

Ned was also a man with a delightful sense of humor, a man who could poke fund at pomposity with almost childlike glee, and who never took anybody, including himself, too seriously.

There will be other journalists writing other columns in Nevada. We have a tradition of fine investigative reporting and wonderful satirists going back over a hundred years. Stories will be broken, and typed on battered typewriters by hard-bitten, hard-working, men and women struggling under a deadline.

For a while though, I think for a long while, on Wednesdays, Fridays, and Sundays, when we pick up the newspaper in the morning, there are a lot of Nevadans who will turn to the last inside page of the B section to see what Ned had to say. And we'll miss him, we'll miss him a great deal, when he isn't there.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

Mr. CHILES. Mr. President, I ask unanimous consent to continue in morning business for not to exceed 5 minutes.

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

(The remarks of Mr. CHILES are located under Resolutions Submitted in today's RECORD.)

SENATORIAL ELECTION CAMPAIGN ACT

The PRESIDING OFFICER. The time for morning business having expired, the clerk will report the unfinished business.

The assistant 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:

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

(2) Helms Amendment No. 676, to authorize funds for military assistance to the Democratic Resistance in Nicaragua unless the President certifies to Congress that the Communist government in Nicaragua has met certain conditions.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, as acting Republican leader, I yield myself 5 minutes.

The PRESIDING OFFICER. Under the previous order, the time between now and 11 o'clock shall be equally controlled by the majority and minority leaders or their designees.

The Senator may proceed.

AMENDMENT NO. 677 TO AMENDMENT NO. 676

(Purpose: To affirm that the Monroe Doctrine is and should remain the basis for the policy of the United States in Central America)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an amendment numbered 677.

Add at the end of the Helms Amendment the following new section:

"Sec. . It is the sense of the Senate that the policy of the United States toward Central America should be based on the principles of the Monroe Doctrine, to wit: "the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Power * * * we could not view any interposition for the purpose of oppressing them, or controlling, in any other manner, their destiny, by any European Power in any other light than as the manifestation of an unfriendly disposition towards the United States.".

Mr. SYMMS. Mr. President, the amendment I just sent to the desk is intended to reassure the American people that the U.S. Senate stands solidly behind the principles of the Monroe Doctrine—principles which have guided United States foreign policy in Central America consistently for a century and a half.

These principles are well known to the American public. The Monroe Doctrine states that the nations of Central America are:

Henceforth not to be considered as subjects for future colonization by any European Power * * * we could not view any interposition for the purpose of oppressing them, or controlling, in any manner, their destiny, by any European Power in any other light than as the manifestation of an unfriendly disposition towards the United States.

Nicaragua is clearly controlled by Cuba and the Russians. In fact, Daniel Ortega himself admitted this to me and the Republican delegation when we visited Nicaragua just days ago.

Ortega said he wanted to talk directly with the United States and leave the Nicaraguan freedom fighters out of all negotiations. Orgeta then said he wanted to talk with the freedom fighters' "bosses."

At that point, my good friend and colleague from Arizona, Senator MCCAIN said "maybe we should talk with your bosses in Moscow and Havana." Ortega, in his regular foaming at the mouth fashion said, "Go ahead. Phone Castro and Gorbachev." He went on ad nauseum about how we could talk to his bosses in Cuba and Moscow.

In fact, on the very day the Central American freedom fighter sellout plan is to take effect, Ortega will be in Moscow participating in celebrations of the Communist revolution. Ortega will be in Moscow because he knows on which side his bread is buttered. Without Soviet support, he could not remain in power. He needs the Soviet's totalitarian political technology—with all its East German security experts, Cuban military advisers, and East bloc propaganda experts.

It is clear that Nicaragua is a Soviet colony in Central America. It is a direct confrontation with the Monroe Doctrine and its time-honored principles. Mr. President, it is about time the United States honored the Monroe Doctrine. Mr. President, we must stand with the American public and keep the Communists out of Central America and reaffirm the Monroe Doctrine.

Mr. President, the American public is worried about communism in Central America and they should be. First there were Communists in Cuba, then Nicaragua, then Grenada—although Reagan rolled back that threat and there is now an elected government in Grenada. Now there are armed Communist guerrillas in El Salvador, Honduras, and Guatemala. Nicaragua and Cuba are now training Communist guerrillas for Mexico and Costa Rica. Costa Rica does not even have any armed forces, only a police force.

Costa Rica does not even have armed forces, Mr. President, only a police force. So the American people have a right to be concerned. If we are not willing to support the freedom fighters in Nicaragua, Mr. President, we will be forced as responsible leaders for freedom and peace in the Western Hemisphere to use American troops, young United States citizens. There are troops in the field now fighting for our freedom—young Nicaraguan youths that are from the age of 15, 22, 23, 24, very young soldiers in the field fighting this battle for our freedom as well as their freedom.

But, Mr. President, I think that the American people have a right to be protected from this insidious cancer that sends refugees and illegal immigrants fleeing to our border. Our undefended border with Mexico is 1,937 miles long. Even Lenin said, "When communism is forced on any country, people will vote with their feet." Today thousands of illegal aliens are crossing the border every day. As I have said over and over on this floor, we in this country are passing laws to keep people out at the same time the Soviets and other dictatorships are shooting people when they try to leave, yet somehow it seems to be a debatable issue and we have a difficult time winning public support even though it's an issue of who is on the side of freedom, who is on the side of peace.

As Senator MCCAIN said to Mr. Ortega, "When we talk about peace, we are not talking about the kind of peace that is enjoyed in Cuba and Vietnam and Czechoslovakia and other places behind the Iron Curtain. There is no real peace from an American's point of view in the gulag. Peace and freedom are inseparable."

Mr. President, Colonel North was right when he said if we allow communism to subvert the democratic countries in Central America, we will have to build a Berlin Wall along our border to keep people out of our country.

Will the Senate go on record leaving Central America wide open to Soviet military and political subversion and colonization by voting against the Monroe Doctrine? I think not, Mr. President. I think we should affirm the Monroe Doctrine with a vote on this amendment. I stand with the American people in wanting to keep our southern border secure from Soviet military aggression. The American people have a right to know where the Senate stands, and that is why I offer this amendment.

Mr. President, I ask unanimous consent that an article entitled "Sandinistas Use 'Peace' Lull To Supply Rebels, Duarte Says," be printed in the RECORD.

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

SANDINISTAS USE "PEACE" LULL TO SUPPLY REBELS, DUARTE SAYS

(By John McCaslin)

SAN JOSE, COSTA RICA.—The Marxist Sandinista regime in Nicaragua has "dramatically increased" shipments of military hardware to Communist guerrillas fighting inside El Salvador in the month since the new Central American peace proposal was initialed, Salvadoran President Jose Napoleon Duarte has told a U.S. congressional delegation.

The Sandinistas currently are "loading up the FMLN guerrillas with military equipment," Mr. Duarte told Rep. Jack Kemp and other members of the American delegation in a two-hour meeting Tuesday evening.

A senior U.S. official stationed in San Salvador confirmed yesterday that "our monitoring of [Sandinista] troops who supply the guerrillas shows patterns indicating that resupply efforts are taking place."

Another U.S. official, who spoke on condition that he not be identified, said yesterday he was informed by Mr. Duarte this week "that the FMLN is on the phone with Managua daily."

The official said FMLN representatives met with Costa Rican President Oscar Arias Sanchez yesterday about peace negotiations "and told him they had to check on minor details with Managua."

Mr. Kemp, New York Republican, and a large contingent of conservative leaders from around the United States flew back to Washington late last night convinced that the "future of the Western Hemisphere" rests with Congress and their up-or-down vote on aid to the Nicaraguan resistance.

Mr. Kemp met here yesterday with Mr. Arias, author of a regional peace plan signed last month by leaders of the five Central American nations.

"The future of the Western Hemisphere—the future of our own country—will be decided by Congress within the next couple of weeks," said Mr. Kemp, who said he told Mr. Arias that his Central American peace plan is "flawed."

Mr. Kemp, who is seeking the Republican nomination for president in 1988; Rep. Beau Boulter, Texas Republican; and the group of about 60 conservative leaders where in Central America on a two-day, fact-finding mission.

"When President Reagan signed the Wright plan, the Contras must have wondered if anyone else [who supported their cause] was left up there" in Washington, Mr. Kemp said. The so-called Reagan-Wright peace plan is an initiative offered by the president and House Speaker Jim Wright, but not accepted by the Central American leaders.

"We gave a much needed shot in the arm to the Contras that their cause was not forgotten," Mr. Kemp said in an interview here yesterday. "We want to force the White House to deal with the issue and we want an up-or-down vote by Congress."

Mr. Kemp, Mr. Boulter and Sen. Jesse Helms, North Carolina Republican, will introduce legislation calling for $310 million in military aid to the resistance over the next 18 months.

At a meeting Tuesday in Tegucigalpa between Mr. Kemp and Honduran President Jose Azcona, Mr. Azcona "made it very clear that the working hypothesis of the Guatemala peace plan is continued assistance to the freedom fighters," Mr. Kemp said.

"After November 7, (Mr. Azcona) said if there is a genuine cease-fire, genuine amnesty and a genuine beginning of political democratic reforms, then there would be no need for continued assistance, but up until that time there should be," he said.

Congressman Boulter said the message Mr. Azcona portrayed was to "be sure to get a vote" in Congress for military aid.

Mr. Kemp said his meeting here yesterday with Mr. Arias was "very candid. He clearly is the most critical (leader) against Contra aid, which puts him at odds with us."

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

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. SYMMS. Mr. President, I reserve the remaining time for the minority leader.

Mr. BYRD. Mr. President, the Senate will vote at 11 o'clock under the order on the motion to invoke cloture. Amendments have been offered to the bill which are not germane. Should cloture be invoked, those amendments would fall. May I ask the Chair if I am correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. So these are nongermane amendments, without discussing the merits or demerits of them, which is beside the point because obviously the Senate is not going to vote on them. Instead, we are going to keep our eyes on the ball, and the ball here is campaign finance reform. The ball is not the Monroe Doctrine. The ball is not Contra aid. There are times when those matters may be before the Senate for discussion, possibly action—certainly Contra aid at some point probably—but this is not the time. Senators may speak on anything they wish when they get the floor, and the offering of the amendments certainly is within the rules and certainly within the rights of Senators. But let us not be distracted by such amendments. The ball is campaign finance reform. The distinguished Republican leader has sent to the desk a bill that deals with "campaign finance reform," and he at some point could offer that as an amendment and that would be more to the point. But even there the distinguished Republican leader's proposal puts no limitation on campaign spending.

There can be no campaign finance reform unless there is a limitation on campaign spending. That is what it is all about.

The Republican conference took a position several weeks ago, as a matter of fact, that it would be opposed to any measure that put a limitation on campaign spending. Of course, the strawman for a long time was public financing. But the Republican conference finally came right out in the open, laid it right on top of the table, that it would be against anything which involved public financing, and anything that involved a limitation on campaign spending. Mr. BOREN and other Senators and I have proposed changes in our original measure that have practically eliminated all aspects of public financing. So what we are really down to now is the nitty-gritty of limitations on PAC contributions, and limitations on campaign spending.

Now, the other amendments that are offered, even though, as I say, Senators are within the rules to offer them—Senators, of course, have their consciences and hearts dead set on the subject matter of the amendments they have offered. They would spill their blood; they would wade any river, climb any mountain to achieve the goals of their amendment, but they know as well that those amendments have nothing whatsoever to do with campaign finance reform. What we see here in fact is a continuation of the effort that has gone on for so long; namely, prevent action on campaign finance reform. The Senate has had five cloture votes on this matter, and we have failed five times. Robert Bruce tried seven times and he finally succeeded. So, we are trying again today. This will be the sixth effort at cloture. But all of this other is just camouflage; it is shadowboxing; it is make-believe. All of these amendments about the Monroe Doctrine, Contra aid, and so on, meritorious as they may be within their own right, certainly have no place on campaign finance reform. So, what we are seeing, as I said, is just a continuation of the filibuster.

Now, Mr. President, we are about to vote within a minute. Not many Senators are on the floor. I ask unanimous consent that the Senate may proceed for—I am sure that the prime sponsor of this measure, who is on the floor, would wish to speak. How much time would he like?

Mr. BOREN. Five minutes, if that would be possible.

Mr. BYRD. Five minutes. All right. And I would like 5 minutes. I would include in my request that the Republican side have 10 minutes, also.

Mr. President, I yield the floor, and I ask that the time be under the control of the two leaders—that 20 minutes be equally divided.

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

Mr. BYRD. I yield 5 minutes to the prime sponsor of the measure—Mr. BOREN.

Mr. BOREN. I thank the distinguished majority leader for yielding to me, and I thank him for his unswerving support in his commitment to the cause of true campaign finance reform.

Mr. President, in just a few days, we will be celebrating the bicentennial of the Constitution of the United States. We are charged with a special responsibility to protect that Constitution and to protect that constitutional process. At the heart of the constitutional process, the building block upon which the legitimacy of our political system rests, is the consent of the governed. It is the election process itself. It is that process by which the people select their elected representatives. That is the question; that is what is really at stake as we cast this vote on cloture on campaign finance reform in just a few minutes. It is the integrity of the election process itself.

When we began to debate this issue, there were those who criticized our original proposal because they said it was a proposal for public financing of campaigns. They indicated that that was the basis of their objection to what we were trying to do. Mr. President, this proposal has been modified from the original one. We have taken out virtually all the public financing of campaigns, leaving the backup funds from the checkoff system solely as an enforcement mechanism to be used only if one of the candidates voluntarily breaches the spending limits which are agreed to when that person becomes a candidate.

What we are really dealing with, the fundamental question we must ask, is whether or not we want to have competition in our political system based not upon issues, not upon qualifications and character of the candidates, and not upon the experience of the candidates, but based upon which candidate can raise the most money with which to finance a political campaign.

In the last decade, the cost of campaigns for the U.S. Senate has risen by almost 500 percent. There is no end in sight. As the cost has skyrocketed, fewer and fewer of those dollars pro-

portionally have come from the people back home at the grassroots, the people who are supposed to be represented here through our political process. More and more of the money has had to come from special groups as costs have gone up at an astronomical rate, groups which rate and make campaign contributions to Members of the U.S. Senate not based upon their total record of service but upon a narrow range of votes that affect their special interest, usually in an economic way.

Mr. President, what we are seeing is the erosion of the democratic process itself. As I have said many times, there are many young people in this country who hope to have an opportunity to render public service in the future. They are people who would like to enter the political process because they want to serve their country. They want to contribute ideas. They want to contribute concepts. They want to contribute plans to meet the challenges which face this country. They are discouraged and turned away from the political process when they understand that they will not only have to run on their merits, that they will not only have to run for office based upon their hopes and plans for this country, that they will not only have to run for office on the basis of how they stand in their own communities, their reputation with the people who know them best, but also, they will have to run for office largely on the basis of their ability to raise money, particularly to raise money from groups that have no contact with their home States at all and that are making campaign contributions based upon economic self-interest.

Mr. President, we have an obligation, as we approach the bicentennial of the Constitution, to preserve the spirit of this document, to preserve its vitality, to preserve the trust that the people have in our own Government, to preserve that sense that is in the public that they are the ones that control their own Government through the election process.

The smoke has been cleared away. The real issue now is clear. The division of opinion on the Senate floor is between those who want to see competition in politics based upon a competition of ideas and qualifications versus those who still want the opportunity, by spending enormous amounts of money, to buy elections—to buy elections by packaging the product in such a way that they can influence the voters not on the basis of the issues but on the basis of who has the most access, who has the most television time, who has the most radio time, who has the most inches of advertising, who has the most mail; in essence, who has the most money.

Mr. President, we must not allow the highest positions of public trust in this land to be placed on the auction block for sale to the highest bidder.

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

Mr. BYRD. Mr. President, what we are seeing is a money chase. The aristocracy of the money bag is the governing standard of politics, and we are seeing the institution of the Congress undermined. We are seeing the constitutional system of representative government undereaten by the growing distrust of the American public toward the institution. So there is a lot at stake here.

What we are trying to do is save the institution from the obloquy and the calumny of opprobrious criticism, and we all ought to be interested in doing something about it to save this institution.

It is getting worse. Senators are being taken away from their work here and away from their families in order that they may go out in the country, from the Atlantic to the Pacific, from the Canadian border to the Gulf of Mexico, to raise money—not from their constituents, but from party supporters throughout the country.

What was the average last year? About $3 million per Senate seat. And it is expected to be more next year. It is getting worse and worse and worse.

So, Mr. President, it comes down to the raw question: How much do you want to pay for Senate seat? It is just the plain. How much does it take to buy a Senate seat?

Mr. President, we all ought to be interested in maintaining the integrity of the institution and the constitutional process and the electoral process. What we are seeing is a prostitution of the electorial process: Who can raise the most money.

Mr. SYMMS. Mr. President, will the distinguished majority leader yield for a question?

Mr. BYRD. In a moment.

Who can raise the most money. We are victims of the system. I am having to raise money. There are Senators who, as soon as they get here, have to start raising money to pay off the debts of the last campaign; and then, when those are paid off, to raise the money for the next election which is 6 years away or 5 years away or 3 years away, or whatever.

And we are already closing down this Senate one day out of the five, Monday, Tuesday, Wednesday, Thursday, Friday. We are not coming in on Mondays. Why? Because Senators are not here. They have to be out raising money. And they have to do this on both sides of the aisle.

Who sees that more than I do as the majority leader, the Senator who has to schedule the program, who has to check the attendance, who has to see if the Senators are here? And with only 54 votes on the majority side and 3 running for President, if you have one out attending a funeral or out at the hospital we no longer have a majority. I know that Senators have to raise money for campaigns. I am a victim of the system, just as others are. I have to raise money. We are trying to change this system, but it is still the system, like it or not. It is in place and we have to play by the rules of the game that governs us now.

I cannot ignore my race for reelection next year. I want to continue in public service. I want to continue to serve the people of West Virginia. After 29 years, I am in a position to continue to serve the people of West Virginia and the people of this country. So I have to raise money, too, and it is demeaning. It takes the time of Senators. It takes us away from our families and our work, and we ought to put a stop to it and this is the opportunity to do that.

Mr. President, I ask unanimous consent that I may have an additional 3 minutes.

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

Mr. BYRD. Mr. President, let me try to recite a poem that I think is appropriate here and I will ask my friend from Illinois and my friend from Oklahoma if this poem is not appropriate as they listen to it. I may have problems with remembering it. But I want them to tell me if it is appropriate when it is over.

'Twas a dangerous cliff, as they freely confessed,
Though to walk near its crest was so pleasant;
But over its terrible edge there had slipped
A duke and full many a peasant.
So the people said something would have to be done,
But their projects did not at all tally;
Some said, "Put a fence around the edge of the cliff,"
Some, "An ambulance down in the valley."
But the cry for the ambulance carried the day,
For it spread through the neighboring city;
A fence may be useful or not, it is true,
But each heart became brimful of pity
For those who slipped over that dangerous cliff;
And the dwellers in highway and alley
Gave pounds or gave pence, not to put up a fence,
But an ambulance down in the valley.
"For the cliff is all right, if you're careful," they said,
"And, if folks even slip and are dropping,
It isn't the slipping that hurts them so much,
As the shock down below when they're stopping."
So day after day, as these mishaps occurred,
Quick forth would these rescuers sally
To pick up the victims who fell off the cliff,
With their ambulance down in the valley.
Then an old sage remarked: "It's a marvel to me
That people give far more attention
To repairing results than to stopping the cause,
When they'd much better aim at prevention.

Let us stop at its source all this mischief,"
cried he,
"Come, neighbors and friends, let us rally;
If the cliff we will fence we might almost
dispense
With the ambulance down in the valley."
"Oh, he's a fanatic," the others rejoined,
"Dispense with the ambulance? Never!
He'd dispense with all charities, too, if he
could;
No! No! We'll support them forever.
Aren't we picking up folks just as fast as
they fall?
And shall this man dictate to us? Shall he?
Why should people of sense stop to put up a
fence,
While the ambulance works down in the
valley?"
But a sensible few, who are practical too,
Will not bear with such nonsense much
longer;
They believe that prevention is better than
cure,
And their party will soon be the stronger.
Encourage them then, with your purse,
voice, and pen,
And while other philanthropists dally,
They will scorn all pretense and put up a
stout fence
On the cliff that hangs over the valley.

[Applause.]

Mr. BOREN. Excellent.

Mr. BYRD. I am not finished yet.

Mr. BOREN. Oh, all right.

Mr. BYRD [continuing].

Better guide well the young than reclaim
them when old,
For the voice of true wisdom is calling,
"To rescue the fallen is good, but 'tis best
To Prevent other people from falling."
Better close up the source of temptation
and crime
Than deliver from dungeon or galley;
Better put a strong fence round the top of
the cliff
Than an ambulance down in the valley."

What we are talking about is putting up that fence around the edge of the cliff. We are all at the edge of the precipice, Members of the Senate, those who seek public office, because the ambulance is down there and it is even running in the wrong direction. It is not running in the direction of healing and repairing and making whole. It is running in the direction of destruction and tearing down, and so I adjure my colleagues to please think about what is at stake.

Let us put a fence around the edge of the cliff. That fence is a limitation on campaign spending. There can be no campaign finance reform without it.

Mr. HOLLINGS. Mr. President, the majority leader and I agree that campaign spending is completely out of control. Everyone has heard the parade of statistics—$10,000 a day in fundraising, $3 million to run for the Senate, and nearly half a billion dollars total spent on congressional campaigns in the last election cycle—and they are appalling.

The majority leader and the Senator from Oklahoma, Senator BOREN, have worked hard, persevered, and done an excellent job of presenting the excesses of our current campaign financing law. The debate on S. 2, the Boren-Byrd bill, has been a good vehicle to force debate on a complex problem, but this debate has reenforced my belief that no mere legislative remedy is sufficient to extricate us from the mess we are in.

As the majority leader well knows, I have proposed a constitutional amendment, Senate Joint Resolution 21, that would allow Congress to limit spending in campaigns for Federal office. The only way to really get at the problem—too much money—is to amend the Constitution to get around the wrong headed decision of the Supreme Court in Buckley versus Valeo. The Congress recognized this when it passed the Campaign Finance Amendments of 1974 placing absolute limits on expenditures based on population, and it is time for us to get back to that approach. At this time, Senate Joint Resolution 21 has 16 bipartisan cosponsors including the majority leader, the majority whip, Senator CRANSTON, Senator HEFLIN, and Senator STEVENS, the ranking member of the Rules Committee.

The good debate we have had this year has come in the context of a bill, S. 2, and as the majority leader knows as well as anyone, a bill and a constitutional amendment are two distinct legislative animals which require different methods of approval in order to become effective.

Mr. BYRD. The Senator from South Carolina is correct. A bill requires a simple majority of both Houses of Congress, and the signature of the President, while a constitutional amendment is a joint resolution which requires a two-thirds vote of each House and ratification by the States.

Mr. HOLLINGS. Because of the incompatability of these two legislative vehicles, I have been unable to be a full participant in the debate, and I believe it is important that the Senate have an opportunity to examine the merits of the approach taken by Senate Joint Resolution 21. After discussions with the majority leader, he has agreed that the Senate should have such an opportunity, and that he will have a vote on Senate Joint Resolution 21 on the floor of the Senate soon after we return in January.

Mr. BYRD. The Senator from South Carolina has accurately recounted our discussion. I cannot guarantee a vote on Senate Joint Resolution 21, but I can assure the able Senator that I will make every good faith effort to call up the Senator's resolution and get a vote on it. I hope we will not encounter a filibuster on it as we have on S. 2, which I expect to revisit also early next year if not before. I still hope to achieve cloture today in S. 2 or on another cloture motion next week. As a cosponsor of his constitutional amendment, I think it is a sound approach and one that should get full consideration by the Senate, and I hope, approval. My concern is that the ratification process can be a long one and I believe it is imperative that we move forward with S. 2 now, and then set the wheels of constitutional change in motion.

Mr. HOLLINGS. I thank the majority leader for his help and support and I look forward to working with him to getting Senate Joint Resolution 21 out of the Congress and to the States where I expect strong support and a quick ratification process.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, how much time is allotted to this side?

The PRESIDING OFFICER. Ten minutes remain.

Mr. McCONNELL. I thank the Chair.

Mr. SYMMS. Mr. President, will the Senator yield me 2 minutes?

Mr. McCONNELL. I yield 2 minutes to the distinguished Senator from Idaho?

Mr. SYMMS. Mr. President, I thank the distinguished leader.

Mr. BYRD. Mr. President, the other side is really entitled to more than 10 minutes. We had I think 15 minutes. I ask unanimous consent that the other side may have an additional 5 minutes.

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

Mr. SYMMS. I thank the majority leader and thank my good friend from Kentucky who has been very diligent and stalwart on the floor on this issue for the Republican side.

Mr. President, I listened with great interest to the majority leader's analysis, but as he talks about these seats being for sale, I look up at my good friend of the other party and former colleague from the House, who is now the distinguished occupant of the chair, and what the distinguished majority leader is saying simply does not wash in terms of what was spent, for example, in the State of Georgia.

I do not know the numbers but I suspect that our former colleague from Georgia had many more dollars in his campaign than the distinguished occupant of the chair. I do not know that.

I see the distinguished occupant of the chair nodding his head that is true; in other words, that he had less money in his campaign than the former Senator whom he defeated. The fact is, I think, if one will look at the record of 1986 elections, in generality the Republican candidates had more money than the Democratic candidates. But most of the Democratic candidates were successful. In cases where there was a lot of money spent per voter, we had a higher voter turnout.

Do we want a high voter turnout in a free society or do we not? I think

most of us will say we do want a higher turnout.

In my State we had one of the highest voter turnouts of anyplace in the United States. It was a very expensive race. Both candidates were very well financed. I do not think that either one of them were for sale. They just had good supporters who believed what they believed in supporting on both sides of the issue and it was a healthy, high-spirited, highly visible campaign in my State with a lot of public participation. In a free society the democratic process is not a spectator support.

The American people have the opportunity to participate in these races if they wish to do so and the amount of money that is spent on political races when you consider the amount of power that rests in the U.S. Senate may be very small compared with what is spent on advertising daily on television. So I think it is a matter of how one looks at it.

I want to say one other thing: The power of the people rests in their votes, their franchise. If we reduce the ability of candidates to tell their story by using modern technology, modern printing, modern television, and modern radio to reach the people, then we will increase the power of the news media. If that is the goal of the authors of this bill, then they have presented a bill which certainly will achieve their goal. Political power is a zero sum game and if you reduce the ability of candidates to advertise their beliefs, you will increase the power of those people who write the editorials, place the news articles in the papers, and write the headlines.

That is why all the newspapers write editorials supporting this bill. They have an institutional conflict of interest in favor of limiting spending on campaign advertising because it gives them more power as the editorial writers of the news journals because they can decide who the U.S. Senators are going to be. We can end up with a one-party South, for example, we will just have Democrats from the South; we will not have a Republican Party.

Is that what our goal is, not to have a two-party system? I think that is not healthy and not good for the country.

I would urge my colleagues to vote down the cloture motion.

Also, Mr. President, the amendments now pending, the Helms amendment as amended by the Symms amendment, are very pertinent. I would like to see the Senate vote on those two issues and I would like to see it vote on them yet today. They are very, very pertinent to what is going on in the country.

I do not believe that the issue of S. 2 per se is the burning issue out around America. It is a burning issue for a very, very few people who seek more political power. Some of the big newspapers would like to select and have more influence on who they select to be U.S. Senators.

It certainly might be an advantage, as I said earlier on this floor, for the Democratic Party to limit spending and have the incumbency. It certainly is going to be a favorable thing for incumbents to limit how much money can be spent because a Senator will be able to make more news than a challenger.

Our system may not be perfect, but I look around the rest of the world and recognize that we have a constitutional system. If we had a parliamentary system in this country like Great Britain, for example, where you call an election in 6 weeks, that would limit spending. There would not be time to spend so much money.

But in the 1986 campaign, my opponent was a sitting Governor who knew I would be up for election in November 1986. He started running the day he was reelected Governor in 1982 and ran for the U.S. Senate for 4 years. He used all of the power that goes with the Governor's office to run for the Senate. It is a free country. I did not complain about it, but it is a fact. The Senate Chamber is full of former Governors, people who were able to make news in their States and keep themselves in the public eye and then run for the U.S. Senate.

There is nothing wrong with having former Governors in the Senate.

But the fact of the matter is that Governors can generate millions of dollars worth of free publicity and free advertising for themselves. They have the State airplane, they have the State police, they have State transportation, they can have press conferences in every town in the State and be close to those locations. So they have a great advantage in running for office. Now we are going to limit what the opposition can spend.

Mr. President, we have a Constitution. If people think there is too much money spent on Senate races we could repeal the amendment to the Constitution and let the legislatures appoint the Senators. I do not think that would get many votes in this Chamber, but that is one thing that could be done. Let the legislatures appoint the Senators, then you will not have big expensive U.S. Senate races. The money will be spent electing local legislators to see who they would want to appoint to the Senate. Maybe that would be more healthy for the country.

But let us not throw the baby out with the bath water. We have a great system. We should not be infringing on the freedom of speech and the opportunity for people to tell their stories. We should not transfer great political power from the U.S. Senate to give more power to a news media that already has a disproportionate amount of power in the decisionmaking process in this country. I think it would be unhealthy for the country. So I hope my colleagues will continue to vote down this cloture motion.

I yield the floor.

The PRESIDING OFFICER. Senator McCONNELL is recognized and has 6½ minutes remaining.

Mr. McCONNELL. I thank the Chair.

I want to thank my friend from Idaho for his outstanding contribution to this debate. He is, of course, correct when he says that the candidate who spends the most does not always win. The Senator from Kentucky was outspent by some one-half million dollars in 1984, and managed to defeat an entrenched, well-funded, incumbent opponent. Six out of the seven successful challengers to the Senate in 1986 were outspent almost 150 percent by their opponents. So it is flatly untrue to say that these offices are simply "for sale to the highest bidder." Candidates spend money to communicate their ideas; if their ideas aren't popular, then big spending will only hasten their defeat.

Mr. President, what issues have been before this country in the last 4 months? In this body, we have wasted nearly 20 days on S. 2. We all know that the real issues concerning our Nation are languishing. We have not passed a single appropriations bill yet. We have budget matters to resolve. We have a Supreme Court Justice to confirm. I might add as well that we have a lawsuit crisis that America demands an answer to. And yet we are still hashing out S. 2: A bill that few understand and many don't want.

What is this bill all about? Mr. President, this is a bill to limit the freedom of expression and popular participation in government. It cuts out the voice of middle America by building a wall of limits around Washington. Yet it pays lip service to the public's legitimate concern about special interest money in campaigns: Political action committees and under-the-table "soft money."

I think it is clear that the overwhelming majority of people on this side of the aisle, and a few reasonable Members on the other side, are not going along with such an antidemocratic, and antigrassroots proposal, under the guise of "campaign finance reform." Mr. President, S. 2 is not campaign finance reform. It is classic special interest legislation, except the special interest here is ourselves: Insulating our incumbencies from attack, lessening our fundraising burden by dumping it on the backs of the American taxpayer.

Clearly, it is time for the obstructionists on the other side of the aisle to abandon their antinegotiation, procloture stance, and begin to consider

our overtures to reach a meaningful, bipartisan reform bill that shows how we are all serious about campaign finance reform. Let there be no mistake: A vote for cloture is a vote against campaign reform, because S. 2 has nothing to do with the public's real reform concerns; further, it is an unpassable bill: It will either stagnate here or be vetoed by the President. A vote against cloture is a vote for negotiation, for open amendments, for devising a bill that will pass unscathed. A vote against cloture is a vote for reforms that the public is truly concerned about; it is a vote for measures which we can all support.

We are willing to support statutory elimination of the millionaires' loophole. We are willing to support curbs on PAC contributions. If there is any interest in this issue at all, it is over the dominance of PAC contributions in campaign finance. We can deal with that. We can do something to reduce the cost of television advertisements. All of these proposals add up to real campaign finance reform.

I think that it should be clear to the other side of the aisle by this point that we cannot support a measure that is out to destroy the Republican Party by taking away the support it has earned from mainstream America, from the grassroots level; or a measure which tries to bolster the money base of the Democratic Party, which is largely labor unions, PAC's, and wealthy individuals. Make no mistake about it, Mr. President, that is what this debate is all about. True campaign finance reform comes about when you sit down on a bipartisan basis, and address issues upon which we can all agree. But S. 2, in the first version, second version, and third version, is designed to enhance the advantage of the Democratic Party and to slash the advantage of the Republican Party. Now that is not campaign finance reform, Mr. President. S. 2 is both pro-Democrat and antidemocratic, and we cannot accept it, as Republicans or as believers in a democratic republic.

When the majority wants to sit down and write a bipartisan proposal, we are ready, as we were back in May and June and on any of the 20 days that we have spent on this issue.

The distinguished majority leader is, of course, without peer as a poet in this body. Around his poem he weaved a complaint about the time involved in raising early money and how it interfered with the business of the Senate. There are indeed plenty of hurdles bogging down the Senate. I sympathize with the majority leader, having to clear those various hurdles in order to get the Senate's business done.

But, in the opinion of the Senator from Kentucky, campaign fundraising is not disrupting the business of the Senate. Consider if you will the class of 1990, which would be early fundraisers at this point, since those who are up in 1988 should be raising money now. If you look at the funds raised by the class of 1990 through the end of last year, the most recent figures we have available, 17 of 33 people who would be up in 1990 have raised less than $100,000; 24 have raised less than $200,000, and only 9 have raised more than $200,000, in the first 2 years of their terms. This includes, by the way, leftover funds from previous election campaigns. Clearly, there is not the extent of early fundraising which the distinguished majority leader has expressed concern about. Campaign spending is not at a level that necessitates constant fundraising activity; and, in fact, we don't fundraise that obsessively in this body.

Obviously, those who are facing a contest in 1988 are spending a lot of time preparing their campaign war chests. There is no question about that, and it is not wrong for them to do so. After all, we do not own these seats. Occasionally we have aggressive challengers who force us to be more active, more aggressive, and more in touch with our main fundraising source: The voters. If the distinguished majority leader is having to raise money for his contest next year, it must be because he faces a strong challenger. That is not bad for the people of West Virginia; let them participate in their government. Let them have an opportunity to see both sides expressed. Let them contribute freely to whomever they believe in. That is the rough-and-tumble of American politics, and we shouldn't put a suffocating lid on it.

In the so-called good old days that S. 2's supporters hark back to, we had a simpler life; we went down to the courthouse steps and people came to hear us make a speech. Well, some of us still do that. We do not have huge crowds any more, however, because everybody is watching television on their free time. What has driven up the cost of campaigns and the amount of money raised is, of course, the importance of using the most effective means of communication in the modern age, and that is television. That is not bad; in fact, there have been some tremendous benefits for our democratic system. It is better that voters form their own opinions on the basis of television-communicated information, rather than rely on some ward boss or union boss or company official who tells you how to vote. Voters are now able to make an independent judgment, and that results in better representation. Certainly, the television-based campaign costs us all a lot more. But in democratic elections, as in everything else, you get what you pay for. S. 2 would simply make the taxpayers pay the costs of democracy; but like any other government program, the government subsidy on democracy would pale in comparison to what free individuals give now, totally voluntarily.

So, Mr. President, in summary, we should close debate on S. 2. It is a shallow, destructive bill. It would cost taxpayers, even in its third revised form, up to $150 million every cycle, in Senate and House elections combined. It creates an entitlement program for politicians, when we have doubled the national debt in the last 6 years. It was one thing to give handouts to Presidential hopefuls; but to start soaking up taxpayers' hard-earned money ourselves is a most selfish and cynical act. Instead, we ought to sit down and write a truly bipartisan measure that could pass this body 90 to 5.

So, Mr. President, I hope that the cloture will not be invoked. I see that the distinguished Republican leader is on the floor and I yield to him.

Mr. DOLE. Mr. President, how much time remains?

The PRESIDING OFFICER. Thirty seconds.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kansas, the Republican leader is recognized.

Mr. DOLE. Let me indicate, Mr. President, I think this matter is serious. I see the distinguished Senator from Oklahoma is on the floor. The Senator from Kentucky has been leader on this side of the aisle.

I introduced a bill last evening which I hope Members and staff will look at. We tried to have an objective critique of S. 2, the present version of S. 2; and also introduced a bill which in many respects is similar to the Boren-Goldwater bill of last year.

As I think the distinguished Senator from Kentucky just said, we would like to have a bill that would pass here 95 to 0, or whatever. I do not think cloture will be invoked today. Maybe it will be invoked the next time. Maybe not.

But this is just one issue where we just have fundamental differences. However, I do not think they are so wide that we cannot find some common ground. I just say that I am willing to assist.

As I have gone around the country, people show up with little signs that say "Stop the filibuster on S. 2." And I say, "Which one? S. 2-1 or S. 2-2 or S. 2-3?"

Well, they have not gotten that information yet from Common Cause.

But, in any event, we need to have some campaign reform. We have been talking about bipartisan support, now, maybe for a year. Maybe nobody believes it, but I am still optimistic. I think, whenever the distinguished Senator from Oklahoma is prepared

to, maybe we can get two or three together on this side and maybe two or three together on that side. We are ready.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII of the Standing Rules of the Senate, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The 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, as modified, 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 multi-candidate political committees, and for other purposes.

Senators David Boren, John F. Kerry, Brock Adams, Jeff Bingaman, J. James Exon, John C. Stennis, Harry Reid, Alan Cranston, Barbara Mikulski, Terry Sanford, Robert C. Byrd, Dennis DeConcini, Wyche Fowler, Jr., Wendell Ford, John Melcher, Bob Graham, and Daniel K. Inouye.

WAIVER OF AUTOMATIC QUORUM CALL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute as modified 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 mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

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

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia [Mr. WARNER] would vote "nay."

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

The yeas and nays resulted—yeas 53, nays 42, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—53

Adams	Dodd	Metzenbaum
Baucus	Exon	Mikulski
Bentsen	Ford	Mitchell
Biden	Fowler	Moynihan
Bingaman	Glenn	Nunn
Boren	Graham	Pell
Bradley	Harkin	Proxmire
Breaux	Hollings	Pryor
Bumpers	Inouye	Reid
Burdick	Johnston	Riegle
Byrd	Kassebaum	Sanford
Chafee	Kennedy	Sarbanes
Chiles	Kerry	Sasser
Conrad	Lautenberg	Simon
Cranston	Leahy	Stafford
Daschle	Levin	Stennis
DeConcini	Matsunaga	Wirth
Dixon	Melcher	

NAYS—42

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

NOT VOTING—5

Gore	Rockefeller	Warner
Murkowski	Rudman	

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mrs. KASSEBAUM. Mr. President, I want to briefly explain why I have decided to support cloture today on S. 2 to revise our campaign finance laws.

As many Senators know, I have long supported legislation to reduce the amount of money that political action committees can contribute to candidates for Congress. In fact, I have always limited PAC contributions to my own campaigns to the same level allowed for individuals. I also have supported an overall spending limit on congressional campaigns so that our elections are not unduly influenced by excessive spending.

In seeking to put these goals into law, it is essential that we be mindful that changing one part of the political equation can have profound, and sometimes unintended, effects on other parts of the equation. For example, PAC's, the subject of our present concern, were created in the last reform effort in order to address abuses taking place at that time.

Given this problem with unintended effects, I had serious reservations about the original version of S. 2. In particular, I was concerned that direct public financing of congressional campaigns would not only create a wholly new Federal spending program but could work to erect a new barrier between candidates and voters.

In effect, public financing would mean that candidates would not have to depend on individual contributions to support their campaigns, they could simply draw funding from the Federal Government. To me, this would be yet another step backward from true grassroots political campaigns.

In an effort to address this concern, Senators BOREN and BYRD have modified S. 2 to allow public financing only after one of the candidates for a congressional office has exceeded the voluntary spending limit. While this change does not entirely eliminate my concern about the issue of public financing, I believe it represents a good-faith effort to address the concern that I and others have expressed and is a step forward.

At this point, I cannot support S. 2 in its current form because of its public financing provisions. I also have a broader concern that S. 2 could have serious unintended side effects by increasing the influence of PAC's and other groups.

By setting voluntary limits on congressional candidates and limiting direct PAC contributions, S. 2 may encourage PAC's to engage in even more independent expenditures, either for or against specific candidates, with even greater impact. Senate bill 2 attempts to address this problem, but I am not convinced it does so in an effective way. In fact, I am not sure there is an effective way to address the problem of independent expenditures and that should trouble all of us.

Despite my reservations about specific parts of S. 2, I believe it is essential for the Senate to address this issue. I therefore support cloture so that we can begin debating specific provisions of the bill. I will support efforts to make several changes, and I hope a bipartisan compromise can be reached in that process.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

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, John Glenn, David Boren, Jim Sasser, Tom Daschle, John F. Kerry, Wyche Fowler, Jr., Christopher Dodd, Wendell Ford, Terry Sanford, Edward M. Kennedy, Robert C. Byrd, Dennis

DeConcini, Bob Graham, John Melcher, Claiborne Pell, and John C. Stennis.

Mr. BYRD. Mr. President, may I have the attention of Senators?

The PRESIDING OFFICER (Mr. WIRTH). Senators will please take their seats, and the Senate will be in order.

Mr. BYRD. Mr. President, the vote on cloture today shows a net gain of two over the past high watermark. There were 53. Mr. GORE is absent, and that is a vote for cloture, so this would mean that we would have 54 votes. With Senator ROCKEFELLER, it would have been 55 votes. We are getting closer. There will be another cloture vote on Tuesday of next week, a cloture motion already having been entered.

Mr. President, the pending amendments—one dealing with Contra aid, the other dealing with the Monroe Doctrine—are perhaps meritorious within their own right. I do not seek to denigrate the amendments or the authors of the amendments. But it is eminently clear that they have nothing to do with campaign finance reform. They are all right in their place, and there will come a day when the Senate, in all likelihood, will be discussing, again, Contra aid.

Up to this point, may I say, the debate, throughout these several weeks since the Senate has been on S. 2, has been to the point and has been good. There has been good debate on both sides of the aisle, from those who oppose S. 2 as well as those who support S. 2.

Now, however, we see an effort to continue to prolong the filibuster by bringing up amendments that are obviously nongermane, so nongermane that they will fall in the event cloture is invoked. Now that we are getting to that stage of events, I think we might as well change the subject still further and shift the debate to the Department of Defense authorization bill.

I shall make a motion to proceed to the consideration of the Defense authorization bill, and that would be debatable. Senators will have an opportunity to debate that motion. I will offer a cloture motion on the motion, so that next Tuesday, on the completion of the cloture vote on S. 2, if cloture is not invoked on S. 2 next Tuesday, then immediately thereafter, a vote will occur on the motion to invoke cloture on the motion to proceed to the Defense Department authorization bill.

If, on the other hand, cloture is invoked next Tuesday on S. 2, then S. 2 will be the business of the Senate, to the exclusion of all other business, until action by the Senate is completed on S. 2; and nongermane amendments then pending, such as the Contra aid amendment and the Monroe Doctrine amendment, would fall.

So the stage is now set for another vote on a motion to invoke cloture on S. 2, and I hope that the Senate will invoke cloture on S. 2 next Tuesday. But in the event that it does not, the Senate will have a fourth opportunity—and, by the way, that will be the seventh opportunity on S. 2. I will have tried seven times to invoke cloture on S. 2, and there never has been an effort that has gone that far, certainly not beyond that. It may have been that on one previous situation and on another matter I may have tried for cloture seven times, but I am not absolutely sure. In any event, we will certainly try again on Tuesday next.

S. 2 will go back on the calendar in case cloture is not invoked next Tuesday, but it will be there for a revisit. It can be revisited next year or later this year. I suggest to all Senators that they not feel or believe or be deluded in their thinking to the view that it is all over, that there will be no more efforts made on S. 2 in the remainder of this Congress, because there, indeed, will be more.

There may be those who earlier felt that Senator BOREN and others and I would not try as long and as persistently as we have tried; but we have done our best, and we hope that next Tuesday will culminate in a favorable conclusion to our efforts. But they need not think that by rejecting cloture next Tuesday, if it is indeed rejected, that it will be the end of S. 2 in this Congress.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Members wishing to converse will please retire to the Cloakroom.

Mr. BYRD. Mr. President, I assure the Senator from Oklahoma, Mr. BOREN, who has been the prime mover, the mainstay, the stalwart, the cornerstone in the effort to move S. 2, that S. 2 will be revisited on another day.

Mr. President, I give the Senator that assurance, because it may come to pass that the stone that the builders have rejected will yet become the head of the corner. We will try again next Tuesday.

Then we are going to try on the Defense authorization bill for the fourth time. We have had three cloture votes on the motion to take up the defense authorization bill. We have had three cloture votes, and we got to within one vote of cloture. I hope that on next Tuesday we will be able to get that additional vote on cloture.

I urge all Senators to be present next Tuesday, because there is going to be at least one very important cloture vote, a cloture vote on S. 2. If that vote should carry and cloture should be invoked, then, as I have said, S. 2 will be the business before the Senate, to the exclusion of all other business, until action is completed thereon, in which event there would be only that one cloture vote that day.

Otherwise, there will be an immediate second cloture vote on Tuesday—that being on the vote to take up the Defense bill.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. BYRD. In a moment.

If cloture is invoked on the motion to take up the Defense authorization bill, I do not know how long Senators would then persist before voting on that motion to take up the bill, but they may be constrained not to delay action further and to go on the bill. Those who have amendments to it, let them offer those amendments.

Before I yield, I will offer the cloture motion on the motion to proceed to take up the Defense Department authorization bill, after which I will yield to the distinguished Senator from Oklahoma who has asked me to yield.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I move to proceed to the consideration of Calendar Order No. 120, S. 1174, the bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense and for other purposes, and I offer a cloture motion on the motion.

The PRESIDING OFFICER. The clerk will report the motion.

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 motion to proceed to the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Senators Robert C. Byrd, Kent Conrad, Harry Reid, J. Bennett Johnston, Barbara A. Mikulski, Terry Sanford, Alan J. Dixon, Max Baucus, Pat Leahy, Lloyd Bentsen, Quentin Burdick, John Melcher, John D. Rockefeller, Jeff Bingaman, Carl Levin, and J.J. Exon.

SENATE AGENDA

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I will just say one word. I do not know that I disagree with the distinguished majority leader. As I said prior to the cloture

vote, I have been told by the distinguished Senator from Oklahoma that he will take a look at some of the material we put in the RECORD last evening. I would guess, unless I have not calculated correctly, that there probably could be cloture invoked on the motion to proceed to the Defense authorization bill.

As far as I know, these are the only two issues where we have had this kind of loggerhead. If we have another cloture vote on S. 2, it will be the seventh cloture vote, which I understand will be a record or at least a record back to 1919. And it would be the fourth cloture vote on Defense authorization.

Mr. BYRD. The fourth.

Mr. DOLE. I am not certain what could happen between now and next Tuesday. But I would say to the majority leader that I will make an effort to see what we can get done in that time.

I think what happens on these two measures might well determine how long we are going to be around this year. I would hope all my colleagues on both sides will be focusing on that. I think there is some indication that, if in fact there is going to be an effort to do certain things and then adjourn, it might have some bearings on how these two particular matters are treated.

There is no linkage. But as I understand, it is not the desire of the majority leader to stay here all year, although he is prepared to do it. On S. 2 we have a fundamental difference. There are just some provisions of that bill that we do not believe are in the interest of the two-party system. We have had excellent debate on this side, the distinguished Senator from Kentucky, Senator MCCONNELL, and the distinguished Senator from Oregon, Senator PACKWOOD, and Senator STEVENS and others have spoken eloquently. I have told the ranking member on Armed Services that the motion to proceed is pending on the DOD authorization bill, and he is now on his way to the floor.

Mr. BYRD. Mr. President, will the distinguished minority leader yield with the indulgence of the distinguished Senator from Oklahoma?

Mr. DOLE. I yield.

Mr. BYRD. I wonder if it would be possible for the Senate to be making headway toward wrapping up our work at the end of the year at an earlier date than might otherwise be the case if we could get up today and tomorrow some important legislation that it is my intention to make every effort to get before the Senate and have it acted on before the Senate goes out sine die? One of such bills is the catastrophic illness legislation.

I have sought to get this bill up before and the distinguished minority leader has tried to assist me, but there has been an objection or objections on his side of the aisle heretofore before the recess and it was indicated at that time that following the recess Senators on that side who had objection to proceeding to the bill at that time might well have been able to resolve their problems with the legislation and would be willing to let the Senate go to that bill.

So I am asking the distinguished Republican leader if I may go to that bill at this time now that the recess is over, and I will ask unanimous consent after a moment to take up S. 1127, a bill to provide for Medicare catastrophic illness coverage. If we take that bill up today we could make headway on it today and tomorrow, and we would have our cloture votes next Tuesday, which have already been discussed.

Would the distinguished Republican leader be in a position to get clearance on his side of the aisle that we might take up that bill today?

Mr. DOLE. Let me indicate to the majority leader that this matter was discussed this morning at a White House meeting with myself, Senator Baker, the chief of staff, Congressman MICHEL, the Republican leader in the House, and others. Senator Baker indicated he would be willing to convene a meeting of Republican members of the Finance Committee in an effort to see if we could resolve one or two issues. I have indicated to the chairman of the Finance Committee, and I think the ranking member, Senator PACKWOOD has as well, that we are prepared to bring it up. There were a number of people who objected to bringing it up before the recess. I would indicate to the majority leader, if he would give us time, we will make a try between, say, now and 2 o'clock or 2:30 to see if we could bring it up without any meeting at the White House. If that is not possible, then he could make his request. Would that be satisfactory?

Mr. BYRD. Yes. That is very agreeable with me.

Mr. President, I appreciate the willingness of the Republican leader to do whatever he can to advance the bill along.

I hope that Senators who have been objecting on the other side will not object. And while I welcome the good offices of our distinguished former Republican leader of the Senate, Mr. Baker, and we would like to see his assistance in the matter, I hope we will not hold up the action of the Senate waiting on the White House. There has been ample time during the last month for the White House to have done these things to which the Republican leader refers. I will make the request this afternoon in accordance with the suggestion of the Republican leader that I wait and then we can debate during the remainder of the afternoon the Department of Defense authorization bill or the motion to proceed thereto or we can go with the catastrophic illness bill.

Mr. President, the distinguished Republican leader has indicated that the following measure is cleared on his side of the aisle. It is cleared on our side of the aisle.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ATMOSPHERIC AND SATELLITE PROGRAM AUTHORIZATION ACT OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 304, S. 1667, with the understanding that there will be no amendments thereto.

The PRESIDING OFFICER. The clerk will report the measure.

The assistant legislative clerk read as follows:

A bill (S. 1667) to authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

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

Mr. HOLLINGS. Mr. President, I rise today to discuss and support passage of S. 1667, a bill to authorize the atmospheric and satellite programs of the National Oceanic and Atmospheric Administration. This legislation reauthorizes the funding and activities of the National Weather Service, and National Environmental Satellite, Data, and Information Service and the Office of Oceanic and Atmospheric Research for fiscal years 1988 and 1989. S. 1667 is one in a series of bills which together provide a comprehensive authorization for NOAA.

NOAA's atmospheric activities center in large part around the responsibility to provide routine and severe weather forecasting services and to monitor and predict climatic trends. To understand the critical importance of these programs, we must fall back on the ages-old pastime of discussing the weather.

In recent years, NOAA weather-related activities have raised the quality of that discussion considerably. A glance at weather statistics indicates that money authorized and appropriated in this area has been money well spent. In the area of severe storm warnings, the agency's effort to improve forecasting and increase public hazard awareness has saved hundreds of lives. For example, in the United States from 1970 until 1979, tornadoes killed an average of 100 people each year. By contrast, since 1980 annual fatalities have been reduced to less than a third of that number, although

the incidence of tornadoes has remained about the same. This drop can be attributed to more accurate warnings provided further in advance by the Weather Service, as well as to increased public awareness and confidence in those forecasts.

Similar dramatic reductions have been achieved for losses due to hurricanes. In the 1950's and 1960's, hurricanes claimed 60 to 70 American lives each year. Such tragic losses have been halved in recent years through improvements in forecasting and warning systems. Two years ago, in 1985, meteorologists recorded the largest number of hurricane strikes along our coasts in at least 20 years. Yet, despite over $4 billion in property damage, deaths were held to 28. Hurricane Elena alone forced evacuation of more than 1.7 million people from the coasts of the eastern gulf and destroyed billions of dollars of property; however, loss of life was prevented. If we are to expect this commendable record to continue, NOAA's efforts to protect human well-being and minimize weather-related losses must be recognized and adequately supported. S. 1667 provides such support.

Additional forecasting improvements are expected from the ongoing Weather Service modernization program for which authorizations are continued in this legislation. S. 1667 provides fundings for NOAA's part in the acquisition of new and long overdue weather radars to replace the existing, antiquated radar system. I understand that implementation of this advanced technology should increase tornado warning times from the present average of 1 to 2 minutes advance warning to 20 to 30 minutes, as well as reducing the number of false alarms. S. 1667 also provides for acquisition of new, integrated, continuous weather observation and processing systems which will go hand in hand with radar improvements in increasing the accuracy and dependability of local weather forecasts.

Over the years, the National Weather Service has been a leader in developing modern weather forecasting services. I am sure that many of my colleagues share my concern over recent newspaper reports stating that U.S. weather forecasters are lagging behind European competitors in some types of weather prediction. The comprehensive, and yet fiscally responsibile, funding levels provided in S. 1667 should take a large stride toward enabling the United States to regain that traditional leadership and improve national competitiveness in weather forecasting.

This legislation also focuses increased attention on understanding and predicting climatic changes which occur over longer periods of years, decades, and even centuries. One example of this focus is the TOGA program, a 10-year international study of the interannual variability of the tropical oceans and global atmosphere. The primary goal of TOGA is to improve our ability to predict short-term climate changes associated with the ocean warming of El Nino events. From 1982 to 1983, such a warming triggered climatic changes which included droughts in Africa and Australia and severe storms in South America. Resulting economic losses were estimated conservatively at $5 billion in the United States and more than $20 billion worldwide. Although the TOGA program has been underway for less than 3 years, it has already made some progress toward understanding and predicting El Nino. Researchers and policymakers hope that the ability to predict such events could permit planning to minimize economic losses and more than offset program costs. Support for this and similar programs represents a sound and responsible Federal investment.

Other NOAA research programs are making important contributions to development of comprehensive policies which respond to such long-term problems as global warming and stratospheric ozone depletion. At this time, NOAA researchers are participating in an expedition to uncover the secrets of the Antarctic ozone hole. In addition, long-term monitoring programs provide information on changes in atmospheric carbon dioxide, ozone, and other trace gases. This information will be vital to understanding and evaluating possible climatic changes from global warming.

S. 1667 also authorizes funding and activities required for NOAA's satellite observing system. These activities include spacecraft procurement, launch and ground station operations for polar-orbiting and geostationary environmental satellites and land remote-sensing satellites. Funding for environmental data and information services is also provided. This data management is critical for ensuring that the Federal Government does not become merely an "attic" for unusable and unreachable environmental information.

S. 1667 authorizes appropriations of $848.2 million for fiscal year 1988 and $1 billion for fiscal year 1989 to fund NOAA's atmosphere and satellite programs. In addition, it achieves an effective balance among NOAA's responsibilities with respect to weather and climate. Short-term forecasting needs are balanced against the need to establish a sound scientific basis for policy decisions responding to long-term climatic changes.

An old adage points out that everybody talks about the weather but nobody does anything about it. Today I offer my colleagues the opportunity to "do something" about the weather—I urge you to join me in supporting S. 1667.

Mr. PRESSLER. Mr. President, I rise in support of S. 1667, which authorizes the satellite and atmosphere programs of the National Oceanic and Atmospheric Administration [NOAA] for fiscal years 1988 and 1989.

Mr. President, before I comment on the substance of this bill, I would like to express my appreciation for the considerable time and effort that Senator HOLLINGS, the chairman of the Commerce, Science, and Transportation Committee, and Senator KERRY, who is also on the Commerce Committee, have devoted to the development of this bill. I commend both of them for their diligence and insight in crafting a bill that is responsive not only to the critical requirements of NOAA's satellite and atmosphere programs, but also to the pressures of our Federal budget deficits.

S. 1667 authorizes $848.2 million for fiscal year 1988 and $1.016 billion for fiscal year 1989 for the National Weather Service [NWS], atmospheric research activities, and the National Environmental Satellite, Data, and Information Service [NESDIS]. It is worth noting, also, that, with the exception of the two accounts that support the procurement of NWS systems and the procurement of weather satellites, the fiscal year 1989 authorization is based on a 4-percent inflationary increase over the fiscal year 1988 level.

Of particular significance in the NWS authorization is the provision of $86 million in fiscal year 1988 and $130.8 million in fiscal year 1989 for the continued development, acquisition, and implementation of three major NWS public warning and forecast systems. These three systems—the next generation radar [Nexrad], which is a joint program with the Federal Aviation Administration [FAA] and the Air Force; the automated surface observing system [ASOS], which is jointly sponsored with the FAA; and the advanced weather interactive processing system [AWIPS]—are crucial to the modernization of the NWS and to the timely weather and flood prediction and warning services throughout the country.

As for the atmospheric research authorization, this bill provides $84.6 million for fiscal year 1988 and $88 million for fiscal year 1989, most notably for research related to the development of improved weather forecasting technique. One element of this research that holds great promise is the program for regional observing and forecasting services [PROFS], which is expected to improve short-range forecasting by utilizing computer-assisted data display and synthesis techniques. Another important element of this atmospheric research authorization supports activities related to improving our understanding of environmental systems and phenomena, such

as the greenhouse warming effect and stratospheric ozone depletion.

Finally, Mr. President, this bill authorizes $338.9 million for fiscal year 1988 and $440.5 million for fiscal year 1989 for NESDIS activities related to NOAA satellite oberving systems and data management. These activities include, among other things, spacecraft procurement, launch, and associated ground systems changes for the polar orbiting and geostationary environmental satellites and land remote sensing satellites.

This NESDIS authorization is significant in that it provides $30.7 million in fiscal year 1988 for the continued operation of Landsats 4 and 5. Originally, the administration failed to include funding for the continued operation of Landsats 4 and 5 in its fiscal year 1988 budget submission because the two satellites were expected to expire by March of this year. Yet, both satellites have surpassed their respective design lives and should continue to operate into and through fiscal year 1988. For this reason, this bill authorizes new funds for the continued operation of this critical satellite land remote-sensing system.

Mr. President, this NESDIS authorization also provides funding for the establishment and operation of the National Land Remote Sensing Data Archive, which is a key element in the Land Remote-Sensing Commercialization Act of 1984. The fiscal year 1988 authorization of $8 million for this data archive is comprised of $4 million from the $30.7 million authorization for Landsat operations and another $4 million earmarked specifically for the establishment of the data archive. In addition to the authorization of $8 million in fiscal year 1988, this bill provides $14.6 million for the data archive in fiscal year 1989. The authorization of the data archive reflects the importance of a formal archiving capability to the long-term preservation of land remote-sensing data, along with the recognition that NOAA is the appropriate agency to fund this effort.

Mr. President, NOAA's satellite and atmosphere programs provide a unique service to our Nation. Not only do they support important research related to our atmosphere and to weather forecasting techniques, but it also performs the critical service of collecting weather and other environmental data from a host of sources and disseminating this data in the form of timely and accurate weather predictions. This is an operational service that we often take for granted. Yet, the importance of these functions cannot be overstated. Therefore, I urge my colleagues to support this legislation which will enable NOAA to build on its excellent record of research and operational service.

The PRESIDING OFFICER. Is there further debate on the measure? If there is no further debate, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oceanic and Atmospheric Administration Atmospheric and Satellite Program Authorization Act of 1987".

TITLE I—NATIONAL WEATHER SERVICE

OPERATIONS AND RESEARCH

SEC. 101. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research duties of the National Weather Service under law, $311,568,000 for fiscal year 1988 and $324,031,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to National Weather Service operations and research specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such duties. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

SYSTEMS ACQUISITION

SEC. 102. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its public warning and forecast systems duties under law, $86,000,000 for fiscal year 1988 and $130,800,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to public warning and forecast systems specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such duties. Such duties include the development, acquisition, and implementation of major public warning and forecast systems.

(b) In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

TITLE II—ATMOSPHERIC RESEARCH

CLIMATE AND AIR QUALITY RESEARCH

SEC. 201. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research duties under law, $40,246,000 for fiscal year 1988 and $41,856,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to climate and air quality research specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture," approved October 1, 1890 (15 U.S.C. 311 et seq.), the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes," approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such duties. Such duties include interannual and seasonal climate research, long-term climate and air quality research, and national climate program.

(b) Of the sums authorized under subsection (a) of this section, $2,104,000 for fiscal year 1988 and $2,188,000 for fiscal year 1989 of this section are authorized to be appropriated for activities under the National Climate Program Act (15 U.S.C. 2901 et seq.).

ATMOSPHERIC PROGRAMS

SEC. 202. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research duties under law, $44,404,000 for fiscal year 1988 and $46,180,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric research specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and by any other law involving such duties. Such duties include research for developing improved prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

TITLE III—NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND INFORMATION SERVICE

SATELLITE OBSERVING SYSTEMS

SEC. 301. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems duties under law, $338,900,000 for fiscal year 1988 and $440,500,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to satellite observing systems specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and by any other law involving such duties. Such duties include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary envi-

ronmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) The authorization provided for under subsection (a) of this section shall be in addition to moneys authorized under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) for the purpose of carrying out such duties relating to satellite observing systems.

ENVIRONMENTAL DATA MANAGEMENT

SEC. 302. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services duties under law, $27,047,000 for fiscal year 1988 and $32,717,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and any other involving such duties. Such duties include climate data services, ocean data services, geophysical data services and environmental assessment and information services.

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

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the distinguished Republican leader has to proceed as he indicated. I will not make a request to go to the catastrophic measure today prior to 2:30 p.m. In the meantime, I would suggest that Senators may debate the pending motion or may speak on any matter of their choice.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there may be a period for morning business not to extend beyond 1 o'clock today and that Senators may speak therein each for not to exceed 10 minutes.

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

Mr. BYRD. Mr. President, we will return to the subject matter of catastrophic illness at 2:30 today or very shortly thereafter.

I yield the floor.

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

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

SENATORIAL ELECTION CAMPAIGN ACT

AMENDMENT NO. 676, AS MODIFIED

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to modify my pending amendment to S. 2.

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

Mr. HELMS. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

Add at the end of the bill the following new section:

"SEC. . The Sum of $270 million dollars is authorized to be appropriated for military assistance to the Nicaraguan Democratic Resistance for the period ending March 31, 1989; provided, however, that the funds authorized to be appropriated by this section shall not be obligated or expended if the President, on or before September 30th, 1987, shall have certified to Congress the following:

1. That there be no Soviet, Cuban or Communist bloc bases established in Nicaragua that pose a threat to the United States and other democratic governments in the hemisphere.

2. That Nicaragua pose no military threat to its neighbor countries nor provide a staging ground for subversion or destabilization of duly elected governments in the hemisphere.

3. That the Nicaraguan government respect the basic human rights of its people including political rights guaranteed in the Nicaraguan constitution and pledges made to the OAS—free speech, free press, religious liberty and a regularly established system of free, orderly elections.".

Mr. HELMS. Mr. President, while I have the floor, I would indicate that a number of Senators have voluntarily come forward to cosponsor my amendment. Listing them alphabetically, they are: The distinguished Senator from Colorado [Mr. ARMSTRONG], the distinguished Senator from Utah [Mr. HATCH], the distinguished Senator from Nevada [Mr. HECHT], the distinguished Senator from Alabama [Mr. HEFLIN], the distinguished junior Senator from Alabama [Mr. SHELBY], the distinguished Senator from Idaho [Mr. SYMMS], and the distinguished Senator from South Carolina [Mr. THURMOND].

Mr. President, I ask unanimous consent that they be listed as cosponsors to the amendment, as modified.

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

Mr. HELMS. I thank the Chair, 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. REID assumed the chair.)

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

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

PROFITS BEFORE PUBLIC INTEREST: THE BROADCASTERS' RECORD

Mr. WIRTH. Mr. President, just before the August recess, my friend and colleague, Senator LAUTENBERG from New Jersey, and I introduced the Children's Television Education Act of 1987. This bill is similar to legislation which I introduced for a number of years in the House of Representatives and was introduced by Senator LAUTENBERG on the Senate side.

The effect of this legislation is to urge and require broadcasters to fulfill their public interest responsibilities. As Senators know, when a broadcaster receives a license from the Federal Government, the FCC grants that license, allows that broadcaster to use the scarce spectrum, and precludes anybody else from using that. In effect, that is a monopoly grant from the FCC and a very valuable grant of monopoly power from the Government to the private user of the spectrum.

The broadcaster does not pay the taxpayer or pay the public or pay the Government for the use of that. That is a free grant. The broadcaster, however, is required, under the Communications Act of 1934, to exercise that broadcaster's public interest responsibility; and in return for the grant of that license, that monopoly power, the general public is to receive programming in the public interest.

Over the years, it has been assumed that that public interest programming would include public affairs programming, would include the fair presentation of issues; and since 1960, the FCC until recently, had required that that would also include programming for children, that there would be a focus and an effort by broadcasters to fulfill their public interest responsibility in part by programming for the young people of the country.

Unfortunately, since 1980, in the deregulatory mania which has swept the FCC, almost all the public interest responsibilities which broadcasters had heretofore assumed have been dropped by the FCC, including that for children's television, and we now find almost no programming on commercial television for the young people of this country.

This is at a time when it is remarkable that we are concerned about the general literacy of young people, we are concerned about the impact of television on young people, and we are aware that the young people in this country are spending more time in front of a television set than in the classroom by the time they graduate from high school; when we realize that

another major influence in terms of education of the young has been added to the traditional influences of family, church, and school.

Despite that, we have, through the current FCC, diluted the responsibilities that broadcasters have.

The impact of Senator LAUTENBERG's legislation, which he and I put together, is to once again return to that requirement by broadcasters to broadcast within the public interest for the young people of the United States.

Fortunately, there are a few examples of the networks assuming some responsibility in this area. One of the most recent examples has been the Afterschool Specials put together by the ABC television network. One of the most important of these is the ABC Afterschool Special recently done, called "Just a Regular Kid: An AIDS Story." Unfortunately, that is an example of where the commercial interests of broadcasting once again overwhelmed the public interest. It was a recent example of dropping of that program by channel 9 in Denver.

I wish to share with my colleagues a statement by the most distinguished television critic of the Rocky Mount News, Mr. Dusty Saunders. He says:

DOLLARS DICTATE BUMPING OF TEEN SPECIAL ON CHANNEL 9

(By Dusty Saunders)

ABC Afterschool Special, television's most honored series for children and teen-agers, begins another season this afternoon with an exceptional program, Just a Regular Kid: An AIDS Story.

That's the good news.

The bad news: KUSA-Channel 9, the local ABC affiliate, won't air the show because it's in the same time period (3-4 p.m.) as the station's popular Oprah Winfrey Show.

Afterschool Specials has been one of the few worthy network contributions to this badly neglected area of programming since the series began in 1972. And this particular hour, previewed last month, keeps the standard flying proudly. The drama concerns a teen-ager, afflicted with AIDS as the result of a contaminated blood transfusion, and the impact the disease has on family, friends, school and community.

Yes, we've had an overload of AIDS discussions recently from every angle. But this hour opens a dialogue on a situation that health experts suggest could increase dramatically in future years. And the story is presented in terms youngsters can understand, while not condescending to adult viewers.

Several area teachers, alerted to the special by ABC literature, have voiced unhappiness with Channel 9's decision.

For example, Barb Urban, a teacher at Kunsmiller Middle School in Denver, had planned to use a videotape of the show as a class project later in the semester.

"I think it's a major disservice that Channel 9 is not airing the program," she said.

Why won't Channel 9 bump Winfrey's show for a day and air this important special? As usual, it's a matter of dollars. Channel 9, which just this week moved Winfrey from a 9 a.m. start to 3 p.m., believes the series must establish a regular audience viewing pattern.

Or as president and general manager Ken Tonning said: "We recently made a major move in our daytime programming schedule. We have to weigh the values of disrupting that afternoon schedule. It was a tough call, but we're going with Winfrey."

And ABC will not allow Channel 9 to air the show in another time period—a policy regarding the series that the network instituted several years ago.

Tonning said there's a possibility Channel 9 will air future Afterschool Specials in the Winfrey time period once Winfrey is established. Seven or eight more specials are scheduled. I'll make a point to remind him on a regular basis of that possibility.

This situation provides viewers with a crash course in television economics. Channel 9, which paid a bundle for the rights to the Winfrey show, needs the local commercial spots to pay the bills and make a profit. Like most commercial stations, Channel 9 is afraid to pre-empt such a series early in the season, feeling that the move could diminish the audience and hurt the revenue picture in the long run.

That's why it's called commercial television. And that's also why educators and critics get on a soap box when commercial broadcasters try to point with pride to their record of promoting and airing decent television for youngsters.

For the most part, that record is dismal.

Unfortunately, this is an example of where that record is dismal, and unfortunately we do not have an FCC that has any sense of balance of the responsibilities of broadcasters and the requirements that we, the public, ought to lay on those broadcasters for the grant of that very valuable commodity, the use of the spectrum.

On a related issue, Mr. President, I am happy to report that there are examples of very enlightened broadcasting. Recently, a very fine article appeared in the Boulder Courier on KGNU public radio, in Boulder, CO. I ask unanimous consent that that fine article, describing the activities and the enlightened approach taken by that broadcaster be printed at this point in the RECORD.

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

[From the Boulder (CO) Courier, Sept. 3, 1987]

KGNU GROWS UP IN THE 80'S

(By Mike O'Keeffe)

KGNU, Boulder County's public radio station, has grown up.

Now in its ninth year, the station has survived financial woes and a substantial lack of resources to emerge as one of Colorado's most exciting media outlets.

KGNU's diverse music programming and challenging public affairs programs are touching bases few media outlets dare to tread—the music is eclectic and definitely non-commercial, while the public affairs programming introduces Boulder listeners to issues few media outlets seem interested in until long after the rest of the pack catches up.

The station, at 88.5 on the FM dial, has emerged as a local medium-to-be-reckoned-with because it doesn't follow the same rules as everybody else. While Boulder's newspapers and other radio stations portray the city as the home of the White, rich, beautiful, athletic, and/or famous, KGNU shows the less glamorous—but more interesting—side.

The reason for that, said station manager Marty Durlin, is also the station's purpose: to give the public access to the media. "The station is programmed and supported by the community. It's reflective of the community."

That philosophy extends to both music and public affairs programming. Music director Paul Metters says he "lets DJs decide" what they want to play. "Being a community station," said Metters, "you have to serve as many parts of the community as you can."

"KGNU is an alternative. It fills in the holes other media is not touching," said Durlin. "And we don't cover things in the same way."

The station's diversity is both an asset and a liability, station personnel admit. Metters said the huge range of music the station plays can be confusing—if listeners are looking to play it safe. "If someone listens to KGNU a lot, it means they have an open mind. Not everybody will listen to KGNU, but when our programming is done intelligently, we can really show you something."

Perhaps that point is best exemplified by KGNU's gavel-to-gavel (or as public affairs director David Barsamian calls it, cadaver-to-cadaver) coverage of the Iran-Contra hearings. While most of the local media covered much of the hearings as news briefs relegated to a back page, or ignored interesting, important testimony entirely, KGNU—via the Pacifica radio network—broadcast the hearings from beginning to end.

The hearings revealed the inner workings of the "shadow government" which undertook a U.S. foreign policy independent of Congress and the public and "demonstrated the competency of elected and appointed officials," Barsamian said. While most of Colorado's media was absorbed by "Olliemania," only KGNU listeners heard one senator ask "Where's Brunei?"

For Barsamian, KGNU is at its best when it's "radio active," by offering a wide range of views and programs not found elsewhere that demand attention and action from listeners. That might mean call-in programs—radio is the only medium that can effectively receive public response sharply and instantly—or it might mean programming that challenges and stretches existing beliefs and ideas.

Many existing programs already do challenge convention; Barsamian and Durlin hope to sharpen existing programming and add new shows. "I'd like us to be more cutting edge and more progressive," Durlin said.

And so KGNU plans to go where few tread: upcoming programs will focus on Colorado's hazardous waste problems and the impact of mental illness on families and friends. At its best, the station tackles broad local issues thoroughly, and national issues intelligently.

The station lacks a cohesive local news gathering team, however, perhaps its greatest public affairs weakness. Durlin, who was the station's public affairs director before being promoted to the top job earlier this summer, organized a local news staff, but its efforts were pre-empted by the Iran-Contra hearings.

Barsamian vows to breathe new life into the news staff, which is limited by a lack of time ("it takes one hour to produce five

minutes of programming") and equipment. Durlin, too, hopes to develop local news features that transcend the "rip and read" style favored by most radio stations. Barsamian is asking his producers to develop more investigative pieces, rather than depend on local newspapers for copy. "I'd like people to see us as a resource, and have people call us as news develops. We're not on the news map yet."

Future plans also call for the station to develop stronger cultural programming, both live and taped. "I'd like to see more poetry, drama, and humor," explained Durlin. "The pitfalls of community radio are a deadly seriousness, self-indulgence and disorganization. There's a real balance you need to maintain."

And, ultimately, many would like to see the station's signal boosted so it can reach Denver and its suburbs. Such a boost could reach hundreds of thousands of new listeners, and ultimately new members, giving the station a big boost in terms of dollars and community support.

A change like that would change the nature of the station, said Durlin, but for those who like KGNU the way it is, there's no need to fret. An increased signal—if approved by the KGNU board of directors, the FCC and other interested parties—lies down "a long, long road."

RECESS UNTIL 1:45 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate recessed at 1:09 p.m. until 1:45 p.m.; whereupon, the Senate reassembled when called to order by Mr. REID.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, it was my intention to recess the Senate until about 2:30 p.m. today so as to give the distinguished Republican leader the time he has suggested he might need in order to possibly clear the catastrophic illness legislation for action today. I see the distinguished Senator from Rhode Island is present.

Mr. CHAFEE. Mr. President, I wonder if the distinguished majority leader might consent to going back to morning business. I have a statement and some legislation to introduce. I will be glad to then recess to whatever time the leader would choose.

Mr. BYRD. Very well. I will be happy to accommodate the distinguished Senator.

ORDER FOR MORNING BUSINESS AND RECESS UNTIL 2:30 P.M. TODAY

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business for not to exceed 15 minutes, that Senators may speak during that period, and that the Senate then stand in recess until the hour of 2:30 p.m. today.

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

The Senator from Rhode Island is recognized.

(The remarks of Mr. CHAFEE appear in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. The time has arrived for a recess.

The Senate will stand in recess until the hour of 2:30 p.m.

The Senate, at 2:13 p.m., recessed until 2:30 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

RECESS UNTIL 3:01 P.M.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I am hoping that an agreement can be reached in respect to a resolution dealing with the Philippines. We may be able to get a rollcall vote on that today. For the moment, I think it is best that the Senate stand in recess for a while. Senator DOLE is involved in a meeting at the moment, as am I, and other Senators are as well.

Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate at 2:31 p.m., recessed until 3:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Dixon].

ORDER OF PROCEDURE

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

Mr. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The majority leader is advised that the pending business is his motion to proceed to the consideration of the Department of Defense authorization bill.

Mr. BYRD. I thank the Chair.

Is it not the responsibility of the Chair, if no Senator seeks recognition, for the Chair to put the question before the Senate?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. Mr. President, I am not going to encourage that situation at the moment. But I must say that there is an important motion before the Senate, a motion to proceeed to take up the defense authorization bill. Debate on that matter has consumed the time of the Senate to some extent in days heretofore. I would hope that at this early hour of the afternoon, there would be Senators who would be discussing the motion to proceed; because, while I am not going to intentionally walk off the floor when I see no other Senator on it, thus providing the opportunity for the Chair to fulfill its responsibility to put the question, there come times when I cannot be on the floor, and if other Senators are not on the floor at that time, then the Chair has the responsibility to put that question.

We have seen that situation happen once during my 29 years in the Senate. Most of us try to accord the courtesy to other Senators not to take advantage of the situation and other Senators rely on us to protect them. They have always been able to count on me and I intend for them to continue to be able to count on me, but I may not be on the floor.

I would just urge Senators if they are interested in discussing this motion to come to the floor.

Mr. President, I am hoping that during the afternoon the Senate can vote on a resolution which is being developed by the distinguished Republican leader and myself and other Senators, the resolution dealing with the Philippine situation. I am hoping that we can get consent to take that up and vote on it this afternoon. It may have some meaningful impact on the situation in the Philippines.

I also am awaiting the distinguished Republican leader's finding as to what the developments are in connection with the request which I intend to make during the afternoon to proceed to the consideration of the catastrophic illness legislation.

So at this point I will suggest the absence of a quorum unless another Senator wishes to speak, and I would urge Senators to come to the floor and discuss the pending motion.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE DEFENSE AUTHORIZATION BILL

Mr. THURMOND. Mr. President, I want to refresh people's memories concerning this defense authorization bill.

Eight of nine Republican members of the Senate Armed Services Committed voted against favorably reporting the fiscal year 1988-89 defense authorization bill. We took this unprecedented action with profound regret because of the importance we attach to this bill for the national security of the United States and for the men and women who dedicate their lives to the Nation's defense, and because we view the budgetary recommendations contained in the bill to represent a proper balance—albeit at lower overall budget levels than we would prefer—between our national security objectives and the need to balance the Federal budget. This bill is a remarkable achievement and the chairman and members of the committee are to be commended.

I remember the important part the present occupant of the Chair played in that bill and it was significant what he did.

The PRESIDING OFFICER. (Mr. DIXON). I thank the Senator from South Carolina.

Mr. THURMOND. Our opposition is based entirely on a single provision in the bill—known as the Levin-Nunn amendment—that restricts funding for development and testing related to the strategic defense initiative. In our judgment, this provision represents a unilateral constraint on the United States and grants a substantial concession to the Soviets at a crucial juncture in the arms control negotiations in Geneva. Furthermore, by providing a one-House veto over Presidential interpretation of a treaty, the Levin-Nunn amendment would permit an unacceptable intrusion by either House of Congress into the President's exclusive jurisdiction to conduct our Nation's foreign affairs. The Constitution and Supreme Court decisions have defined the balance of authority between the executive and legislative branches; this amendment is a clear transgression by Congress.

Furthermore, the Levin-Nunn amendment potentially would limit the President's ability to respond to Soviet violations of the ABM Treaty in a manner firmly established by international law. In the face of Soviet violations, the President may abrogate the treaty or make a proportionate response. But if either course of action involved other than fixed, land based systems, the Levin-Nunn amendment would require the President to obtain the approval of not one, but both Houses of Congress. In other words, either the House or Senate could unilaterally block the President's actions.

The President has requested a study to assess the implications of restructuring the Strategic Defense Initiative Program as permitted by the so-called broad interpretation of the ABM Treaty. That study will ultimately be sent to the Congress. While we will not prejudge the results of this study, nor anticipate the President's decision, it is clear that under the restrictive interpretation of the ABM Treaty, to which we are bound by Levin-Nunn, we are denied the ability to test realistically and efficiently the more mature strategic defense technologies. Under the restrictive interpretation, we may only conduct limited SDI experiments incapable of fully demonstrating a specific technology or ABM system capability. Without adequate development and testing, it is more difficult, more time-consuming, and more expensive to ascertain the technical feasibility of critical strategic defense systems. These are penalties difficult to justify in a time of severe budgetary constraints.

The Strategic Defense Initiative Program has brought the Soviets back to the negotiating table. All agree to this. We believe the Levin-Nunn amendment, because it imposes a unilateral restriction on the United States, undermines a considerable amount of the leverage needed by our negotiators to achieve agreements that are in our national security interest. We are joined in this view by the President of the United States, who views this amendment with such seriousness that he has stated his intention to veto any bill containing this provision. We are prepared to join the President and to vote to sustain such a veto.

In summary, this amendment raises legal issues about the proper interpretation of the ABM treaty, the relationship of Senate ratification to the obligations actually incurred by both parties to the treaty, and the wisdom, if not the constitutionality, of granting the House of Representatives the ability to bind unilaterally the United States to certain obligations with respect to the Soviet Union. However, each of these issues must pale in comparison to the central question, namely: What is in the best interests of our national security?

When viewed in this light, we conclude it is not in the best interests of our national security to require by statute that the President follow the more restrictive of two plausible interpretations of the ABM treaty, when the Soviet Union is seeking an even more restrictive interpretation at the negotiating table. We conclude it is not in the best interests of our national security to seek to bind the United States to an interpretation under the ABM treaty to which the Soviet Union is not bound. We conclude it is not in the best interests of our national security to grant statutorily to the House of Representatives the unilateral ability to compel the United States to follow for the next 2 years a particular foreign policy regarding our relations with the Soviet Union. Such matters are constitutionally reserved to the President, and shared only with the Senate by virtue of treaty ratification procedures. In short, at a time when the United States and the Soviet Union are engaged in negotiations involving the very matter addressed by the amendment, the Levin-Nunn amendment jeopardizes the prospects for reaching the best possible outcome for our long-term national security.

There are many reasons to be concerned about the Levin-Nunn provision. Let me summarize them briefly:

First, this provision represents a unilateral constraint on the United States and grants a substantial concession to the Soviets at a crucial juncture in the arms control negotiations in Geneva. This restriction would limit the flexibility of our negotiators and would impose on them a new starting point that would be more than welcomed by the Soviets.

Second, The Levin-Nunn amendment would permit an unacceptable intrusion by the Congress into the President's exclusive jurisdiction to conduct our Nation's foreign affairs. The Constitution and Supreme Court have defined the balance of authority between the executive and legislative branches; this amendment is a clear transgression by the Congress.

Third, under the restrictive interpretation imposed by Levin-Nunn, we may only conduct limited SDI experiments which are incapable of fully demonstrating a specific technology or ABM system capability. This means that we cannot realistically and efficiently test more mature strategic defense technologies which the President finds necessary to determine their technical feasibilities as a strategic defense system. The direct results will be substantial program delays and significantly higher costs for ultimately attaining effective strategic defenses.

Fourth, the Levin-Nunn amendment would impose on the United States a restrictive interpretation of the ABM Treaty to which only the United States—and not the Soviet Union—would be bound. Our negotiators attempted to restrict both the United States and the Soviet Union to the narrow interpretation of the treaty when it was negotiated more than 15 years ago. But the record reveals that the Soviet Union refused to accept this restriction. The Levin-Nunn would bind only the United States to the restrictive interpretation, and would have no effect on the Soviet Union's obligations under the treaty.

Fifth, the Levin-Nunn amendment is in part based on concern for the proper role of the Senate in giving advice and consent on the ratification of treaties. This is certainly an appropriate concern, but the approach taken by Levin-Nunn would yield to the House of Representatives an effective veto over any Presidential decisions to conduct development or test-

ing beyond the restrictive treaty interpretations. The amendment requires a two-House vote of approval before the President may proceed to such development or testing. Therefore, if the House alone should decide not to approve such a decision, they would prevail under the Levin-Nunn amendment. For those Members who are concerned about the Senate role in this process, let me put it another way: If 100 Senators were to agree that the President should be able to conduct certain tests, but the House of Representatives refused to give their approval, then the will of the Senate would be overruled. A simple majority of the House could overrule not only the President's decision, but also a unanimous decision by the Senate. I trust this is a result that the authors of the amendment never intended.

Mr. President, these are some of the principal reasons why we are opposed to the Levin-Nunn amendment. I have raised them only briefly here as I am aware that several of my colleagues wish to pursue them in much greater detail.

In conclusion, Mr. President, I would again like to thank Senator NUNN for his leadership and his fairness in guiding the work of the Armed Services Committee. I commend him again for an excellent bill which, save for one provision, I would be enthusiastically supporting today.

Mr. President, I just want to say that I think we have one of the best defense bills we have passed in a number of years. We worked hard on this bill. The Democrats worked hard on it. The Republicans worked hard on it. We feel it is an outstanding bill and should go forward, if this Levin-Nunn amendment could just be taken off this bill and put on some other bill and voted on separately and not hold up this entire defense bill.

This bill makes provision for the support and maintenance of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, all of our defense forces. Why should we hold it up for just one little provision which is so controversial, so controversial, that we cannot go along with it? Why not just put it on a separate bill, vote on it separately, but not withhold any longer action on this vital defense authorization bill?

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

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

Mr. NUNN. Mr. President, I would like to ask the majority leader what the status of the defense bill is now. I know the majority leader has tried very hard for about 3 months to be able to bring the bill up. Of course, it is my fervent hope that the majority leader will be successful in bringing this bill up; it is one of the most important bills we consider each year. Therefore, I ask the majority leader where we are on that bill now? What is its status?

Mr. BYRD. Mr. President, if the distinguished Senator will yield, I will respond to his question.

Mr. NUNN. I yield.

Mr. BYRD. At the moment, the motion is pending to proceed to the consideration of the Defense Department authorization bill. That motion can be voted on right now from a parliamentary standpoint. It does not have to wait until tomorrow. It does not have to wait until next Tuesday. It could be voted on this afternoon. But we have tried, and we have tried, and we have tried to get a vote on the motion to proceed to the consideration of this bill so that the problems that are in it can be resolved, so that Senators may offer amendments to it. But on three occasions the motion to invoke cloture has been voted down. It has not received the necessary 60 votes

So a cloture motion is now pending on the motion to proceed to take up the Defense Department authorization bill. That cloture vote will occur next Tuesday. I urge all Senators on both sides of the aisle who have the slightest interest whatsoever in this bill, which is of importance to every State in this Union and to every Senator in this body, but any Senator who has even the slightest interest in this bill should be here next Tuesday if he wants to see the bill taken up and does not want to see this filibuster continued on merely taking the bill up. I urge all Senators to make arrangements now, if they are out of town, to get in touch with their staffs and tell them to get them a reservation on an airline and get them back here, so that neither fog, storm, snow, nor wind will keep them from being here next Tuesday to vote on this cloture motion.

We were up to 59 votes on one occasion on taking up this bill. I hope we will not reach 59 votes on this occasion and have a Senator absent whose vote would have been with us, because if that happens, the spotlight is going to be on him. Moreover, I am urging our Republican friends to give us just enough votes. They can be sparing if they wish, but just enough to make it.

Mr. NUNN. We are not trying to buy a landslide. We just want 60 votes.

Mr. BYRD. We will be satisfied with 60 votes. That will enable us to take up the bill. But let me say once more that we do not have to wait until Tuesday to vote on the motion to proceed. We can do it this afternoon.

Mr. NUNN. Would the majority leader object to the Senator from Georgia making a motion right now to proceed? I do not see any of our colleagues on the floor, and we would not want to take them by surprise. I see some interested people working around the edges here who might put out a quick distress call, so I will not do that. Procedurally, that would be in order.

Mr. BYRD. It would be in order for the Senator to ask consent that the Senate proceed to vote on this motion at say, 4 o'clock today. If no objection were to be interposed, the Senate would vote at 4 o'clock today. I know that the Senator is not going to make that request, and I know that our Republican friends would want to be on the floor when such a request is made. I try to protect my Republican friends as well as my Democratic friends in a situation like this.

I do hope that we will have a rollcall vote today or a rollcall vote tomorrow. It could be set for tomorrow and we could get on the bill, and Senators who have amendments could call them up.

I thank the distinguished Senator for his inquiry. Have I answered his question?

Mr. NUNN. The Senator from West Virginia has made it very plain, and I thank him for giving this matter the attention that those of us on the Armed Services Committee and all our colleagues believe it deserves.

Mr. BYRD. I think I should fill in one little gap that I left when I said that the cloture vote would occur next Tuesday.

A cloture vote will occur on the motion to proceed to take up the Defense Department authorization bill unless it has been taken up in the meantime.

I should say, also, that there is a cloture motion that will be voted on next Tuesday that is ahead of the cloture motion on the Department of Defense authorization bill. The first cloture motion on next Tuesday that will be voted on will be the cloture motion on the campaign financing reform bill. If that cloture motion garners 60 votes—it picked up 2 today—then the campaign financing reform bill would be the business before the Senate, to the exclusion of all other business, until finally disposed of, after which the vote would occur on the cloture motion on taking up the Defense authorization bill.

How sweet it would be, though, if we could proceed just this afternoon to take up the Defense Department authorization bill and dispose of some amendments, perhaps, today and tomorrow.

Mr. NUNN. I ask the majority leader one question on scheduling:

I know that the Judiciary Committee begins hearings on the President's nomination for the Supreme Court of

the United States, which is an important matter. We all recognize the importance of that matter. I will be looking at those hearings very carefully. I have made no decision on Mr. Bork's nomination. I will make no decision until after the committee has gone into it in great detail.

However, so far as the priority of Senate scheduling is concerned, the Senator from Georgia feels very strongly—having reported the Defense Department authorization bill to the Senate on May 8, having tried to bring it up on May 13, and having watched it be filibustered while we have been cooling our heels for the last 3 months trying to get the bill up—I hope the Senate will take care of and dispose of this bill, dealing with the security of our Nation, before we schedule the debate on the Bork nomination.

I know there are other matters that have to intervene from time to time, but I know that that matter is going to take several weeks of debate, or at least a large portion of time; and I would feel that we had misplaced priorities if we took up the Bork nomination before we took up and disposed of this vital bill that relates to all our military forces and the security of the world.

So I did want to let the majority leader know my own sense of priorities on that.

Mr. BYRD. I stated before the recess that upon the Senate's return following the recess, there would be a great number of important measures to be acted upon. I stated at that time that the best approach would be to clear the decks as much as possible of legislation such as the appropriations bills—I think I mentioned the defense authorization bill, campaign financing reform, extension of the debt limit, Gramm-Rudman, reconciliation, catastrophic illness, and some other measures—get the stage clear of those measures.

Then, while those measures are in conference—because the House does have a part to play with respect to such legislation—we could be getting that work done, and then take up the Bork nomination, in connection with which the House has no role to play. So that the House would not be kept around waiting while the Senate is fulfilling its constitutional role in the confirmation of the nomination.

I stated again this week that I felt that that was the way we ought to proceed. It appears to me to be the logical, commonsense way to proceed.

I indicated that if the minority would help us to move these other matters—such as appropriations bills, 13 of them, and defense authorization, catastrophic illness, airline safety—it should not take long on these, if we could have the cooperation of all Senators on both sides, we could dispose of these, and then take up the Bork nomination.

I was not stating a threat. In my judgment, the Senate ought to act on the Bork nomination this year. I am very much opposed to any idea of bottling up the nomination in the Judiciary Committee, of which I am a member, or of not acting in due course on the floor.

I stated before the recess and again yesterday that we ought to first clear the decks of these other matters. I will have to be in touch with developments every day and week to week as we move along, of course.

So I am not making a mark in the sand or in the water and saying here is the mark, and we will not take up the Bork nomination until we reach this point, or that we will wait until we reach that mark. I am simply saying that the President has more than once said that he wants the Bork nomination acted upon with all due haste, the President and his minority in the Senate can help the Democratic leadership to get to the Bork nomination sooner than otherwise would be the case. But if we are going to drag around and delay and have to try for cloture on every bill to get it up—catastrophic illness, appropriations bills, and the Department of Defense authorization bill, et cetera—I cannot even get the prompt payment bill up. I tried that before the recess. I tried catastrophic illness a number of times before the recess.

The excuse then was that there were some Senators on the other side who had problems with it and that after the recess those Senators would be, in all likelihood, ready to let us take up catastrophic illness. Here we are now after the recess.

I talked about it earlier today. I do not know whether we will be able to take it up today or not, or tomorrow.

Now, we are just standing here and spinning our wheels, and the Senator and I are having a conversation we could just as well carry on in my office, but here we are talking about the pathetic situation that the Senate finds itself in when we have ample business to do; yet, because under the rules of the Senate any one Senator can hold up the works here, we are at the mercy of one or two Senators who do not want to even proceed on catastrophic illness, which is so important to the elderly people in this country.

No wonder our friends in the House are able to say, "We have passed nine appropriations bills and the Senate has not passed one." That is understandable that they say that, but the Senate operates under very different rules and by custom those appropriations bills originate in the House—not by the Constitution but by custom. So we have waited. I have talked to the Republican leader and the Republican leader is eager, as I am, to press forward with the appropriations bills as soon as they are reported from the full committee, which will begin reporting them next week.

I have gone at great length to answer the Senator, probably not specifically on the point he has raised, but I have said enough to indicate that the Bork nomination is important to this Senator, and I am absolutely determined to get it up this fall. But there are other matters that are just as pressing that could have been done already, but we have not had the cooperation of the minority—the Department of Defense authorization is one of them. If we get cooperation to help us move these other things along, then when the Bork nomination comes along, it will not have to wait too long to be taken up in the Senate.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I agree with the priorities of the Senator from West Virginia. I thank the leader.

Mr. President, as this filibuster on the motion to proceed to consideration of the fiscal year 1988–89 Defense authorization bill continues, and I hope it will not continue much longer, there have been suggestions by some people that we really do not need to pass a Defense authorization bill this year because we can deal with these issues on the Defense appropriations bill.

First, let me say that there is not a single debate we have here on the Defense authorization bill that is not going to be on the Defense appropriations bill. So all we would be doing, if we do not pass this bill, is putting all this debate over, including the ABM debate, to another bill, and it means we are going to be bogged down in October, November, and December until we deal with these issues.

The Senate at some point is going to have to vote on these issues. That is well understood by everyone here. The question is, Why delay? Why not bring up this bill?

So to the argument that we do not need a Defense authorization bill this year, I want to take a few minutes to set the record straight on this point and outline why that is not a wise course for our national defense.

The requirement for Congress to enact annual authorizations of Defense programs dates back to the legislation passed in 1959 which required annual congressional authorization of appropriations for the procurement of aircraft, missiles and naval vessels. This requirement for annual authorization of national defense appropriations has been amended and expanded since 1959, so that now virtually the entire Defense budget requires annual authorization. This requirement has been codified in section 114 of title 10 of the United States Code. As a result,

Congress has enacted a Defense authorization bill every year since 1961.

I want to briefly review the requirement in the United States Code for the annual authorization of Defense appropriations.

In terms of the law, section 114(a) of title 10 says that:

No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for procurement . . . research, development, test or evaluation . . . military construction . . . the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense . . . unless funds therefor have been specifically authorized by law.

This section of title 10 clearly requires authorization of defense appropriations separate and distinct from the annual defense appropriations act.

The same requirement for annual authorization exists for Defense manpower strengths.

Section 114(b) of title 10 states that:

No funds may be appropriated for any fiscal year for the pay and allowances of members of any reserve component of the armed forces unless the personnel strength of the Selected Reserve of that reserve component for that fiscal year has been authorized by law.

Section 114(c) of title 10 states that:

No funds may be appropriated for any fiscal year to or for the use of the active duty personnel of any component of the Department of Defense unless the end strength for active duty personnel of that component for that fiscal year has been authorized by law.

Mr. President, a similar requirement exists in law for the annual authorization of civilian personnel and student training loads prior to the appropriation of funds for these purposes. These personnel authorizations are contained in this authorization bill, not in the annual defense appropriations bill.

The requirement for authorization of military construction projects before appropriation is further set forth in section 2802. This section stipulates that "The Secretary of Defense and the Secretaries of the military departments may carry out such military construction projects as are authorized by law." Mr. President, this section means that in the absence of this authorization act, not one dime can be spent on a single new military construction project anywhere in the United States or overseas in fiscal years 1988 or 1989. As a matter of fact there are approximately $70 million of projects in fiscal year 1987 for which funds were appropriated but not authorized. Our committee's fiscal year 1988–89 Defense authorization bill provides the necessary authorization for these projects to begin; without this authorization the $70 million already appropriated for these projects cannot be spent.

Mr. President, there are also a number of very important legislative provisions in this authorization bill in addition to the authorization for appropriations which were requested by the Defense Department. Some of these are provisions which will improve the flexibility of Defense Department officials to manage Defense programs.

Interestingly enough, I received a letter from the Secretary of the Air Force and Chief of Staff of the Air Force this week which goes through each of the major Air Force concerns with the overall defense bill this year, both the Senate bill and the House bill. Over and over again, the Secretary of the Air Force and the Chief of Staff of the Air Force, say that they want the Senate authorization bill provision on this subject and that subject.

Secretary Weinberger has written an overall summary of his position and the position of the Department of Defense on the House bill and the Senate bill. Repeatedly that summary shows that the Department of Defense itself favors the provisions of the Senate bill, and I hope we will begin to get some cooperation from those in the Department of Defense in getting this bill up and voted on and in conference.

There are other important provisions in this bill that we ought to talk about briefly this afternoon as people consider how they are going to vote on Tuesday on the cloture motion or before then perhaps in terms of the motion to proceed.

One of the most important budgetary reforms sought by the Defense Department this year is a biennial budget. This has been a very high priority of mine for some time and also been a high priority of Secretary Weinberger in the past. This bill makes the first serious attempt to move toward a 2-year budget for the Department of Defense. In fact, the Senate Armed Services Committee is the only committee in Congress right now with a very, very strong commitment to enact a 2-year budget. Without this authorization bill, there is virtually no hope of getting a 2-year budget out of the Congress this year.

Milestone authorizations are another important reform contained in this authorization bill for the first time. Everyone who has followed this procurement cycle realizes this is very important. Under this concept, the committee authorized funding for five major defense programs for 5 years. Milestone authorizations were a key recommendation of the Packard Commission last year and will represent another significant missed opportunity for greater efficiency in the Department of Defense unless this authorization bill is passed and becomes law.

There are other provisions in this bill which are essential to recruiting and retaining high quality personnel in the military services. Without the specific authorization for the 4-percent pay raise for military personnel in this bill, the military pay raise will in all likelihood be less than that.

This bill recognizes that there are some retention problems in certain arduous duty skills involving long family separations in some of the military services. For this reason the committee bill increases the current authorization for special pay for aviation career officers, for submarine duty incentive and for career sea pay, particularly applicable in the situation we find ourselves in in the Persian Gulf now having taken on a new load with many of our naval personnel having much longer tours in that area of the world.

The legislative authorities to pay enlistment and reenlistment bonuses in the Reserve components and reenlistment bonuses in the Active components expire at the end of this fiscal year. The committee bill extends these authorities for an additional 2 years.

For the first time the committee bill authorizes a cap on out-of-pocket medical expenses for dependents of active duty military personnel under the CHAMPUS Program very important to the dependents of our military personnel throughout the country.

All of these important benefits for our men and women in uniform will be lost if Congress fails to pass the fiscal year 1988–89 Defense authorization bill.

Finally, Mr. President, there is a major amendment which the committee intended to offer as a committee amendment during the floor debate. This amendment, which is the result of a recent request from the Department of Defense, will make some important changes in the implementation of the joint duty officer specialty enacted last year in the Goldwater-Nichols Department of Defense Reorganization Act. These changes are very high on the priority list of Admiral Crowe and other senior military and civilian officials in the Defense Department. If these changes are not included as part of this Defense authorization bill, it is most unlikely that they will be enacted into law this year.

Some of my colleagues will ask: Can't these important provisions simply be put in the Defense appropriations bill or a continuing resolution?

Some can, Mr. President, if we are willing to break our own rules about including legislation in an appropriations bill.

But some of these provisions—some of the ones that are most important to the Defense Department and the most far-reaching—cannot practically be put on an appropriations bill or con-

tinuing resolution. They can't, Mr. President, for the simple reason that these are extremely complicated provisions on which the Armed Services Committee alone works on day in and day out. No other committee has the day-to-day working experience in this area. If these provisions are legislated through an appropriations act, the Senate and the House will go into conference on an appropriation act with conferees that really have been dealing with other matters and who have not been dealing with these matters.

I want to repeat that there are no provisions in this authorization bill that cannot come up on the floor in some form or another. This means that those who are filibustering this bill are simply postponing the day of reckoning on important provisions.

I know that there are people who feel strongly on the ABM provision in the Senate armed services bill. But by filibustering this bill they are not doing anything except postponing the day of reckoning, making it more likely that it will come at the last minute on a continuing resolution, making it more likely that there will be no time to work out anything that could represent an overall compromise in the best interest of our country, and making it very likely that the SDI funding level, which is already very much of a controversy—there were a lot of close votes on that last year—will be the overall victim of this dispute.

Frankly, of all of the provisions of the fiscal year 1988–89 Defense authorization bill reported by the Armed Services Committee, the provisions that would be most appropriate for inclusion in the Defense appropriations bill or a continuing resolution is section 233, which restricts the obligation and expenditure of funds for development or testing of antiballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based. For this reason, Mr. President, this provision is going to have to be dealt with at some time or the other.

It seems to me that, for once, the Senate ought to go ahead and recognize that we are going to deal with it; we are going to vote on it. It may be taken out of this bill by a vote of the Senate. The Senate may decide to amend it. But the Senate is going to deal with it. It is not going to be taken out by a filibuster. That is just not going to happen. I may make the same speech in December, but it is not going to happen. This provision will be taken out only by the U.S. Senate on a vote. And if that happens, then I will not agree with it, but I will abide by it. I will take the bill to conference and deal with it in good faith.

So we are going to deal with this issue. It is just a question of how miserable the Senate is going to be made and how ridiculous we are going to look before we ever deal with it. I would hope my colleagues would take that into account.

Mr. President, again, I want to thank the majority leader. Congress has passed an annual Defense authorization bill every year for the last 26 years. I hope that this year will be no different from the other 26.

But, I repeat to my colleagues, the only way this amendment that they disagree with—and I am sure they disagree with it in good faith—the only way it is going to come out of this bill is when the Senate votes it out. Period. If the Senate votes it out, it will come out immediately. There will not be any filibuster from this side. But if the Senate does not vote it out, it is relevant, it is germane.

We spent more time on that amendment than any other amendment or any other five amendments in the Defense Committee markup. Everyone had due notice the amendment was coming up. Everyone had advance copy. We even postponed for 4 days to let people get prepared. We heard every argument. We had numerous hours of debate. It is relevant. It is germane. We can debate the merits of it later at whatever length our colleagues choose. But it will stay in this bill unless the Senate votes it out.

Mr. President, I again thank the majority leader for making this bill an important priority. I put all of our colleagues on notice, as he has already done, that this vote on Tuesday will be very important. The last cloture vote, we had 59 votes. It appears that we are going to have to have a cloture vote of 60 votes to be able to bring the bill up. All Senators have their rights reserved. Once the bill is brought up, we will have a full debate on all of these provisions.

But I urge our colleagues to be here on Tuesday and to vote, because I would certainly hope that if we fail to get 60 votes, it will not be because a Senator is absent who would have otherwise voted for cloture.

I thank the majority leader, and I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD. Mr. President, I thank the distinguished Senator. I hope that if there are other Senators who wish to speak on this subject they will come to the floor today.

Again, I say that Senators should be aware of the fact that if this Senator should be off the floor and unable to protect them, and other Senators happen to be off the floor or may be engaged in conversation, not paying attention to what is going on, it is the responsibility of the Chair to put the question. I know Senators recognize that it is not the responsibility of the Chair to put in a quorum. The Chair does not engage in debate from his vantage point. But it is the responsibility of the Chair to put the question, and that could happen if no Senator seeks recognition.

I saw it happen once in this Senate and it was to the consternation of some Senators.

Mr. NUNN. The question would be on the motion to proceed?

Mr. BYRD. The question would be on the motion to proceed. "Those in favor, aye. Those opposed, no. The ayes have it."

Mr. NUNN. I am delighted that that is a possibility.

VISIT TO THE SENATE BY MEMBERS OF THE BRITISH PARLIAMENT AND THE BRITISH-AMERICAN PARLIAMENTARY GROUP

Mr. BYRD. Mr. President, I call attention to the presence in the Chamber today of two distinguished guests: Mr. Peter Robinson and Mr. Martin Smyth. They are both members of the British Parliament and the British-American Parliamentary Group.

I apologize for the sparse attendance at the moment, but I would have the guests know that the Senators, who are busy in committees and in meetings of one kind or another, will note the RECORD and will note with great satisfaction that our two illustrious guests came to see us and that they were recognized by the Senate. I want to express the hope that our two guests will have the occasion and the opportunity to come to see us again.

[Applause.]

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes so that those of us who are on the floor may greet our guests.

Mr. WALLOP. Mr. President, I wonder if the majority leader would permit other comments. I would be happy to do that for 2 minutes and then stand in recess or I would be happy to wait.

Mr. BYRD. Does the Senator wish to comment on the subject matter before the Senate, or does he wish to comment with respect to our guests?

Mr. WALLOP. I simply wish to welcome our friends from the British Parliament.

Mr. BYRD. Mr. President, I yield the floor for that purpose. I withdraw my request for the moment.

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

I extend the greeting of welcome to those visiting members of the British Parliament from those on our side of the aisle. It is one of the rare privileges that this Senate offers to visiting members of legislative bodies who visit. You have a privilege that many Americans do not have, and yet it is one which I think makes a significant

difference to the relationship, particularly to a country with such incredibly longstanding friendship as that which you represent, Her Majesty's Government of Great Britain.

I thank the majority leader.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. President, I ask unanimous consent that the Senate stand in recess for 4 minutes.

There being no objection, the Senate, at 4:29 p.m., recessed until 4:33 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BREAUX].

The PRESIDING OFFICER. The Senator from Wyoming.

DEPARTMENT OF DEFENSE AUTHORIZATIONS

Mr. WALLOP. Mr. President, I listened with interest, as I always do, to the Senator from Georgia explaining his level of frustration with the parliamentary circumstances which obstruct the normal progress of the Defense authorization bill. I would agree with him, and most of the colleagues on this side of the aisle would agree with him, that there are many, many important and fine features of that bill. Even within his own committee, there was general agreement on the most significant features of that bill.

It is the first time in memory, though, I think, that the Armed Services Committee divided along basically wholly partisan lines. It is unfortunate because, while this bill does contain the many fine provisions of which the Senator from Georgia spoke and the law does, indeed, require the authorization bill to be passed, neither the law nor our rules contemplate the infringement on the jurisdiction of the Foreign Relations Committee, nor do they contemplate an unconstitutional action of interpretation of treaties by the legislative branch.

I would have to say, Mr. President, that it is totally startling to me that we would view this from such a unilateral perspective.

We have just had the privilege of greeting visiting parliamentarians from Great Britain. Let us assume for a moment that there was a treaty agreement between Great Britain and the United States calling for, say, the delivery of 100,000 barrels of oil at a certain price, from one country to the other; and that this treaty required that it go along so long as certain territory within one of our countries was producing. Assuming that was the case.

Mr. President, I would ask any Member of the Senate if he would feel that our country should be bound by a new interpretation of such a treaty, were it to take place as a result of a debate on the floor of the Parliament? The answer is clearly no. Treaties are treaties and they are understandings between the executive branches of government and they are not changed, once entered into, by parliamentary understandings or debate. They may be broken, but they are not changed.

Assume for a minute that the shoe was on the other foot. Assume it was, for instance, our obligation to deliver this oil at this certain price to the British people. Would they for a minute accept a debate on the floor of the Senate that changed the price or the volume that was not done without the agreement between the heads of state? The answer is clearly no.

Nor, I think, even more specifically, would the Senator from Georgia, or any member of the Democratic Party, or any Member of this Senate, or anyone in the United States accept a new treaty interpretation that was developed by a debate in the Soviet Presidium. It is absurd on its face to require us to take such an action.

The Senate can force action but it cannot force interpretations. It is an unconstitutional act that the Senator from Georgia, the Senator from Michigan, seek to force upon this Senate.

We have in the Senate an almost unique parliamentry role in the world in treatymaking, that is the ratification of treaties. And at that time, we can level understandings. At that time, we can reject a treaty out of hand.

But once the treaty is entered into, that is the obligation of the executive branch. It is a country-to-country arrangement; it is not a Parliament-to-Parliament arrangement. And there is, to the amazement of those of us who have listened to this argument being waged over there, a certain amazing concept that is advanced on one side and ignored on the other. The reasons that that side wishes to advance for us obtaining the interpretation of their desire is that the custom and habit of the standing consultative commission—the treaty-resolving, dispute-resolving mechanism under the treaty—says that this is the way it has been interpreted.

But that is the area and the arena in which those disputes are resolved. Not on the floor of the United States Senate. Not in the Politburo. Not in the Presidium. Not in the Supreme Soviet. It is done in the standing consultative committee and it cannot be argued at the same time. This has been the interpretation of that consultative committee and that then we are the ones to interpret it. Either it is the standing consultative committee or it is the Senate of the United States, as those who would advance this argument would say.

All the benefits of which the Senator from Georgia spoke are held hostage, not by a refusal to go ahead and to adopt an unconstitutional act; they are held hostage by the adamant intrusion on logic and the Constitution by the two authors of the ABM Treaty amendment.

I would just point out one other thing, Mr. President. About the time the Senate is going to be voting on this cloture motion next Tuesday, Secretary of State Shultz and Foreign Minister Shevardnadze will be sitting down to try to hammer out a few of the last arrangements on the INF Treaty.

It is ironic, and to this Senator a little inconsiderate, that what the President of the United States has been able to do, which was thought impossible to do, was to separate the issue of intermediate nuclear forces from everything else. These were to be separate parcels of negotiations. And that which the Soviets have failed to do, the Senator from Georgia and the Senator from Michigan wish to impose upon us at the very time that the Secretary of State is meeting with Foreign Minister Shevardnadze.

Well, it is the choice of the majority to make those findings, but it is a sad choice. It is a choice which makes it virtually impossible for the Government of the United States to negotiate with both feet on the ground and both hands on the desk. It is removed from them. It is removed by an adamant instruction on history and everything else by a Democratic majority of the United States. They are forcing upon the President of the United States and the Secretary of State, his representative, an interpretation which the Soviet Union did not force and did not seek to have.

Well, it is unfortunate, but that is the way it is. The American people should understand that without the Jackson weight, that is what this country sees as the Democratic Party asking the Senate of the United States to accomplish.

I do not know whether it will happen or not, but clearly, Shevardnadze will know whether it happens, and when it does, those achievements, so close at hand, may yet be unraveled a bit or weakened a little further by the fact that this country cannot speak with one voice because the Congress, in the body of the Senate, decides that it thinks its role is not only to ratify treaties but to subsequently interpret them and enforce them at its whim. By the changing majorities and changing population of those who sit in these chairs, on its face treaties cannot be interpreted by political whim over the course of time. Were that to be the case, we would soon find that no nation in the world would enter into a treaty with the United States because that whim which can loosen it can also tighten it. That whim which can tighten it at this moment in time can also loosen it.

The dispute resolving mechanisms that are set up when treaties are signed become irrelevant and the word of the United States becomes inconsequential. It cannot be held because it cannot be given because it will be debated in the course of time again and again and again. They will find new interpretations in time of old understandings. And politics, not the relationships between States as embodied in treaties, will become the means by which the relations between our country and others in the world will be able to be taken. Who will be able to rely upon us?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I listened with interest to my friend and colleague from my neighboring State of Wyoming, and I have listened to other debate on the floor of the U.S. Senate as a senior member of the Armed Services Committee, which worked very hard, which held long days of hearings on the whole massive national defense and national security interests of the United States of America.

What strikes me most, Mr. President, is the fact that here we are engaged in a debate that would be very proper indeed after the Defense authorization bill is brought up on the floor of the U.S. Senate.

I would simply remind my colleagues that because the way we are doing business or not doing business these days in the U.S. Senate, we are going through another sham, another cover-up, of the inefficiencies, of the failure of the most deliberative body in the world becoming deliberative to the extent that we do not accomplish what we are supposed to accomplish by set goals, set dates.

It has been well pointed out, I think, that we are less than 30 days away from the beginning of the new fiscal year on October 1 and we have not passed any of the appropriations bills that are going to continue the funding for national security and everything else, which is the responsibility of this and the other body on the other side of the Capitol, and, of course, with the cooperation, the understanding, and with the signature of the President of the United States on the bills that we do pass.

What I am getting to, Mr. President, is that here again today we are debating an issue that should be debated after the measure, in this case the Defense authorization bill, is on the floor of the U.S. Senate. But that is not what we are doing, Mr. President.

We are wasting time in going through meaningless, time-consuming discussions on whether or not we can even bring up the defense authorization bill as passed properly out of the Armed Services Committee.

That is the tragedy. It is not just this bill.

I suspect that when the filibuster process was started and when it first came into the thought processes of providing the minority the right not to be run over by the majority, it was not envisioned for other than the most high, pressing issues that might face the country.

I have listened with interest to my friend from Wyoming and his discussion about this as unconstitutional. Well, if it is unconstitutional, that would have to be decided, as I understand our procedures, by the Supreme Court. If we do something here that is unconstitutional, there are plenty of lawyers and plenty of people who will take that to the U.S. Supreme Court and therein would lie the decision as to whether or not it is unconstitutional.

But we cannot even get to the point, Mr. President, because the minority, through filibustering techniques, are stopping even the allowance of consideration of the Defense authorization bill, and the one prime problem that they have has been generally referred to as the Nunn-Levin amendment.

It so happens that the Nunn-Levin amendment was very thoroughly discussed in the Strategic Subcommittee that this Senator chairs. It came out of that subcommittee, and we decided, since it was controversial, to take it up in the full committee, which we did. We had a long debate there. Some of the arguments that have been made very eloquently by my friend from Wyoming and others were discussed at that time.

Our decision was that this was a controversial issue, that we should take it to the floor of the U.S. Senate and let the decision be made there as to whether or not the Nunn-Levin amendment should be maintained as part of the Defense authorization bill.

It would have been even more proper, Mr. President, for those on that side of the aisle who are flouting the movement and procedures of the U.S. Senate to filibuster this when the Nunn-Levin amendment came up on the floor of the U.S. Senate as a part of the Defense authorization bill. But we cannot even get to that point, when even they, those on that side of the aisle, are filibustering the calling up of the Defense authorization bill which, in the opinion of this Senator, on its face really does not make any parliamentary sense.

I also think that those on that side of the aisle who are even filibustering the introduction of the Defense authorization bill are having less faith in the good common sense of the Senate, regardless of our party affiliation. They are not giving due credit to the Members of this body. We all make mistakes. We have made mistakes before in this Congress and previous Congresses have made mistakes. Future Congresses will make mistakes. But that is the procedure. If in debate the majority of the Members of the Senate are convinced that this is unconstitutional, I think there is better than a 50-50 chance it would be defeated, but we cannot even get to the debate. That is the tragedy of the situation.

The other tragedy, Mr. President, of course, is that the general work of the body has been bogged down. We cannot get anything done these days because the minority are filibustering everything, even going to the extent of filibustering bringing up the important matter of the Defense authorization bill because they cannot have their way.

I would simply say that other things are being handled in a similar manner. The 100th Congress I think will go down in history as the Congress of the filibuster. Things are stopped in their tracks, procedures are stopped in their tracks.

We had a cloture vote earlier today on the important matter of the Campaign Finance Reform Act. I happen to support that. I did not in the original instance, but after some changes and amendments that I felt very strongly about, which basically all but eliminated the likelihood of taxpayer-financed campaigns, I thought it was a step in the right direction.

But once again, I do not object to my colleagues on that side of the aisle taking advantage of everything that they can when they feel very strongly about something. But I say again to my friends on that side of the aisle that blocking the introduction of the Defense authorization bill is making a mockery of the legitimate orderly procedures of the Senate.

I would like to comment a little bit about this terrible thing that some people are doing by trying to overthrow the treaty provisions of the United States. I remind all that the Senate is required to confirm treaties. I think a keen argument can be made, as Senator NUNN and Senator LEVIN have on occasion previously when we have gone through the charade of debating the issue before the bill is before the Senate—Senator NUNN and Senator LEVIN have made a key point that it is not Senator LEVIN and Senator NUNN and those who strongly support their amendment who are changing the treaty. Indeed, it is a change of the treaty as provided for when the Senate worked its constitutional will and duty. There is now a move by this administration, after some legal study—which has been questioned by other legal authority—to change a significant part of the treaty with regard to SDI testing.

And now, Mr. President, we get down to the crux of the argument. There are those of us on the Armed Services Committee and the strategic subcommittee that I chair who have been strong supporters of the strategic defense initiative, or Star Wars, since its inception. We felt it was necessary for us to do testing. We felt it was necessary to do research in laboratories primarily on the technical means that I think we need to provide in this particular phase of our national security. It was not envisioned in the original SDI proposition that we would be doing some of the testing that we are now being pushed into by the administration, helped and assisted by the filibuster that is now ongoing. So I think it is others, I say in all due respect, who are attempting to make changes in a ratified treaty by the Senate of the United States and not the present Members who are trying to attach to the Defense authorization bill the so-called Nunn-Levin amendment. I simply say that while I have supported the Nunn-Levin amendment, I do not feel as strongly about it as does Senator NUNN and Senator LEVIN. I think most people realize that Senator NUNN is a highly respected, moderate Senator, who is not known to go off on tangents, and I assure you that he is not going off on a tangent in this instance.

Those who want to make the case that has been articulately made by the Senator from Wyoming here on the floor of the Senate today can be assured that this Senator and others will listen very closely to the debate if they would allow us to bring up this measure. If we think it is unconstitutional, then we may decide that the Nunn-Levin amendment should not be part of the Defense authorization bill. I think that an argument can be made on that. Maybe you will win. But I think you are not winning by the continued ridiculous filibuster techniques that provide the Defense bill cannot even come up on the floor for debate and move ahead.

I appeal to my friends on that side of the aisle to come out of this malaise that we are now in where the minority, with 46 Members, know if they vote essentially as a block and with only 54 Members of the majority they have the magic numbers and they can tie up the Senate to work their will on not just important matters but all matters that come before the Senate. We are very weary of it. I congratulate the majority leader and the other Democratic leadership. I think they have shown extreme restraint and understanding, but I assure you in conversations with them their usual understanding is being extremely tested.

Now we get into the matter of tit for tat. There is the matter of the nomination of Judge Bork to be a member of the Supreme Court. I do not think logrolling should be used. I happen to feel, as I am sure my colleague from Wyoming does, that the nomination to the Supreme Court is very important. It is a key appointee to the third equal branch of government under our system since we rely on the executive and the judicial and the legislative branches, and we should not be logrolling on that. But I can already see some signs of some saying, "Well, if we are going to be held up on everything that the majority wants to do, we have no recourse but to have some temporary delays," if you will, "in the bringing up of the Supreme Court Justice confirmation."

I hope that does not come to pass, and I am not for it, but I am trying to explain the dilemma in which the leadership of the Senate finds itself today and why the continued filibuster techniques that are used over and over and over again are getting very old, very old, very old, tying up the Senate when we should be working our way through the maze of work we have to do supposedly before the new fiscal year, October 1. And we all know that is impossible. I think we have a responsibility to move matters ahead more swiftly than we have.

Therefore, Mr. President, I plead once again with our friends on the other side of the aisle to let us bring up the Defense authorization bill. Then let us have a debate on the Nunn-Levin amendment, as we should have. There are some good arguments for and there are some good arguments against. Then let the majority of the U.S. Senate, after full debate and certainly some measures of understanding on constitutional issues which are tremendously important—let us then move ahead.

I assure my friends on the other side of the aisle that if the Nunn-Levin amendment does become law and if it is unconstitutional, as they claim—and it may well be, and it may well be that I will decide when that comes to a vote, if we ever get the bill up—there may be some of us who would go along with them and it would not be a factor. But even if we are wrong, even if it does prevail, they have recourse, as has been pointed out, through challenge in the courts; and if it is unconstitutional, I believe we can count on the Supreme Court of the United States to so declare.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Nebraska has yielded the floor.

Mr. WALLOP. Mr. President, let me observe a couple of things to my friend from Nebraska.

One is that such a question might not be submitted to a full complement of the Supreme Court because of threatened actions. But, more important, the question revolves around whether the Armed Services Committee ought to infringe upon the territory of the Foreign Relations Committee, at best.

The Senator says we have the right to appeal to the court. Indeed, we do. But, in the meantime, while we are indulging this frivolity of theirs, we are bound by it until such time as the court has decided.

I point out to the Senator from Nebraska that the President of the United States is not the only person in the world affected by this, but also the negotiators of the United States, faced with the negotiators of the Soviet Union.

I observe once again, with more amazement, that in the face of Soviet violations of the ABM Treaty and in the face of Soviet activities which are in violation, if you view the narrow interpretation of the Treaty, the action of the majority in the Armed Services Committee is not to confront the Soviet Union but to further restrain the ability of the United States to respond. It is a sad day, but it is not the first time we have seen that.

Mr. President, I think we could get on with the business of the Department of Defense authorization if that is what we were doing. But in addition to the Department of Defense authorization, we are indulging ourselves in an administrative matter which is rightly the province of the executive branch and surely the province of the Foreign Relations Committee.

Mr. EXON. Mr. President, I thank my friend from Wyoming for his comments.

I just want to correct any possible impression that might be left that the members of the Armed Services Committee, Democrats and Republicans alike, are not concerned about possible violations of the ABM Treaty by the Soviet Union. We are fully cognizant of that. I know that that has been a matter of considerable fervor on the part of my colleague from Wyoming, especially with many years of experience on the Intelligence Committee, and I respect his points of view.

However, I hope we can understand that we are all trying to do everything we can during these critical times in carrying on negotiations with the Soviet Union. I simply remind my friend from Wyoming that a few months ago, when things were not going so well with the Soviet Union on any type of understanding that would be verifiable and provable and everyone was saying it is obvious that President Reagan is going to leave office without accomplishing anything with regard to a beginning of an understanding with the Soviet Union, let alone a treaty, it was this Senator who said: "I don't think so. I think we have a chance to get something done." But that does not mean we have to play hardball all the time, each and every day with the Soviet Union.

I think the Senator from Wyoming does not know about this, but I was rather shocked in the Commerce Committee today when we were considering the President's nominee to be Secretary of Commerce. We had testimony from one of the witnesses in strong opposition to President Reagan's nominee to be Secretary of Commerce. I will not mention any names, but I will simply say that this individual is not a member of my political party. I think that if I would mention his name, he would be instantly recognized as a member of the political affiliation of my friend from Wyoming.

I was shocked, I say to my colleague from Wyoming, by testimony today from this individual that has gone so far overboard on our relations with the Soviet Union that he violently criticized President Reagan's nominee to be Secretary of Commerce, to the extent that he said—and I quote almost verbatim—in his written testimony and in his verbal testimony to the Commerce Committee during the confirmation hearing this morning, that if the President's nominee is confirmed, Mr. Gorbachev, for the first time, will have a seat on the Cabinet.

I simply say that, at best, that is an irresponsible overstatement; that I am confident that President Reagan would not appoint anyone as Secretary of Commerce if he thought that individual was seated at the table representing Mr. Gorbachev in any way, shape, or form.

I only cite this, Mr. President, because I think it shows the mania that flows loose sometimes from other responsible people with regard to the Soviet Union. We do not have to love the Soviets. We certainly do not want to trust them. We certainly must recognize that they are a potential enemy. At the same time, I hope we are going to be wise enough to recognize that they are the only other superpower in the world today, and I do not believe that Soviet bashing is the way to reach some kind of meaningful understanding with them.

Therefore, I simply hope and pray that we can move ahead with some kind of understanding. I congratulate the Reagan administration for the job they are doing, for the negotiations that are going on in Geneva today. For the first time, there seems to be a breakthrough, that the Soviets are considering something they would never consider before, and that is on-site inspection. I simply say that this is not the opportune time for Soviet bashing, and I think we should move ahead at least with consideration of the defense authorization bill; and let the Senate—and, if necessary, the courts—work its will.

I yield the floor.

Mr. LEVIN. Mr. President, I just heard the remarks of my friend from Nebraska, and I totally concur with his point that the argument which is being made today about the language of the so-called Levin-Nunn amendment is really an argument which should be made during the debate on the bill.

The problem is that we cannot get to the bill. The opponents of the language will not let us debate this matter. They will not permit us to proceed to this bill unless language which the Armed Services Committee added to this bill is deleted. I believe and hope that the Senate will not accept that kind of declaration on the part of some Senators.

So the short answer to the arguments we have heard today about this language is: Let us quit the filibuster and let us debate the meaning of this language and the validity of the so-called Levin-Nunn language during the debate on the bill itself.

There is a longer answer, and that is that the language itself does not prejudge which is the correct interpretation of the treaty. It does not say that the narrow interpretation is correct or that the broad interpretation is correct. What it says is, "We are appropriating $4.5 billion in funds to you under the SDI research program."

But we are also attaching some conditions, as the Congress traditionally does, and the condition we are attaching here is this: Before you decide to move, if you do, to a new, broad interpretation of the ABM Treaty, we want you to come back to Congress. We have fenced weapons systems before. This is not novel. We put a fence on the MX basing mode, some of us citing, as the reason for that fence, the SALT II Treaty.

It is not uncommon for the Congress to put limitations on the expenditure of money. It was what we are here for. In this 200th year of the Constitution, we should be celebrating the Congress' power over the purse. We are not here to write blank checks to this or any other administration and to tell you here is the $4½ billion, spend it as you will on anything you want in the SDI Program.

We are here to put some constraints on the expenditure of money. The administration wants the purse and the purse strings.

The problem that the opponents of this language have, really, is not with the language. It is with the Constitution. It is the Constitution which gives the Congress the power over the purse and the right to put limitations on the expenditure of money, and this limitation does not prejudge which is the correct interpretation of the treaty. It does not say the narrow interpretation is the correct one. It says you have lived under the narrow interpretation. We have lived under the narrow interpretation. This is a government of laws. We are bound by treaties. Before we move to a new interpretation of a treaty, we, the Congress, the appropriators, the authorizers, want you to come back to us and tell us why you are moving to a broad interpretation, how it can be justified, and gain our concurrence.

This is a partnership here. This Government is a partnership and in the appropriation and authorization of funds we have a role.

So, while the opponents of this language can talk about treaty interpretation and that we should not be unilaterally interpreting a treaty or we should not be allowing the House to have a role in the interpretation of the treaty, they are missing the point of the language, and they should read it again because the language has to do with the expenditure of funds and the limitation on those expenditures and the role of the Congress in complying with the laws and the treaties which bind us.

But again, the place to debate this, the meaning of this language, its validity, and whether or not it is not only in compliance with our Constitution, but indeed was foreseen by the Founding Fathers as the role of the Congress in implementing the Constitution, the debate on that should take place during the debate on the bill, not during the motion to proceed.

This is not any more an amendment. This is language in a bill. A committee of this Senate has voted to interpret this language in this bill. That is the bill that should be debated on this floor and if there is an effort made to delete that language which is in the bill, so be it. That is what we are here for. And then let the Senate do its will.

But that is very different from what the opponents of this language are now engaged in which is an effort to stop us from debating this bill, to prevent us from deciding whether or not this language indeed carries out the constitutional obligations and responsibilities of the Congress in putting limits on expenditure of funds or whether or not it is an unconstitutional intrusion upon Executive prerogatives.

We think we will carry the day when that debate comes. We believe this is highly constitutional, very much precedented, and we have done this on a number of occasions with weapons systems putting limits upon the expenditure of funds for those systems, building fences around the expenditure of funds to make sure when the money is spent it is in compliance with law and our understanding of what the law of the land is.

But let that debate occur in the right place and the right time. Let us get to that. Win or lose, we then will accept the will of the Senate. But we should not be thwarted in having the will of the Senate expressed by a vote

on an amendment to delete on this authorization bill.

So I very much support the efforts of Senators BYRD and NUNN in trying to get this bill to the floor. It is important for the security of this Nation that we have the priorities that are set forth in this bill debated and adopted by the Congress. We should get on with that and debate the Levin-Nunn language during that time.

I also again want to concur in the remarks of the Senator from Nebraska who put his finger right on the point which is when it is appropriate and under what circumstances to debate language that is in a bill. Should that debate take place during the motion to proceed or should it take place during the debate on the bill itself? He is right on the money and I concur in his remarks.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I am happy to join in this discussion concerning the motion by the majority leader to move to consideration of the Department of Defense authorization bill and would like to remind my colleagues who may be watching the proceedings in their separate offices that we reported this bill to the Senate 3 months ago.

The markup of this particular DOD authorization bill in the Armed Services Committee, with the exception of this particular so-called Levin-Nunn amendment, was probably the most harmonious markup of a DOD authorization bill by an Armed Services Committee of the U.S. Senate in many years.

I have not been a member of the committee for a long time. I see a colleague of mine, who is a very dear friend, of the opposite political persuasion, the distinguished Senator from Indiana, who serves on the committee with me.

I want to say that I have served now during the course of service of three chairmen—the distinguished Senator from Texas, Senator John Tower; the distinguished Senator from Arizona, Senator Barry Goldwater; and now under the leadership of the distinguished senior Senator from Georgia, Senator SAM NUNN. All have been good chairmen. All have been highly motivated in the interest of the finest national defense system this country could afford. But I thought the service this year by the members of the committee was distinctly cooperative throughout the proceedings with the exception of the adoption of this amendment. Why do I dwell on that?

This piece of legislation, which perhaps a majority of this Senate would say ought to have the highest priority of anything we do here—the national defense of the United States of America—with the exception of one amendment, is probably the finest product, given the fiscal constraints, that the Armed Services Committee has produced in years.

I want to say that I was in the chair, Mr. President, from the hours of 3 to 4 when the Senator from South Carolina spoke. The Senator from South Carolina was President pro tempore when I served in the minority prior to the 1986 election. The Senator from South Carolina has been a member of the Armed Services Committee for years. The Senator from South Carolina, in his remarks opposing the motion of the distinguished majority leader, conceded that this was one of the finest bills that was a work product of the Armed Services Committee in years.

Now, I have the honor, Mr. President, of being chairman of the Subcommittee on Readiness, Sustainability and Support. That subcommittee authorizes 37 percent of the funding in this DOD authorization bill. That bill authorizes approximately $302 billion, if my memory serves me well.

My subcommittee hearings were extensive and covered a great many weeks of hard work. At the conclusion of it, the Senator from South Carolina, Senator THURMOND, the Senator from Texas, Senator GRAMM, the Senator from Arizona, Senator MCCAIN, the Senator from Idaho, Senator SYMMS, and others expressed to me their personal appreciation and satisfaction for the fact that every member of the minority had been fully heard. Their views had been fully considered and they had every opportunity to place in our subcommittee's work product what that individual minority party Senator wanted in the bill, at least within reasonable limitations that fiscal constraints would permit. And we had a fairly extensive bogey, as I recall $2.5 billion or so, that we had to remove in the jurisdiction of my subcommittee from this DOD authorization bill.

Now why do I say all of this? Well, Mr. President, I say it for this reason. We do not come here in perfect harmony on the things that we do. When I was in the minority, a great many things happened that I took substantial issue with. But this Senator lived with those things, Mr. President, because I was in the minority. And, as a matter of fact, I am in the majority now, and some things that we do I do not agree with, however, I live with them.

We have here a bill where every member of the Armed Services Committee worked on the product and was satisfied with the final product. There is no question about that. There is no member on the minority side, Mr. President, that would argue with the fundamental thesis of what this Senator is saying now. We have a good product.

We have a difference of opinion about one thing, the so-called Levin-Nunn amendment. Honorable people can differ about these things, but there was a vote, and the majority opinion was that we put this amendment in the bill.

Now, if my colleagues on the other side, whose friendship I cherish, have a different point of view, if they can prevail on this floor and take it out by amendment, so be it. Let me say here if they take out the Levin-Nunn amendment, this Senator will still speak for and vote for this DOD authorization bill.

There are certain things in this bill I want to take out. There is an authorization for aircraft carriers in the bill that this Senator is opposed to. There is authorization in this bill for homeporting that this Senator is opposed to. I was chairman of a major subcommittee and got rolled on that question, Mr. President, but I lived with it.

So, if my colleagues can take it out on the floor, let them. And let me say this beyond that, Mr. President: if my colleagues on the other side are correct in their representation, and I assume them to be correct, that the President of the United States takes such exception to this one amendment that he would veto the entire DOD authorization bill over it—and I doubt that he will—but if he would, then let him. We will try to override, and if we fail, we fail. And then we would have to revisit, I suppose, this whole question. But that is the democratic process. What is not the democratic process, Mr. President, is what is happening here!

When I go home and have townhall meetings, people ask me about the fact that we have not yet passed a Department of Defense authorization bill. I do not mean it is the only topic on the streets or that it is a major matter of discussion back home. But many people are aware of the fact that we have not done our job in this regard. The House has passed their bill; however, no conference is taking place because we have not passed a DOD authorization bill, notwithstanding the fact that we are near the end of the fiscal year. Many people know that.

This filibuster is contrary to the fundamental democratic process. I do not come here to say I have never filibustered, because I have. I do not come here free of guilt. But we are in gridlock on every significant public issue before the people of America today.

Our majority leader is asking for cloture votes next Tuesday on fundamental election reform and on the DOD authorization bill. Why do we not get to it? On every major issue this year we have had a veto and arguments and overrides, except on the banking bill where the conference committee had finally finished its work and the Presi-

dent finally sent word we should come back and try again. We finally did achieve accommodation on a major piece of legislation. The President knows that is how the system works—and the banking bill became law.

I think that we ought to take up this bill. I think it is of the highest priority.

I do not know that I necessarily agree with my friend from Georgia, the chairman of our committee. I think he is a great chairman and great leader. I am not so sure we ought to hold up consideration of Judge Bork and eveything else until such time as we get to this bill. But I certainly think that this is of the highest priority and we ought to get on with it.

Now, It seems to me that everybody has kind of gone along with senatorial courtesy for a long time here, Mr. President. I know my friend the majority leader is on the floor and he has the power to make these decisions, and no one else has. But I think at some time soon we ought to just stay here until we get finished with this piece of business. I think the DOD authorization bill ought to be taken up. I think we ought to continue to vote on cloture and continue to talk, and get the cots and stay here until we have a bill. I think it would be the worst possible result this year, Mr. President, for us to not get a DOD authorization bill. I think that failure to get this bill would be something that would invite great difficulties in the future.

Let me say to my friends on the other side—and I know there is only one of them here, but I hope others are hearing what I am saying in their separate offices and will think about it—more often, people who do not much like the present DOD authorization bill and want it reduced further are pleased with the delaying actions you are taking.

I remind my friends on the other side that this whole question of the strategic defense initiative, which I support, has a considerable amount of opposition in the country. When you talk about the interpretation of the ABM Treaty, there are many people in the country who do not want any money in this bill at all for the strategic defense initiative. I remind my friends on the other side that we put $4.5 billion in this bill for the strategic defense initiative. That is much more than the House has, probably more than will survive the amendatory process here.

I think we ought to do one of two things, Mr. President. I hope that my friends and colleagues on both sides consider this.

Some have said we should take out the Levin-Nunn amendment altogether and just take up the bill. I say let us take it out along with the money for SDI. We should argue the Levin-Nunn amendment and the money for the strategic defense initiative separately, if that is what everybody wants to do, they belong together; they are part of the same family. If we want to do that, let us do that.

If we cannot do that, Mr. President, then let us stay on this bill until we pass it. Let us force everybody here to understand that ultimately we have to come to grips with this immense problem and pass a DOD authorization bill and take it to conference. That, I think, is a fundamental duty of every Member of the U.S. Senate. I think it is expected of us and I think it is tremendously important that we get on with the business of the Senate.

I just want to say, Mr. President, that basically this is a good bill. There are going to be amendments argued about a number of different things in this bill. Some things could be modified here on the floor. Obviously the Levin-Nunn amendment is something that needs to be discussed. It will be discussed in a heated way. It may be discussed for days. That is all right. If they want to discuss it for weeks, that is all right. Let us let the democratic process work.

But in the end, Mr. President, we must have a bill. Three months have passed. We must have a bill.

I think it would be the gravest type of misconduct by the Senate to ultimately come to the end of this session without having passed a DOD authorization bill. Frankly, I am here to say in conclusion that the chairman of this committee is not going to shrink from his position. There is not any way, Mr. President, may I say, that he will voluntarily take out of this bill the Levin-Nunn amendment. The chances of that are zero and none, and you can spell it n-o-n-e or N-u-n-n—but no chance!

So we get to this bill one way or another. I say to my good friend, the majority leader, one of the finest recitations of poetry that this humble Senator has heard in his entire life was the excellent recitation by the majority leader today. I thank him for it and I say to the majority leader, who has entertained us in so many ways in so many times, why do you not get out the cots? Why do we not just stay here day and night in this pleasant company, the 100 of us, together, until we take up the fundamental piece of legislation most important to the national security of the United States of America, and through our efforts the world at large, and pass the DOD authorization bill?

Mr. Majority Leader, I yield the floor because I see you standing and it may be my delight, sir, to hear you recite once again.

Mr. BYRD. The distinguished Senator asked me: Why don't we get out the cots?

I read in one of the national periodicals today—I will put my glasses on and see who is on the floor—yes. I read in one of the national periodicals today where a Senator said that, if BYRD were to have all-night sessions and get out the cots, BYRD might not be majority leader much longer. [Laughter.]

Mr. DIXON. I want the majority leader to know I did not suggest it for that reason.

Mr. BYRD. May I say the cots are around and I would not be surprised that before this session is over on the DOD bill or some other matter, if the minority persists in delaying action, Senators will have an opportunity to sleep on those cots. Or at least to lie on them. I do not know how much sleep they are going to get.

I have been on both sides of filibusters in my time. In the same magazine or national periodical I read where I had spoken at one time for 14 hours and 13 minutes, so I am an accredited, blue-ribbon, pedigreed stock, filibusterer myself. There come times when the filibuster is useful and should be used; and then there come times when it is abused.

I have seen the filibuster abused in this Senate before in years past.

At one time there was no cloture rule. I say at one time—for most of the period of this Senate's history there was no cloture rule. At the very beginning, there was even the motion available for the previous question. That motion is available in the other body but it is not available in this body now. It has not been for decades and decades. Almost two centuries.

But the abuse of the cloture rule has led to some changes during my tenure as majority whip and as majority leader.

As a result of such abuse of the filibuster, the abuse of the so-called unlimited debate feature of this institution, the cloture rule came into play and it has since been tightened.

We reduced it, the Senator may remember, from 100 hours to 30 hours. But that rule can stand some more tightening. It ought to be tightened up more. It is full of loopholes as it is.

If Senators persist in utilizing the filibuster, as a means just to delay and make it difficult for the majority of the Senate to work its will, I think the majority of the Senate at some point will tighten up that rule.

It will not be good for the Senate to become a mere second House of Representatives. I use the word "mere" only in the sense that, in the House, Members of the House cannot stand on their feet and talk as long as their feet will hold them up, as we can now do in the Senate. The House has far different rules. The House has a Rules Committee which, under House rules, may report out a rule providing that there be no amendments on a bill; or that there be only one amendment on the

bill, that amendment to be offered by the chairman of the committee; or that there be only two amendments on a bill, one to be offered by the chairman and one by the minority leader so that the minority has a chance to offer one amendment, and that is it, period. That Rules Committee in the House can mold that rule to fit whatever situation the House leadership there has to deal with.

The Senate has a Rules Committee, but the Senate does not operate under those rules. That Rules Committee cannot issue such a rule in the Senate. So, in the Senate, any Senator can stand on his feet as I did for 14 hours and 13 minutes. I could have gone longer at that time. I will be turning 70 in November and that was in 1964, 23 years ago. I could go 14 hours and 13 minutes now—probably. Because on that occasion, I began around 6 o'clock in the evening. I had already had a long day. I began around 6 or 7 o'clock and went through the night. Can the Senator imagine the kind of record I would have set had I started that morning? Had I started early in the day at 10 o'clock and gone until 10 o'clock the next day? That would have been 24 hours. But to start at 6 o'clock in the evening and speak for 14 hours is not a small feat.

I was speaking with a British Parliamentarian today who is the record-holder in the British Parliament. He had spoken 7 hours, which was a record filibuster.

Our good friend from South Carolina, to whom my friend was addressing his remarks a moment ago, has the record in the Senate. But the time will come, I believe, when the Senate will tighten up the rules so that the weapon of the filibuster will not be as threatening a weapon as it is now. The abuse of the rules will lead to change, and sometimes the pendulum swings too far.

While I am on my feet, and the distinguished Senator from Texas [Mr. BENTSEN] is on the floor, may I say to him that I have been, as he knows, attempting, and I think I have put the request five times—and I said earlier today I would put it again, though I will wait until the Republican leader is on the floor to put the request—to ask unanimous consent that the Senate proceed to the consideration of the catastrophic illness bill, S. 1127. The author of the bill is Mr. BENTSEN. It is a bill to provide for Medicare catastrophic illness coverage, and for other purposes.

This bill was reported by Mr. BENTSEN to the Senate from the Committee on Finance, of which he is the able chairman, on July 27, 1987. It will soon be 2 months.

Before the August break, I sought consent to bring up the catastrophic illness bill five times, and the distinguished Republican leader on behalf of other Senators on this side had to object to proceeding to the bill. The Republican leader did not object on his own behalf, but he had been requested by other Senators to do so for them. I respect his responsibility to do that on behalf of other Senators.

Actually, other Senators ought to come to the floor and object themselves. But that is one of the pleasant duties of being a leader in this body, Republican or Democratic leader; you have the great honor of coming to the floor and objecting to a measure on behalf of your colleagues. It is one of the things that impels us to seek the leadership, even though we may have to sit here for hours before having the opportunity to object. It is a great honor to be elected leader. I do not say that facetiously. But that is one of the duties of the Republican leader. He is expected to object on the part of other Senators on his side, if they say object.

I earlier said today I wanted to get the bill up. The distinguished Republican leader said that he had gotten the number on his side down from 14 or 15 objectors to about 2 or 3.

The distinguished Senator from Texas is here. He is the chairman of the Finance Committee. I can ask him, is he ready to proceed to that bill in case there are no objections from the minority at this time?

Mr. BENTSEN. Mr. Leader, we certainly are prepared to proceed with that bill.

I listened to the statement of my distinguished friend from Illinois, I listened to his frustration, and I listened to your comments. We really do have to make some changes in the U.S. Senate rules because of the kind of abuse we are being subjected to, the kinds of delays that we are experiencing.

One of those is putting a hold on a bill and leaving it and leaving it and leaving it.

Mr. Leader, this bill was brought up with 100 percent support and vote in that committee. What more do we have to do? The vote was 20 to 0.

The President's State of the Union Address called for a catastrophic illness bill. We have delivered. We have an excellent piece of legislation, something that says to the elderly of this country, those who qualify for catastrophic illness benefits, "You are not going to have yourself wiped out financially. You are not going to have all your family trying to support you and lose their financial means in the process. We are going to give you some peace of mind. We are going to take the law of averages and reduce it to the individual and give you that kind of protection."

That is what we have done. This piece of legislation does not make it compulsory that you have to take it. It is voluntary. It is optional. How can they object to that?

Mr. Leader, I really think this is an abuse of the system when we withhold that.

I know that the distinguished Republican leader, as you have stated, the minority leader, wants to bring it up, but he is reporting for some of his members who are still objecting to it.

Mr. BYRD. Why are they objecting?

Mr. BENTSEN. I frankly cannot understand when you get a unanimous bill out of that committee, when you have all the Republicans and all the Democrats for it, and then when you say to the person on the coverage "It is optional. You do not have to take it unless you think it is the best deal you can find."

Mr. BYRD. Is it not ridiculous that we have to have 60 votes to invoke cloture on a motion just to take up the bill?

Mr. BENTSEN. It makes no sense. I really think that is an abuse of the position.

They have had a whole month to rest, to think about it, to have their staffs work on it. If they are not ready now, when are they going to be ready? We are going to be here Thanksgiving.

Mr. BYRD. The White House used to pretty much lay out the agenda here in the Senate.

Mr. BENTSEN. I do not know about the White House.

Mr. BYRD. The Democrats are in control now. The White House cannot lay out the agenda today. But the White House can, working through the minority, slow down the work of the Senate.

Mr. BENTSEN. There is no question about that.

Mr. BYRD. I do not know that the White House is doing it, but if the White House says to certain Senators in the minority, "We do not want that bill taken up," those Senators can at least delay it for awhile.

By the way, on the matter of holds, this majority leader does not recognize holds indefinitely.

Mr. BENTSEN. Good.

Mr. BYRD. This majority leader will recognize a hold only for a reasonable length of time.

Mr. BENTSEN. That is understood.

Mr. BYRD. Some Senators put holds on measures only to alert the floor staffs that they, those Senators, want to be notified before a bill is called up. They may have an amendment that they wish to call up. They want to be notified.

Mr. BENTSEN. I agree with that.

Mr. BYRD. But this Senator will only recognize a hold for so long. I do not know how it works on the other side of the aisle. I do not recognize holds on the other side of the aisle. But Senators do, under the rules, have the right to object to a unanimous-

consent request to take up measures. They have a right to stand on their feet and offer amendments. They have the right to talk, talk, talk, talk. They have a right to delay, by standing on their feet and talking.

But as to holds, I do not recognize those as being legitimate reasons to delay indefinitely, ad infinitum, the action on a bill.

Mr. BENTSEN. Mr. Leader, I would like to say that I was standing here thinking about your question about reasons for objecting. One of the stories I hear is that they might be objecting because of some amendment that might be offered on the floor of the Senate.

Mr. BYRD. Do you mean on our side?

Mr. BENTSEN. No, I am talking about some Members on the other side of the aisle. If you start objecting because of something that might be offered, I do not know how you can ever bring up a piece of legislation, how you can ever justify bringing it up, if you are going to be subject to that kind of opposition. When you have the President himself asking, in a joint session of the Congress, saying that he thinks this is a priority for him, when you have Democrats on the House side and on the Senate side, the chairmen of the appropriate committees, sponsoring that kind of legislation, working hard for it, and then getting the kind of support that we have had, 100 percent support, and it is optional whether or not you want to take it, and some can still object to us bringing it up, I cannot understand the rationale or the logic in that. I think it is most frustrating, and I can tell you the problem with that. You watch Thanksgiving come around and we may go right on through that and go up to Christmas Eve. Then we will have people talking about how we just could not get the work done in the Senate. That is the cause of it. That is the reason for it.

Mr. Leader, yes, in response to the question, we certainly are ready to go, ready to move. We have a good piece of legislation, and this body ought to have an opportunity to consider it, pass it, put it into law, and say to those who are eligible for Medicare, "We are going to give you some peace of mind when it comes to your financial resources that might be involved in a catastrophic illness."

Mr. BYRD. Mr. President, I thank the distinguished Senator. I hope we can get this bill up. Tomorrow would be a good day to act on catastrophic illness while we are waiting on the motion to proceed on the Department of Defense authorization bill, and waiting on the cloture motion to mature on campaign financing reform. I appreciate not only his willingness but his readiness and his eagerness to proceed on the catastrophic illness bill. We have seen a thwarting of the will of the majority to invoke cloture on the campaign financing reform bill. The time will come when the people of the country are going to get tired of this money chase in respect to election campaigns and they are going to become more and more aware of what is going on. Once they do, the Senate will enact campaign financing reform. There can be no campaign financing reform without a limitation on campaign spending.

I say that to say this. The time is also going to come when the people of this country will demand some reform in the Senate rules. I have always been against majority cloture, and as long as I am a Member of the Senate I will be against majority cloture, because there has to be a place where there can be extended debate, where Members can stand up in the face of sudden passions and emotions that may sweep over a country and be able to think carefully about a piece of legislation and talk about it and put the country on notice as to what is involved. That place under our system is the Senate.

The time will come when Senators themselves are going to rise up in frustration and change the rules and to some extent they may erode the present right of Senators to speak at length. There are times when it becomes necessary to delay action on a measure, and that is the danger. When we abuse the rules, we put in jeopardy the right of a Senator at some future time, when his State may demand it or the Nation may require it, to stand up and utilize the rules to delay.

Mr. BENTSEN. Mr. President, the majority leader was commenting earlier on campaign reform. I suppose—in fact, I am confident—that as of today I have probably collected more money for my campaign reelection than any other U.S. Senator. I represent the third largest State. On a per capita basis, it is something less than what others have collected. I understand that. But I look at what the last Senate race in my State cost the participants—around $20 million for two of them. I look at the last Governor's race in my State, numbers comparable to that. Other States have been in excess of that—California, for example. Those numbers are outrageous. That is why I support the campaign reform bill. I would be delighted to see some reduced limits on what can be spent and what we have to raise.

Mr. BYRD. It would take a burden off the Senator.

Mr. BENTSEN. Change this.

Mr. BYRD. At the moment, he is a victim of the system.

Mr. BENTSEN. Change the system.

Mr. BYRD. At the moment, the Senator cannot ignore his reelection.

Mr. BENTSEN. I cannot do that.

Mr. BYRD. He is here.

Mr. BENTSEN. You bet.

Mr. BYRD. But we have the system to live with until it is changed. We are attempting to change it. Until we change it, the Senator cannot ignore his reelection. He wants to continue in public service.

Mr. BENTSEN. I see what they have spent in the past and I can see what an opponent could spend against me, the amount of money they could raise in just the last race. So I have that concern and that problem, to try to raise those funds. But I would just be delighted to have limits put on far below what they are today and not take that much of my time having to do that. I think it would be a vast improvement in the system if we could. I am delighted to be a sponsor of the legislation and I will try to help the majority leader in the passage of it.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the pending business before the Senate is to move to the consideration of the Defense authorization bill, and a cloture motion has been entered on that motion. That motion is debatable.

As soon as the Republican leader reaches the floor, I should like to make the request which I said I would make anent catastrophic illness, and then I would like to put the Senate out if no Senator wishes to speak. I am ready to go. I have been here all day, all afternoon, sitting, waiting patiently. I sometimes feel a little lonely out here.

I also have been hopeful that it would be possible to take up the Philippine resolution which the distinguished Republican leader and I have been working on, together with other Senators. I have indicated to Senators that there might be a rollcall vote on that resolution today. I should announce to Senators that there will not be any rollcall vote on that resolution today.

There is no problem on this side. This side is ready, willing, and eager to proceed to the consideration of the resolution to express support for President Corazon Aquino and the Government of the Philippines. We are ready to do that and will be happy to do it now. We are ready to give unanimous consent to the immediate consideration of the resolution, but there is a problem, I understand, on the other side. On tomorrow, I will discuss with the distinguished Republican leader the possibility of taking up that resolution, of which he, himself, is a prime cosponsor, and see if we can proceed on tomorrow to vote on that resolution.

I now understand that the distinguished Republican leader will not be

returning to the floor, that he has no further business today and wishes to make no further statement. Therefore, I am prepared to go out.

The distinguished Senator from Indiana [Mr. QUAYLE] is the acting Republican leader, and he is present.

Let me inquire of the staff if there is any business we can dispose of today.

I ask the distinguished acting Republican leader, Mr. QUAYLE, if Calendar Orders numbered 298 and 303 on the calendar of business have been cleared on the other side of the aisle.

Mr. QUAYLE. I state to the distinguished majority leader that, according to the information I have, there is no problem with Order No. 298. There is a problem with No. 303.

Mr. BYRD. I thank the able Senator.

AVIATION INSURANCE PROGRAM EXTENSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 298.

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

The assistant legislative clerk read as follows:

A bill (S. 1628) to extend the Aviation Insurance program for 5 years.

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

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

Mr. FORD. Mr. President, S. 1628 is very simple. It is designed to extend the current Aviation Insurance Program, which expires on September 30, 1987, through fiscal year 1992, or for an additional 5 years.

Commercial insurance for airline operations is often not available for flights to certain parts of the world where there are security risks. The most evident situation of this is when nations are at war. In addition, when the Civil Air Reserve Fleet is activated and U.S. commercial carriers conduct military operations, seldom are those airlines afforded commercial insurance coverage. The result is that the airlines cannot or will not make those flights.

There are numerous situations, however, when it is in our national interest to have such air service continued. Foreign policy and national security considerations often require that air service to those foreign points be continued—under almost any circumstance.

Under current law, the Secretary of Transportation, with the approval of the President, may provide insurance for aircraft engaged in foreign air commerce whenever the Secretary determines that such insurance cannot be obtained on reasonable terms from a commercial carrier. This Government-provided insurance, which is made available for a term, not to exceed 60 days, can only be provided for those flights determined by the President to be needed to carry out U.S. foreign policy.

The Aviation Insurance Program offers two types of policies, premium and nonpremium. With respect to the premium policy, insurance is issued by the Federal Aviation Administration and a premium is paid by the airline for the coverage. The nonpremium policy is issued to airlines operating under contract to a Government agency, and although no premium is required to be paid by the airline, the contracting Government agency is bound to indemnify DOT for any claims which are paid.

The premiums collected are deposited into a revolving fund, which is available to liquidate any claims made by airlines operating under the program. As of June 1, 1987, the balance of this fund was $37.7 million.

The Aviation Insurance Program was established by Congress in 1951. Although infrequently used, it has been reauthorized several times, including the current authorization which was approved in 1982. The last time the Aviation Insurance Program was utilized was during the Vietnam war.

S. 1628 was unanimously approved by the Commerce Committee in late July. This 5-year extension is supported by the Department of Transportation and the airline industry.

Mr. President, the Aviation Insurance Program serves a valuable purpose by ensuring the means under which air service—that otherwise would be impossible—is provided. I believe that is as it should be continued, and I urge my colleagues to support passage of this bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1312 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1542) is amended by striking "1987" and inserting in lieu thereof "1992".

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

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

The motion to lay on the table was agreed to.

SENATE CONCURRENT RESOLUTION 9 PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I believe this has been cleared with the other side. I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of Senate Concurrent Resolution 9, a concurrent resolution submitted by Mr. DOLE for himself, Mr. THURMOND, Mr. WARNER, and Mr. WILSON, and that the concurrent resolution be placed on the calendar.

Mr. QUAYLE. There is no objection on this side.

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

Mr. BYRD. Mr. President, I ask unanimous consent that I may be made a cosponsor of the concurrent resolution, the concurrent resolution being for the purpose of providing for the display of the National League of Families POW-MIA flag in the Capitol Rotunda.

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

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 appropriate committees.

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

MEASURES PLACED ON THE CALENDAR

The Committee on Rules and Administration was discharged from further consideration of the following concurrent resolution; which was placed on the calendar:

S. Con. Res. 9. A concurrent resolution to provide for the display of the National League of Families POW/MIA flag in the Capitol Rotunda.

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. CHAFEE (for himself, Mr. WEICKER, Mr. MITCHELL, Mr. ARMSTRONG, Mr. BRADLEY, Mr. DASCHLE, Mr. HARKIN, Mr. NUNN, Mr. EVANS,

Mr. BINGAMAN, Mr. INOUYE, Mr. LEAHY, Mr. STAFFORD, Mr. PELL, Mr. DODD, Mr. WIRTH, Mr. BIDEN, and Mr. CONRAD):

S. 1673. A bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes; to the Committee on Finance.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 1674. A bill to amend title 5, United States Code, with respect to the maximum rate of basic pay payable to civilian faculty members at the U.S. Naval Academy; to the Committee on Governmental Affairs.

By Mr. McCLURE:

S. 1675. A bill to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI:

S. 1676. A bill to amend the Comprehensive Crime Control Act of 1984 to provide for an orderly transition into sentencing with guidelines and for other purposes; to the Committee on the Judiciary.

By Mr. CHILES:

S.J. Res. 187. A joint resolution complying with the requirements of section 274(f)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985; to the Temporary Joint Committee on Deficit Reduction.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself and Mr. WEICKER, Mr. MITCHELL, Mr. ARMSTRONG, Mr. BRADLEY, Mr. DASCHLE, Mr. HARKIN, Mr. NUNN, Mr. EVANS, Mr. BINGAMAN, Mr. INOUYE, Mr. LEAHY, Mr. STAFFORD, Mr. PELL, Mr. DODD, Mr. WIRTH, Mr. BIDEN, and Mr. CONRAD):

S. 1673. A bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes; referred to the Committee on Finance.

MEDICAID HOME AND COMMUNITY QUALITY SERVICES ACT

Mr. CHAFEE. Mr. President, today I am introducing the Medicaid Home and Community Quality Services Act of 1987, a bill which will revolutionize the services and support provided to those who are mentally or physically disabled. I am joined in this effort by Senators WEICKER, MITCHELL, ARMSTRONG, BRADLEY, DASCHLE, HARKIN, NUNN, EVANS, BINGAMAN, INOUYE, LEAHY, STAFFORD, PELL, WIRTH, DODD, BIDEN, and CONRAD.

Now, Mr. President, I will admit that the title of this bill is truly a mouthful. The Medicaid Home and Community Quality Services Act of 1987. And the bill, is—here it is—73 pages long.

But what I would like to stress, Mr. President, is that each page of this long and indeed complicated proposal strikes a blow for freedom, independence and individuality.

Stated simply, this proposal will revolutionize the Medicaid Program by changing it from a program that demands dependency to one that seeks to encourage personal growth and is tailored to the needs of each individual with a disability.

Why is this bill so important?

As we all know, we have no well-thought-out national system of services for those needing long-term care. The closest we come is a program called Medicaid.

Medicaid is the only Federal program which provides States with moneys for long-term care services for the elderly and the disabled. Currently, those funds, namely, the Medicaid funds, flow primarily toward large facilities—institutions or nursing homes.

This is the crux of the problem with Medicaid, and the reason behind my commitment to restructure it. The Medicaid Program began as a medical assistance program for low-income individuals. Note the word medical assistance. Medicaid. That is what it is all about. Over time, the Medicaid Program has slowly been changing to also pay for long-term care services that are not associated with medical necessities, such as long-term care services for the elderly and the disabled.

Today, more than one-half of Medicaid funds are used for this purpose, namely, the long-term care services for the elderly and the disabled. But the long-term care services the program will pay for are still rooted in the Medicaid model. Even the Medicaid home and community-based waiver. Currently States can receive a waiver to use Medicaid moneys for other than institutionalization, but that in itself is also tailored to the concept of medical assistance.

During the years, as our understanding of the needs and the capabilities of those with disabilities has progressed, it has become clear that the traditionally oriented medical services for long-term care are inadequate and inappropriate.

The problem for those with disabilities is not medical services for them. It is a whole series of other services. So the goal of my proposal and my cosponsors is to address the full spectrum of needs of those with disabilities in order to help them achieve their fullest potential.

What do I mean by "fullest potential?" Simply that each person regardless of the severity of his or her disability—it could be mental, it could be a physical disability—should have the opportunity to pursue education, recreation, vocation, to the best of his or her ability. And Federal programs, namely, Medicaid, should assist in these endeavors rather than hindering them.

Here is the situation now. Let us say you are mentally disabled, a severely retarded child. The only thing that Medicaid will pay for to help the family is the institutionalization of the young person. If that severely mentally retarded youngster goes into an institution, then Medicaid will step in and help pay for the support. But if the parents choose to keep that child in the loving atmosphere of the home with his or her brothers and sisters, Medicaid will not pay anything.

Now, yes, there is an exception. The State can get a waiver, but that is the exception and every State does not go through the process of getting a waiver.

Now, something is wrong. That is not the way we wanted the system to work. Many families choose to keep that child at home, feeling that they do not want them stuffed away in an institution somewhere; they want to keep the child at home. The premise of this legislation, the Medicaid Home and Community Quality Services Act, is that there ought to be a wide range of services and support for those with disabilities in a variety of residential settings. The best setting for that youngster might be in the home or it might be in a group home, namely eight or nine, seven or eight of those with disabilities in an apartment somewhere with proper supervision 24 hours a day, or it might be in a small institution, or it might be in a large institution. But the option should be available. They are not available now, at least the Federal Government will not help through Medicaid or through any form of payment. The services that we are seeking should be designed for each individual's needs rather than requiring the individual to fit in with the existing system, and if he or she does not fit, tough luck.

Now, my bill will freeze the funds flowing toward large institutions at current levels. In other words, if an institution in the State of Rhode Island is receiving x dollars now, our major institution for the mentally retarded, that is all they get. They will not get any more. It will be indexed, but it will not go up. So there is a tendency to keep a level on the funding for institutions and to encourage out-placement if that is the best for the patient.

Now, there is no limitation on Federal funds used for community-based services, which I have discussed earlier. Community-based service could be a group home, could be the child or the individual staying with his family and some respite care coming in through home services provided in this legislation.

Now, this bill, the Medicaid Home and Community Quality Services Act, provides the mechanism to allow those with disabilities to live in the community with the security and support

they need along with the opportunity to grow and develop as individuals.

We have discovered clearly that the smaller the setting the more the individual flourishes, reaches his or her potential. In a big institution somebody else does the cooking, somebody else does the cleaning, somebody else makes the beds. In the smaller setting the individual can try to do the cooking or help with it, learn how to vacuum the rugs, learn how to keep the place up, stretch themselves, and that in the long run is far better and gives pride to the individual.

It allows individuals who currently are living in the community, at home or in some other arrangement, to remain, thereby giving them and their families the support and the services they need.

Now, this proposal challenges the idea that long-term care services must be medically oriented. The thrust, as you notice, is not toward the medical side.

Now, each individual with cerebral palsy or Down's syndrome or spina bifida or any number of disabilities has medical needs which must be met. That is recognized. But just as important is the quality of life of the individual and the recognition of his or her potential for growth or productivity. It is time for State and Federal governments to help rather than to hinder those with disabilities in their attempts to achieve independence and productivity. My bill will make that possible.

The Medicaid Home and Community Quality Services Act is the product of 5 years of widespread public discussion. We first started this in 1982. We introduced the legislation in 1983 and again in the 99th Congress, which started in 1985. We have had three Finance Committee hearings on this. We have had countless seminars and forums. I myself have spoken across the country in connection with this legislation. This bill can and should pass the Congress this year, and I am committing my fullest efforts to seeing that that is achieved.

Mr. President, I ask unanimous consent that a summary of the bill and the bill itself be printed in the RECORD.

There being no objection, the bill and a summary were ordered to be printed in the RECORD, as follows:

S. 1673

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Home and Community Quality Services Act of 1987".

SEC. 2. DEFINITIONS.

Section 1905 of the Social Security Act is amended by adding at the end thereof the following new subsections:

"(r) INDIVIDUAL WITH A SEVERE DISABILITY.—

"(1) The term 'individual with a severe disability' means an individual who is under a disability within the meaning of section 1614(a)(3) of this Act, the onset of which occurred before the individual attained the age that applies with respect to a fiscal year (as determined under paragraph (2)).

"(2) For purposes of paragraph (1), the age that applies with respect to a fiscal year is the lesser of—

"(A) 22 plus the number of fiscal years after fiscal year 1986 and before the beginning of such fiscal year; and

"(B) 50.

"(s) COMMUNITY AND FAMILY SUPPORT SERVICES.—The term 'community and family support services' means supportive services made available to an individual with a severe disability (or to such individual's natural, adoptive, or foster family or spouse) to enable such individual to begin, resume, or continue living in a family home, foster family home, or community living facility. Such supportive services shall include both in-home and out-of-home services (as needed) from among those enumerated in section 1921(a)(2).

"(t) FAMILY HOME.—The term 'family home' means a residence maintained by an individual (whether or not disabled) or a couple, or by a natural or adoptive family, in which one or more individuals with a severe disability are living who receive medical assistance which includes payment for some services enumerated in section 1921(a)(2).

"(u) FOSTER FAMILY HOME.—The term 'foster family home' means a residence maintained by an individual or couple—

"(1) in which not more than three individuals with a severe disability are living, are provided surrogate family services, and receive medical assistance which includes payment for one or more services enumerated in section 1921(a)(2); and

"(2) that is under contract with an agency licensed or designated to place individuals with a severe disability in such residence.

"(v) COMMUNITY LIVING FACILITY.—

"(1) The term 'community living facility' means a single household, other than a family home or foster family home, composed of related or unrelated persons, which—

"(A) provides living arrangements and one or more of the services enumerated in section 1921(a)(2) to one or more individuals with a severe disability;

"(B) has a number of beds (exclusive of beds occupied by staff members) not in excess of the product obtained by multiplying by three the greater of—

"(i) the number of individuals in an average family household in the area in which such facility is located (as determined in accordance with data from the 1980 decennial census), or

"(ii) the number of individuals in an average family household in such area (as determined in accordance with any decennial census conducted after the 1980 decennial census);

"(C) is located in a neighborhood which—

"(i) is representative of residential neighborhoods in such area, and

"(ii) is populated primarily by individuals other than individuals with a severe disability;

"(D) meets such standards of safety and sanitation, and other standards relating to services provided by the facility, as are promulgated by the State;

"(E) meets the requirements of section 1861(j)(14) of this Act with respect to the personal funds of individuals residing in such facility; and

"(F) is staffed by individuals who (i) are trained or retrained in accordance with the provisions of the State implementation strategy (submitted to the Secretary under section 1921(c)(1)) by the State in which such facility is located, and (ii) in providing such living arrangements and services to individuals with a severe disability, cooperate with other providers and with appropriate case managers in implementing a written habilitation plan for each such individual.

"(2) A facility that—

"(A) is in operation on September 30, 1987;

"(B) does not increase its number of beds after such date (exclusive of beds occupied by staff members); and

"(C)(i) does not contain more than fifteen beds (exclusive of beds occupied by staff members), or

"(ii) consists of a cluster of two or three facilities in proximity to one another, each of which has no more than eight beds and which otherwise meets the requirements of paragraph (1);

shall be treated as a community living facility.

"(w) WRITTEN HABILITATION PLAN.—The term 'written habilitation plan' means a plan for medical assistance and other services for an individual with a severe disability which—

"(1) is developed by an interdisciplinary team consisting of—

"(A) such individual, persons requested to participate by the individual, and, when appropriate, the spouse, parent, guardian, other family member, or advocate of such individual, and

"(B) individuals who are representative of professional and other disciplines which are relevant to the habilitation of such individual, and have been involved in providing services to the individual or are likely to be involved in providing services to the individual (including the individuals responsible for providing case management services and case coordination services to the individual);

"(2) is based upon a comprehensive assessment of the strengths of the individual and the services and support necessary to—

"(A) enable such individual to attain or retain, to the greatest extent possible, capabilities for independence or self-care,

"(B) promote and increase interaction between disabled and nondisabled individuals within the community, and

"(C) in the case of any such individual who has attained the age of 18 and who is not engaged in supported employment (or other employment in an integrated employment environment), assess the services and support needed by the individual to engage in such forms of paid employment;

"(3) specifies—

"(A) the individuals responsible for providing services under the plan and the frequency and duration with respect to which such services are provided,

"(B) the particular objectives to be achieved with respect to an individual described in behavioral terms that provide measurable indices of performance,

"(C) the dates by which the particular objectives are to be achieved,

"(D) the services and program strategies for achieving the specific objectives, and

"(E) the priority with which the specific objectives are to be achieved; and

"(4) is reevaluated by such team at least once each year.

"(x) CASE MANAGEMENT SERVICES.—The term 'case management services' means, with respect to any individual with a severe disability, services rendered to such individual by a designated qualified individual who—

"(1) has a continuing relationship with such individual but who is neither associated with nor employed by (nor has any other conflict of interest with respect to) the community living facility, foster family home, family home, or any other provider of ongoing direct services to such individual;

"(2) coordinates and monitors the development and implementation of the written habilitation plan for such individual;

"(3) provides such individual (or such individual's spouse, parent, guardian, other family member, or advocate, as appropriate) with information about, and referral to, appropriate social, educational, vocational, medical, advocacy, or other services which are among or in addition to those for which payment may be made under this title;

"(4) provides assistance and serves as an advocate in procuring such services as necessary;

"(5) periodically reviews the changing needs of such individual and the appropriateness of the medical assistance and other services provided to such individual;

"(6) cooperates with personnel in school, employment related, habilitation, or treatment settings who have specific responsibilities for developing or implementing any individual education plan, plan of vocational services, plan of habilitation, or plan of treatment designed for such individual, so that all such plans are coordinated and complementary; and

"(7) is available to such individual or such individual's family for consultation or crisis intervention when required.

"(y) INDIVIDUAL AND FAMILY SUPPORT SERVICES.—The term 'individual and family support services' means—

"(1) those services provided to an individual with a severe disability which the individual's interdisciplinary team (described in subsection (w)(1)) determines are appropriate for carrying out those activities of daily living which the individual cannot perform for himself, including nonmedical personal assistance, attendant services, assistance in ambulating or transferring, limited domestic services, and assistance with assistive devices and communicative devices and aids; and

"(2) services provided to the family of an individual with a severe disability which the individual's interdisciplinary team determines are appropriate for assisting the family in providing services described in paragraph (1) to the individual, including respite care.

"(z) SPECIALIZED VOCATIONAL SERVICES.—

"(1) The term 'specialized vocational services' means services designed to enhance the independence, productivity, and integration of an individual with a severe disability, including—

"(A) prevocational services for such an individual whose earning capacity (as determined on the basis of a current vocational assessment or other objective measure of work performance) is less than 50 percent of the minimum wage established under section 14(c) of the Fair Labor Standards Act of 1938; and

"(B) supported employment services for such an individual for whom competitive employment—

"(i) has not traditionally occurred, or

"(ii) has been interrupted or intermittent as a result of such disability (and for whom ongoing support services are needed to perform such employment).

"(2) For purposes of paragraph (1)—

"(A) the term 'prevocational services' means services that are designed to assist an individual in acquiring and maintaining basic work and work-related skills necessary to acquire and retain work in an integrated work setting, which services shall include—

"(i) training the individual to follow directions, adapt to work routines, and carry out assigned duties in an effective and efficient manner,

"(ii) helping the individual to acquire appropriate attitudes and work habits, including instruction in socially-appropriate behaviors on and off the job site,

"(iii) assisting the individual to adjust to the productive and social demands of the work place,

"(iv) familiarizing the individual with job production and performance requirements,

"(v) providing transportation between the individual's place of residence and the workplace when other forms of transportation are unavailable or inaccessible,

"(vi) providing mobility training, including the utilization of public and para-transit systems,

"(vii) training the individual in the use of assistive devices and aids, and

"(viii) instructing individuals in appropriate use of job-related facilities (e.g., break areas, lunch rooms, cafeterias and rest rooms); and

"(B) the term 'supported employment services' means services designed to assist an individual in procuring and maintaining integrated, paid employment, which services shall include—

"(i) individualized assessment,

"(ii) individualized and group counseling,

"(iii) individualized job development and placement services that produce an appropriate job match for the individual and such individual's employer,

"(iv) on-the-job training in work and work-related skills required to perform the job,

"(v) ongoing supervision and monitoring of the individual's performance on the job,

"(vi) ongoing support services necessary to assure job retention,

"(vii) training in related skills essential to obtaining and retaining employment, such as the effective use of community resources and transportation,

"(viii) transportation between the individual's place of residence and the work place when other forms of transportation are unavailable or inaccessible, and

"(ix) adaptive equipment necessary to obtain and retain employment.

"(aa) HABILITATION SERVICES.—

"(1) Subject to paragraph (2), the term 'habilitation services' means those services (including specialized vocational services and educationally-related services) provided to an individual with a severe disability which the individual's interdisciplinary team (described in subsection (w)(1)) determines are appropriate in assisting the individual to acquire, retain, regain, or improve the self-help, socialization, decisionmaking, and adaptive skills necessary to achieve independence, productivity, and integration and to live successfully in home and community based settings.

"(2) The term 'habilitation services' does not include—

"(A) special education services (as defined in section 602(16) of the Education of the Handicapped Act) which otherwise are available to the individual through a local educational agency; and

"(B) vocational rehabilitation services which otherwise are provided to the individual through a program funded under section 110 or 633 of the Rehabilitation Act of 1973.

"(bb) CASE COORDINATION SERVICES.—The term 'case coordination services' means, with respect to any individual with a severe disability, services rendered to such individual by a designated qualified individual who—

"(1) is employed by an agency directly responsible for providing habilitation services to such individual; and

"(2) in cooperation with the individual responsible for providing case management services, is responsible for coordinating the agency's responsibilities for implementing such individual's written habilitation plan.

"(cc) EDUCATIONALLY-RELATED SERVICES.—The term 'educationally-related services' means, with respect to an individual with a severe disability who is eligible to receive services under parts B and H of the Education of the Handicapped Act, services covered as medical assistance under the State plan and required by such individual in order to receive a free appropriate public education (as defined in section 602(18) of such Act) or appropriate early intervention services (as defined in section 672(2) of such Act), including those services appropriate in assisting the individual to acquire, retain, regain, or improve the self-help, socialization, decisionmaking, and adaptive skills necessary to achieve independence, productivity and integration.

"(dd) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' means the systematic application of technology, engineering methodologies, or scientific principles to meet the needs and address the barriers confronted by an individual with a severe disability (including physical, sensory, and cognitive functional limitations in such areas as employment, recreation, independent living and other home and community living arrangements).0

"(ee) INDEPENDENCE, PRODUCTIVITY, AND INTEGRATION.—The terms 'independence', 'productivity', and 'integration' when used in reference to the provision of community and family support services under this title have the same meaning with respect to individuals with a severe disability as the meaning given to such terms with respect to persons with developmental disabilities in section 102 of Developmental Disabilities Assistance and Bill of Rights Act.".

SEC. 3. COMMUNITY AND FAMILY SUPPORT SERVICES FOR CERTAIN INDIVIDUALS WITH A SEVERE DISABILITY.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) of the Social Security Act is amended—

(1) by striking "and" at the end of paragraph (46);

(2) by striking the period at the end of paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46);

(3) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47); and

(4) by inserting after paragraph (48) the following new paragraph:

"(49) effective not later than the first day of the second fiscal year beginning after the

date of enactment of the Medicaid Home and Community Quality Services Act of 1987, provide that with respect to any individual with a severe disability who is entitled to medical assistance under such plan and who resides in a family home, foster family home, or community living facility, such assistance shall include an array of community and family support services which the State determines are appropriate, when combined with other medical assistance available under the plan and with other available resources, to assist in providing for the health, safety, and effective habilitation or rehabilitation of such individual, including at a minimum case management services, individual and family support services, specialized vocational services, and protective intervention.".

(b) INCLUSION AS MEDICAL ASSISTANCE.—Section 1905(a)(13) of such Act is amended by inserting before the semicolon at the end thereof the following: ", including community and family support services for individuals with a severe disability".

(c) SERVICES FOR INDIVIDUALS WITH A SEVERE DISABILITY.—Title XIX of such Act is amended—

(1) by redesignating section 1921 as section 1922; and

(2) by inserting after section 1920 the following new section:

"MEDICAL ASSISTANCE, HABILITATION, AND REHABILITATION FOR INDIVIDUALS WITH A SEVERE DISABILITY

"SEC. 1921. (a) COMMUNITY AND FAMILY SUPPORT SERVICES.—

"(1) For purposes of section 1903, amounts expended by a State under its State plan for community and family support services may be included as medical assistance if such services are provided—

"(A) to an individual with a severe disability residing in a family home, foster family home, or community living facility, and

"(B) in accordance with the individual's written habilitation plan.

"(2) The following types of services may be included as community and family support services:

"(A) Case management services (as defined in section 1905(x)).

"(B) Individual and family support services (as defined in section 1905(y)).

"(C) Specialized vocational services (as defined in section 1905(z)).

"(D) Protective intervention.

"(E) Habilitation services (as defined in section 1905(aa)).

"(F) Case coordination services (as defined in section 1905(bb)).

"(G) Educationally-related services (as defined in section 1905(cc)).

"(H) Periodic interdisciplinary diagnostic and assessment services.

"(I) Personal assistance and attendant care.

"(J) Domestic assistance necessitated by the individual's disability.

"(K) Services to enable the individual to improve or maintain functional capacities (including physical therapy, occupational therapy, speech and language pathology and audiology, respiratory therapy, and non-aversive behavior intervention therapy).

"(L) Prostheses, orthoses, supplies, appliances, adaptive equipment, communicative aids, and other functional assistive technologies and devices (including sensory aids) and rehabilitative technology services to evaluate, design, assemble, repair, and maintain such equipment, aids, assistive devices, and systems and to train the individual, family, and provider agency staff in their use.

"(M) Preventive and therapeutic dental services.

"(N) Design and necessary and reasonable adaptation or modification of equipment and vehicles, and of housing or other space, to be used by an individual with a severe disability.

"(O) Comprehensive outpatient rehabilitation facility services.

"(P) Purchase and maintenance of guide dogs and similar trained animals.

"(Q) Services (other than board, lodging, and basic foster care) provided to any individual with a severe disability by members of a family or household in which such individual is living.

"(R) Support services to families and caregivers, including specialized training and respite care in or out of the home or usual residence.

"(S) Special transportation services.

"(T) Homemaker and home health services.

"(U) Chore services.

"(V) Crisis intervention.

"(W) Personal guidance, supervision, counseling, representation, and advocacy.

"(X) Appropriate preventive services to decrease the needs of individuals with a severe disability for future services.

"(Y) Any other services identified by the State and approved by the Secretary as conforming with the purposes of this section.

"(3) The following services may not be included as community and family support services:

"(A) Room and board, other than room and board provided for less than six consecutive weeks and less than twelve weeks in a year as an integral but subordinate part of a service described in paragraph (2). However, auxiliary payments may be made as medical assistance to cover extraordinary costs of food or housing attributable to the disabling condition of a particular individual or individuals.

"(B) Any service for which payment is made under section 403 or 422 of this Act.

"(C) Cash payments as a service.

"(D) Aversive behavior intervention, management, or therapies.

"(E) Any service to any individual to the extent that the provider of the service or the individual receiving the service is eligible to receive payment under title XVIII with respect to the provision of the service.

"(F) Any educational service which the State makes generally available to its residents without cost and without regard to their income except for educationally-related services (as defined in section 1905(cc)).

"(G) Any service to any individual with a severe disability living in any hospital, skilled nursing facility, or intermediate care facility (including any such hospital or facility for mental diseases).

"(4) Amounts expended by the State or by a provider of services to administer the provision of community and family support services pursuant to this section shall be treated as administrative costs of the State plan.

"(b) SERVICES ARE IN ADDITION TO OTHER MEDICAL ASSISTANCE.—Community and family support services provided pursuant to this section shall be in addition to any other medical assistance for which an individual with a severe disability is otherwise eligible under the State plan.

"(c) STATE REQUIREMENTS.—In order to receive payment under section 1903 with respect to community and family support services provided under the State plan to any eligible individual with a severe disability, such plan shall provide that the State—

"(1) submit to the Secretary a State implementation strategy (as described in subsection (d)) that is annually reviewed and updated (as appropriate);

"(2) ensure that community living facilities are not unduly concentrated in any residential area (except as provided in section 1905(v)(2));

"(3) report to the Secretary on the implementation of the State's implementation strategy (submitted to the Secretary under paragraph (1)) in such form and with such frequency as the Secretary may prescribe and comply with the requests of the Secretary to correct or verify such report;

"(4) cooperate with the Secretary in carrying out the Secretary's responsibility (under section 11(d) of the Medicaid Home and Community Quality Services Act of 1987) to assess the State's compliance with its State implementation strategy (submitted to the Secretary under paragraph (1)), including making available to the Secretary such records as the Secretary may reasonably require to assess such compliance;

"(5) promulgate standards governing each element of community and family support services covered under its plan, monitor on an annual basis all providers of such services to assure that such providers comply with applicable standards, and take necessary steps to assure that such standards are promptly and effectively enforced;

"(6) meet the maintenance of effort requirement described in subsection (e);

"(7) safeguard the rights of all individuals with a severe disability who are participating in services for which payment is made under this title;

"(8) ensure that individuals with a severe disability are granted equal access to available community and family support services without regard to their place of residence or the nature or degree of their disability;

"(9) ensure that any individual with a severe disability for whom a public agency (or an agency under contract with a public agency) arranges a residential placement is placed in a foster family home or community living facility that is located as close to the home of the natural, adoptive, or foster family of the individual as is consistent with the best interests of the individual; and

"(10) ensure that in the case of any individual with a severe disability who has attained the age of 18 for whom a public agency (or an agency under contract with a public agency) arranges specialized vocational services for which payment is made under this title, priority will be given to providing such services in an integrated work environment.

"(d) STATE IMPLEMENTATION STRATEGY.—The State implementation strategy submitted to the Secretary under subsection (c)(1) shall—

"(1)(A) describe—

"(i) the extent and scope of community and family support services provided to individuals with a severe disability which are financed (in whole or in part) under—

"(I) the State's plan under this title,

"(II) other Federal or Federally-assisted State programs or social entitlement programs, and

"(III) non-Federal sources, and

"(ii) the extent and scope of services provided to individuals with a severe disability who are residing in a facility that is an acute care hospital, a skilled nursing facility, an intermediate care facility (including a

facility that is certified in accordance with section 1905(d)), a board and care facility, or other public or private facility having 16 or more beds and in which a significant number of recipients of supplemental security income benefits reside or are likely to reside, which are so financed;

"(B) set forth specific objectives and a projected schedule for expanding and improving community and family support services for individuals with a severe disability over the succeeding five-year period, which objectives shall outline the expansion in the number of individuals served and community and family support services provided and identify the extent to which such services will be financed under the State's plan under this title and from other funding sources;

"(C) in the case of any individual with a severe disability who is residing in a facility described in subparagraph (A)(ii), provide that—

"(i) the service needs of such individual and the types of services the individual would require if transferred to a family home, foster family home, or community living facility, are identified not later than 18 months after the date on which community and family support services are first covered under the State plan (and annually thereafter), and

"(ii) such individual and, as appropriate, such individual's spouse, parent, guardian, appropriate family member, or advocate, are afforded an opportunity to participate in the process under clause (i);

"(D) in the case of any individual with a severe disability who is residing in a skilled nursing facility or an intermediate care facility (other than a facility that is certified in accordance with section 1905(d)) and who is determined (in accordance with subparagraph (C)) to be in need of alternative residential placement, provide that (subject to subparagraph (F)) such individual is transfered from such facility not later than 40 months after the date on which the process described in subparagraph (C) is completed with respect to such individual;

"(E) set forth specific objectives and a projected schedule, over the succeeding five-year period, for transferring individuals with a severe disability (who are residing in a facility described in subparagraph (A)(ii) and are not transferred pursuant to subparagraph (D)) to more appropriate residential settings where they will be eligible to receive community and family support services;

"(F) provide that in transferring any individual with a severe disability from a facility described in subparagraph (A)(ii)—

"(i) such individual is transferred only to a facility or program that is capable of providing an appropriate array of community and family support services (or in the case of an individual transferred to a facility certified in accordance with section 1905(d), active treatment) consistent with such individual's written habilitation plan,

"(ii) priority is given to transferring such individual to a family home, foster family home, or community living facility (including a facility certified in accordance with section 1905(d) that either meets the size and locational requirements for a community living facility under section 1905(v)(1) or is treated as such a facility under section 1905(v)(2)),

"(iii) to the extent the services required by the individual are unavailable in the community in which such individual would otherwise reside, such individual is transferred to a facility certified under section 1905(d) that serves 16 or more individuals with a severe disability, and

"(iv) in the case of an individual transferred pursuant to subparagraph (D), during any period of time during which the individual is awaiting transfer the individual is furnished active treatment consistent with such individual's written habilitation plan; and

"(G) provide that prior to transfer of any individual with a severe disability from a skilled nursing facility, an intermediate care facility, or a board and care facility to a family home, foster family home, or community living facility deemed to be capable of meeting the individual's needs—

"(i) a community services transfer plan is developed through a process which—

"(I) identifies the specific community and family support services, as well as other services, that such individual will require and will have available when such individual is transferred to a family home, foster family home, or community living facility,

"(II) involves the interdisciplinary team (or other professional group) responsible for the written habilitation plan with respect to such individual while residing in the facility from which transfer is to be made, and the professional responsible for providing case management services and other appropriate professional personnel who are likely to be involved in providing services to the individual in the community, and

"(III) provides to the individual and, as appropriate, to such individual's spouse, parent, guardian, appropriate family member, or advocate, an opportunity to participate in developing such plan;

"(ii)(I) such individual and such individual's spouse, parent, guardian, appropriate family member, or advocate, are notified in writing at least 60 days before the date of any proposed transfer,

"(II) procedures are established for granting to such individual (or, as appropriate, to such indiivdual's spouse, parent, guardian, appropriate family member, or advocate) an opportunity for an appeal regarding the transfer plan developed under clause (i) with respect to the individual, and for a fair hearing before an impartial hearing officer designated by the State, on the grounds that the types of health related services, habilitation, rehabilitation, housing, or other services specified in the community services transfer plan developed with respect to such individual are inappropriate or inadequate, or a particular type of health related service, habilitation, rehabilitation, housing, or other service specified in such plan is not yet available in the area in which such individual will reside, and

"(III) if such individual initiates an appeal under subclause (II), the individual remains in the facility from which such individual is to be transferred pending the outcome of the appeal (unless protective intervention is determined to be necessary with respect to the individual);

"(2) provide that, not later than 18 months after the date on which community and family support services are first covered under the State plan, the State has in place a preadmission screening program (using criteria specified by the Secretary) to prevent the inappropriate placement of individuals with a severe disability in skilled nursing facilities and intermediate care facilities (other than facilities certified under section 1905(d));

"(3) set forth—

"(A)(i) the component parts of a comprehensive, integrated quality assurance system that affords individuals with a severe disability expanded opportunities for independence, productivity, and integration and which includes standards to govern the quality of each element of community and family support services covered under the State plan, as well as each class of residential facilities or living arrangements (except for a family home) in which a significant number of individuals with a severe disability reside, which standards assure that such services—

"(I) are based on timely assessments of the individual's needs and are organized systematically to assure optimal individual development, independent functioning, productivity, and community integration,

"(II) are furnished in accordance with the provisions of the individual's written habilitation plan and reflect the strengths of the individual and the services necessary to assist the individual to achieve more independent functioning with respect to health and physical development, receptive and expressive communication, cognitive learning, mobility, self-direction, socialization, leisure time, and vocational activities,

"(III) are provided in a manner that maximizes opportunities for and fosters the development of relationships between the individual and other members of the community (including individuals who are not disabled),

"(IV) are provided in the home or at school, a job site, or other community setting where existing and newly acquired skills can be put to practical use,

"(V) are designed to ensure that (if the individual resides in a community living facility) services, other than residentially-related services, are provided in settings other than the facility in which the individual resides (unless medically contra-indicated), and

"(VI) are designed to assist the individual to acquire the functional life skills necessary to enhance the capacity of the individual to achieve independent living, to integrate into the community, to increase productivity, and to socially interact with individuals who are not disabled;

"(ii) the methods and procedures to be used in instituting and maintaining the quality assurance system described in subparagraph (A), and

"(iii) the methods and procedures for—

"(I) providing the same opportunity for public input with respect to the standards developed under such system as exists under the State plan amendment process,

"(II) requiring review of such standards by the State Planning Council established under section 124 of the Developmental Disabilities Assistance and Bill of Rights Act and the protection and advocacy system established under section 142 of such Act, and

"(III) responding to any comments made by such Council, such protection and advocacy system, and the public with respect to such standards;

"(B)(i) a program for licensing and certifying all facilities and programs that provide community and family support services covered under the State plan, which program, at the option of the State, may include a requirement that a class or classes of facilities or programs are accredited by a national accrediting body that is designated by the Secretary, and

"(ii) a requirement that all physical structures (other than a family home) in which individuals with a severe disability reside, or in which community and family support services are provided, meet applicable State or local fire, safety, health, and sanitation

codes, and have interior and exterior features that are comparable to other residential structures in the surrounding neighborhood;

"(C) a system for conducting an annual independent, third-party evaluation of a cross-section of community and family support services provided under the State plan, which system shall include (at a minimum)—

"(i) an analysis and validation of client-based data,

"(ii) periodic visits to a statistically valid sample of agencies or individuals providing such services,

"(iii) an assessment (conducted with respect to a statistically valid sample of individuals with a severe disability and, where available, through the use of valid and reliable instruments) to determine the extent to which the services contribute to reduced dependency, enhanced opportunities to make choices, the acquisition of positive social behaviors, improved social integration and participation in community life, increased productivity, consumer satisfaction, the physical comfort of the individual and the attractiveness and appropriateness (in view of the individual's age) of such individual's living environment, and the achievement of the written goals and objectives set forth in the individual's written habilitation plan, and

"(iv) a summary of findings and recommendations with respect to needed changes in State laws and the administrative policies and practices of responsible State and local agencies (and any other provider of such services);

"(D) an annual assessment of consumer satisfaction with community and family support services provided under the State plan;

"(E) a program of periodic assessments of the adequacy of the physical and social environment of residential settings serving individuals with a severe disability conducted by a review body composed of parents, guardians, relatives, or neighbors of such individuals, except that—

"(i) the parents, guardians, and relatives of such individuals shall comprise a majority of the body,

"(ii) no member of the body shall be affiliated with the facility or home being reviewed or with any agency responsible for providing funds with respect to such facility or home, and

"(iii) no member of the body shall take part in an assessment with respect to any individual with a severe disability if such member is a parent, guardian, or relative of such individual;

"(F) a systematic methodology for assuring prompt correction of any deficiency identified with respect to the provision of community and family support services under the State plan, which methodology shall include—

"(i) a procedure under which the affected entity may appeal a determination that there is such a deficiency,

"(ii) a requirement that any such entity with respect to which a deficiency is identified submit a plan of correction to the appropriate State agency which sets forth a schedule for promptly eliminating the deficiency, and

"(iii) a program for providing training and technical assistance to assist such entity in eliminating a deficiency; and

"(G) a hierarchy of penalities with respect to any such entity that fails to comply with any standard promulgated pursuant to subparagraph (A) (including a penalty for terminating such entity's participation in the program under this title);

"(4)(A) in the case of individuals with a severe disability who are living in residential facilities which are not family homes, foster family homes, community living facilities, provide that—

"(i) admissions to such residential facilities are restricted through the use of community and family support services, and

"(ii) the service needs of any such individual are identified in accordance with paragraph (1)(C);

"(B) provide that alternate provisions are made for (and priority given to the development of) appropriate care (including basic maintenance if needed) and services for any individual with a severe disability eligible for medical assistance who has been living in a facility or institution which has been receiving payments for care, treatment, or maintenance of such individual under this title and which ceases to receive such payments, or ceases to provide such care and services to such individual, other than at the request of the individual or such individual's representative; and

"(C) set forth procedures for ensuring continuity of funding and the provision of services to an individual with a severe disability when an entity providing services to such individual for which payment is made under this title voluntarily discontinues operations or is terminated in accordance with paragraph (3)(G);

"(5)(A) provide that, as part of a plan to afford the public an adequate opportunity to comment on the State's implementation strategy (submitted to the Secretary under subsection (c)(1)) prior to when such strategy is submitted to the Secretary (or prior to each annual revision)—

"(i) copies of such strategy are distributed to individuals, agencies, and organizations in the State that are interested in the welfare of individuals with a severe disability,

"(ii) such individuals, agencies, and organizations are afforded not less than 45 days to comment on the strategy,

"(iii) public hearings are conducted on the contents of the strategy (and the date of any such hearing is published in general circulation newspapers across the State not less than 10 days prior to the hearing),

"(iv) the comments of the State Planning Council established under section 124 of the Developmental Disabilities Assistance and Bill of Rights Act and the protection and advocacy system established under section 142 of such Act are solicited, and

"(v) a summary of the comments received from the general public, such Council, and such protection and advocacy system, is prepared, indicating any revisions made as a result of such comments (or explaining why such revisions were not made);

"(B) set forth the methods and procedures to be used to ensure that, with respect to every organization or agency responsible for providing services to individuals with a severe disability for which any payment is made under this title—

"(i) each member of the staff of such organization or agency is fully qualified to perform any assigned duty and has received or will receive adequate and continuing training or retraining in the provision of services to such individuals sufficient to allow such member to remain informed of the latest developments in serving such individuals and to assist the organization or agency in correcting any deficiencies in the provision of community and family support services under this section,

"(ii) such agency or organization maintains written personnel policies, and

"(iii) such agency or organization has access to needed technical assistance services;

"(C) set forth the methods and procedures to ensure that any entity responsible for providing protective intervention services to an individual with a severe disability or to an individual who is (or except for such individual's income and resources would be) eligible to receive such services under this section—

"(i) has daily, 24-hour access to every organization or agency responsible for providing services to such an individual for which any payment is made under this title,

"(ii) is independent of each such organization or agency, and

"(iii) has the legal capacity to intervene on behalf of such an individual when necessary to protect such individual's rights;

"(D) set forth the methods by which training and needed technical assistance services are made available to natural, adoptive, and foster parents of individuals with a severe disability who are eligible for medical assistance;

"(E) set forth the methods by which protective intervention services are made available, as necessary, to any individual with a severe disability who is, or would except for such individual's income or resources be, eligible to receive services under this title;

"(F) set forth the steps by which the State ensures that each individual with a severe disability receiving community and family support services under the State plan has access to case management services which are provided—

"(i) by an entity that is organizationally independent of (and free of any conflict of interest with respect to) any entity furnishing ongoing direct services to individuals with a severe disability,

"(ii) with sufficient frequency and intensity to ensure that the objectives in an individual's written habilitation plan are achieved within the period of time specified in such plan, and

"(iii) by a trained individual with a caseload capability to visit each individual under such individual's responsibility not less than once a month;

"(G) provide that the State has in effect a management information system capable of collecting, storing, and retrieving data with respect to individuals with a severe disability who receive (or who are eligible to receive) community and family support services under this section, which system shall—

"(i) be based on information derived from an individual's written habilitation plan or from any other needs-assessment data source,

"(ii) provide client-based data with respect to the nature and extent of service needs, the type and duration of services provided, the cost and outcome of such services, and any gaps in available services, and

"(iii) use (where available) valid and reliable instruments for collecting such data;

"(H) set forth procedures for—

"(i) granting an opportunity for a timely appeal and a speedy hearing before an impartial hearing officer—

"(I) to any individual who believes himself to be inappropriately served or who is denied an appropriate service, or who is being scheduled for transfer (other than under the provisions of paragraph (1) of this subsection and other than on such individual's own initiative) from one living ar-

rangement (including such individual's own home) to another, or

"(II) as appropriate, to the individual's spouse, parent, guardian, appropriate family member, or advocate acting on such individual's behalf,

"(ii) giving written notice to affected parties at least 60 days before such proposed transfer except in an emergency, and

"(iii) advising individuals with severe disabilities, their families, and their advocates of available alternative arrangements and services, of the right to choose among available licensed or certified providers of services, and of the right to a fair hearing under section 1902(a)(3);

"(J) describe the methods to be used in administering community and family support services under the State plan, including—

"(i) the specific roles and responsibilities of—

"(I) specified State and local governmental agencies in establishing policies governing the provision of such services and in providing such services (either directly or under arrangements with other public or private entities),

"(II) the agency responsible for providing protection and advocacy in accordance with subsection (j), and

"(III) the community organizations and agencies responsible for providing such services, and

"(ii) the steps to be taken in recruiting and selecting such provider organizations and agencies;

"(K) set forth criteria to govern the use of psychotropic and anti-convulsant medications and behavior management techniques, as well as monitoring methods to be used to ensure compliance with such criteria;

"(L) set forth the methods by which the number and types of integrated work settings and the range of supportive services available to individuals with a severe disability who have attained the age of 18 are developed and expanded; and

"(M) set forth the methods to assure that the provision of specialized vocational services and educationally-related services under this title to individuals with a severe disability is coordinated (by use, where necessary, of interagency agreements) with the activities of responsible State and local vocational rehabilitation and educational agencies (and other agencies as appropriate); and

"(6) set forth methods and procedures to assure—

"(A) fair and equitable provisions (as determined by the Secretary in consultation with the Secretary of Labor) to protect the interests of public employees who will be affected by the transfer of individuals with a severe disability from public institutions, including public medical institutions, to community or family living facilities under the implementation strategy, and that maximum efforts will be made to provide for the employment of such employees, including arrangements designed to preserve employee rights and benefits and arrangements to provide (where necessary) for the training or retraining of such employees, and

"(B) application of fair employment standards and equitable compensation to workers in private programs and facilities offering care and services for which payments are made under this title.

"(e) STATE MAINTENANCE OF EFFORT.—

"(1) A State meets the maintenance of effort requirement of this subsection for any quarter in a fiscal year in which community and family support services are provided if for such quarter the total amount of the funds expended by the State (and political subdivisions thereof) from non-Federal funds for these services for eligible individuals with a severe disability is at least equal to the base amount, increased by the inflation factor that applies with respect to the fiscal year in which such services are provided.

"(2) For purposes of paragraph (1)—

"(A) the term 'base amount' means the average quarterly amount of the funds expended (during the four-quarter period ending September 30, 1987) by the State (and political subdivisions thereof) from non-Federal funds under the plan for services that are community and family support services; and

"(B) the inflation factor that applies with respect to the fiscal year in which such services are provided is the amount (expressed as a percentage) by which the Consumer Price Index for the third quarter of the fiscal year preceding such fiscal year exceeds the Consumer Price Index for the third quarter of the second fiscal year preceding such fiscal year.

"(f) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, review State plans approved by the Secretary pursuant to section 1902 in order to ensure the compliance of such plans with the provisions of this section and the Medicaid Home and Community Quality Services Act of 1987.

"(g) WAIVER OF STATEWIDE REQUIREMENT AND REQUIREMENT OF COMPARABILITY.—For any one three-year period, a State may provide any new service under this section without regard to the statewide requirement of section 1902(a)(1) or the requirement of section 1902(a)(10)(B).

"(h) WAIVER OF FREEDOM OF CHOICE REQUIREMENT.—A State may provide case management services under this section without regard to the requirement of section 1902(a)(23) to the extent that the State determines that waiving such requirement is necessary to the effective and efficient provision of such services.

"(i) STATE ADMINISTRATION.—The Governor of each State may assign the responsibility for performing specified management functions regarding services provided to individuals with a severe disability under this section to State agencies other than the agency administering the plan under this title.".

(d) INTERMEDIATE CARE FACILITY SERVICES IN AN INSTITUTION FOR THE MENTALLY RETARDED.—Section 1905(d) of the Social Security Act is amended—

(1) by striking out "a public" and inserting in lieu thereof "an";

(2) by striking out "and" at the end of paragraph (2); and

(3) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the individual needs of each newly admitted individual are ascertained by an interdisciplinary team within 30 days, and an individual written habilitation plan is developed for the individual, including an assessment of such indiivdual's needs for community and family support services; and

"(4) the institution, if not operated by the State, has a written agreement with an appropriate State agency to cooperate in carrying out the State implementation strategy required to be submitted to the Secretary under section 1921(c)(1).".

(e) CONFORMING AMENDMENTS.—Section 1903(a)(2) of the Social Security Act is amended—

(1) by inserting after "professional medical personnel" the following: "or personnel skilled in the delivery of community and family support services needed by individuals with a severe disability"; and

(2) by inserting after "other public agency" the following "or any agency under contract to the State to provide services under section 1921".

SEC. 4. LIMITATION ON PAYMENTS FOR SERVICES PROVIDED IN LARGE FACILITIES.

Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(w) LIMITATION ON PAYMENTS FOR SERVICES PROVIDED IN LARGE FACILITIES.—

"(1)(A) Except as provided in paragraph (2), effective for any fiscal year beginning after the date of the enactment of the Medicaid Home and Community Quality Services Act of 1987, the aggregate amount payable under this title to any State for any quarter beginning in such fiscal year for skilled nursing facility services and intermediate care facility services furnished to any individual described in subparagraph (C) in facilities having more than 15 beds shall not exceed 25 percent of the maximum expenditure amount determined with respect to the State under subparagraph (B) for such fiscal year.

"(B)(i) For purposes of subparagraph (A), the term 'maximum expenditure amount' means, with respect to a State for a fiscal year, an amount equal to the aggregate amount payable under this title to the State for the services described in subparagraph (A) for the fiscal year ending after the date of the enactment of the Medicaid Home and Community Quality Services Act of 1987, increased by the percentage (if any) by which CPI percentage increase for the fiscal year exceeds 6.0 percent (and by any amounts expended for the fiscal year for which payment would otherwise be made under this title that are attributable to the cost of implementing a plan of correction which includes a reduction plan approved under section 1919).

"(ii) For purposes of clause (i), the 'CPI percentage increase' for a fiscal year is the amount (expressed as a percentage) by which the Consumer Price Index for the third quarter of the fiscal year preceding such fiscal year exceeds the Consumer Price Index for the third quarter of the second fiscal year preceding such fiscal year.

"(C) An individual described in this subparagraph is an individual who—

"(i) is under the age of 65, and

"(ii) who is under a disability within the meaning of section 1614(a)(3) of this Act, the onset of which occurred before the individual attained the age of 22.

"(D) For purposes of applying this subsection, aggregate amounts paid under this title shall be determined without adjustments for amounts recovered from third parties considered as overpayments.

"(2) The limitation on payments in paragraph (1) shall not apply to any of the following payments for skilled nursing facility services or intermediate care facility services provided in a facility which unconditionally meets all requirements applicable to such type of facility (including appropriateness of admissions):

"(A) Payments for such services for individuals in a facility which meets the size and location requirements for a community living facility.

"(B) Payments for such services for individuals in a facility which is in operation on September 30, 1987, does not increase its number of beds after such date, and has no

more than 15 beds (exclusive of beds occupied by staff members).

"(C) Payments for such services for individuals in a facility treated as a community living facility under section 1905(v)(2).

SEC. 5. PROTECTION OF RIGHTS OF INDIVIDUALS WITH A SEVERE DISABILITY.

Section 1921 of the Social Security Act (as added by section 3(c) of this Act) is amended by adding at the end thereof the following new subsection:

"(j) PROTECTION OF RIGHTS.—

"(1) Subject to paragraph (3), in order to receive any payments for community and family support services provided under this section, the State must have in effect a system to protect and advocate those rights of individuals with a severe disability who are eligible for medical assistance which relate to the provision of such assistance.

"(2) Such system must be implemented by an agency which—

"(A) is independent of any agency which provides services to individuals with a severe disability under the State plan;

"(B) has the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of individuals with a severe disability who are eligible for medical assistance; and

"(C) has the authority to obtain access to records of individuals with a severe disability who are eligible for medical assistance in order to carry out such agency's duties under this subsection.

"(3)(A) In the case of a State that has in effect a system for providing protection and advocacy under part C of the Development Disabilities Assistance and Bill of Rights Act, such State shall take appropriate steps to ensure that such existing system is used to perform the protection and advocacy functions required by this section.

"(B) The State must provide assurances to the Secretary that the amounts paid to the State under this title that are attributable to the use of the system in effect under part C of such Act shall be used only for the purposes of providing protection and advocacy relating to the provision of medical assistance to individuals with a severe disability.

"(4) For purposes of section 1903(a)(1), amounts expended by the State under this subsection shall be treated as amounts expended as medical assistance under the State plan.".

SEC. 6. PRIVATE ENFORCEMENT.

Section 1921 of the Social Security Act (as added by section 3(c) of this Act and amended by section 5 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k) PRIVATE ENFORCEMENT.—

"(1)(A) Except as provided in paragraph (3), any person injured or adversely affected or aggrieved by a violation of this section, or of the Medicaid Home and Community Quality Services Act of 1987, by a State agency administering the State plan may bring an action to enjoin such violation.

"(B) An action brought under this paragraph shall be brought in the appropriate district court of the United States within the State in which such State plan is in operation.

"(C) The party bringing such action may elect, by so stating in the complaint filed at the commencement of such action, to recover reasonable attorney's fees and costs from the defendant in the event that such party prevails.

"(2) Not less than 15 days before commencing an action under this subsection, an interested party shall give notice by registered mail to the Secretary, the Attorney General of the United States, and the State agency administering the State plan alleged to be in violation of this section or of the Medicaid Home and Community Quality Services Act of 1987. Such notice shall state the nature of the alleged violation and the court in which such action will be brought.

"(3) The approval of the State plan under section 1902(b) shall not be a bar to the bringing of an action under this subsection, nor shall it constitute a defense to any such action.".

SEC. 7. RATES OF PAYMENT FOR SERVICES.

Section 1902(a)(13) of the Social Security Act is amended by striking out "and" at the end of subparagraph (D), by adding "and" at the end of subparagraph (E), and by adding at the end thereof the following new subparagraph:

"(F) for payment for community and family support services for individuals with a severe disability, described in section 1921 and provided under the plan, through the use of rates (determined in accordance with methods and standards developed by the State) which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to assure the provision of care and service in conformity with applicable State and Federal laws and regulations, and applicable quality and safety standards, and to assure that individuals with a severe disability eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time for family and friends) to community and family support services of adequate quality;".

SEC. 8. MEDICAID ELIGIBILITY OF CERTAIN INDIVIDUALS WITH A SEVERE DISABILITY.

(a) OPTIONAL ELIGIBILITY.—Section 1902 of the Social Security Act is amended by redesignating the subsection (l) added by section 3(b) of the Employment Opportunities for Disabled Americans Act as subsection (o) and by inserting after such subsection the following new subsection:

"(p) ELIGIBILITY OF CERTAIN INDIVIDUALS WITH A SEVERE DISABILITY.—

"(1) At the option of the State, any individual who has not attained the age of 19 and who—

"(A) qualifies as a disabled individual under section 1614(a),

"(B) as determined by the State, is an individual who requires (or whose family requires) community and family support services, and

"(C) if the individual were in a medical institution, would be an individual with respect to whom supplemental security benefits (or a State supplementary payment) could be paid under title XVI;

shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplementary payment, respectively, is being paid under title XVI.

"(2) A State electing the option under paragraph (1) shall set forth in its State plan and its State implementation strategy (submitted to the Secretary under section 1921(c)(1)) the criteria which the State will use in identifying eligible individuals or reasonable classifications of such individuals, and the extent of the services for which payment may be authorized under this subsection.".

(b) EXEMPTION FROM FAMILY INCOME LIMITATION.—Section 1903(f)(4) of such Act is amended—

(1) by adding "or" at the end of subparagraph (C); and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) who meets the requirements of section 1902(p),".

(c) UNIFORM INCOME STANDARD, AND EXPANDED ELIGIBILITY.—Section 1902(a)(10)(A)(ii) of such Act is amended—

(1) by inserting before the comma at the end of subclause (V) the following new matter: ": *Provided That* if the State establishes such a separate income standard for individuals who are in any medical institution, the State must establish the same separate income standard for all individuals with a severe disability,";

(2) by striking out "or" at the end of subclause (IX);

(3) by striking out the semicolon at the end of subclause (X) and inserting in lieu thereof ", or"; and

(4) by adding at the end thereof the following:

"(XI) who are disabled children or disabled spouses who, except for resources deemed to them, would be eligible for supplementary security income benefits under title XVI;".

(d) ELIGIBILITY OF DISABLED CHILD.—Section 1634(c)(1) of such Act is amended by striking out "the effective date of this subsection" and inserting in lieu thereof "January 1, 1957".

SEC. 9. REMOVAL OF CERTAIN LIMITATIONS ON REDUCTION AND CORRECTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

Section 1919 of the Social Security Act is amended—

(1) in subsection (d)—

(A) by striking "(d)(1)" and inserting in lieu thereof "(d)", and

(B) by striking paragraph (2); and

(2) by striking subsection (f).

SEC. 10. SPECIAL ELIGIBILITY EXCEPTION FOR INDIVIDUALS WITH A SEVERE DISABILITY.

Section 1902(f) of the Social Security Act is amended:

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

(2) by inserting "paragraph (2)," before "subsection (e)"; and

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

"(2) Notwithstanding paragraph (1), an individual with a severe disability receiving benefits under title XVI or deemed to receive such benefits under this title shall be entitled to receive medical assistance as long as such individual remains severely disabled and continues to receive benefits under title XVI or is deemed to receive benefits under this title.".

SEC. 11. RESPONSIBILITIES OF THE SECRETARY.

(a) ESTABLISHMENT OF A BUREAU OF DEVELOPMENTAL DISABILITIES SERVICES.—

(1) The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish, within the Health Care Financing Administration, a Bureau of Developmental Disabilities Services (referred to in this subsection as the 'Bureau'). The Bureau shall be the principal office in the Department of Health and Human Services for administering and carrying out programs under title XIX of the Social Security Act relating to the furnishing of quality services to individuals with a severe disability in order to promote their independence, productivity, and integration into the community, and to provide coordinated leadership, guidance, and support to assist States in developing such services.

(2) The Bureau shall be headed by a Director who shall be appointed by the Secretary in consultation with the Administrator of the Health Care Financing Administration. The position of Director shall be placed in Level IV of the Executive Schedule in section 5318 of title 5, United States Code and shall be designated a career reserved position in the Senior Executive Service. The Director shall have training and experience in the furnishing of services to individuals with developmental disabilities.

(3) The additional staffing of the Bureau shall be in sufficient numbers to meet program needs, and at levels which shall attract and maintain the most qualified personnel. Such personnel shall include individuals who have training and experience in the provision of services to individuals with developmental disabilities.

(4) The Bureau shall be established and staffed not later than 6 months after the date of enactment of this Act.

(5) The Bureau shall be responsible for—

(A) preparing all necessary regulations and other administrative policies governing the provision of services under sections 1921 (as added by this Act), 1905(d), and 1915(c) of the Social Security Act as such services relate to individuals with a severe disability;

(B) coordinating the activities of responsible regional office personnel related to the provision of services to individuals with a severe disability under titles XVIII and XIX of the Social Security Act;

(C) conducting periodic studies to determine the consistency, reliability, and validity of surveys of intermediate care facilities certified or requesting certification under section 1905(d) conducted under section 1902(a)(33)(B) of such Act (and, based on such studies, developing policies and procedures governing such surveys);

(D) preparing and issuing policies governing the conduct of utilization reviews under section 1902(a)(30)(A) of the Social Security Act, onsite inspections of care under section 1902(a)(31)(B) of such Act, and the preparation of professional review reports under section 1902(a)(31)(C) of such Act (as such reports pertain to care provided in facilities certified or requesting certification under section 1905(d) of such Act);

(E) advising the Administrator of the Health Care Financing Administration on all aspects of policies that may impact upon individuals with a severe disability and recommending (in consultation with such Administrator) policy initiatives and modifications necessary to improve services provided under titles XVIII and XIX of the Social Security Act in order to promote the independence, productivity, and integration of such individuals (as such terms are defined under section 1905(dd) of the Social Security Act);

(F) developing policies and procedures governing the conduct of periodic assessments of the status of individuals with a severe disability who are receiving services under any title of the Social Security Act;

(G) reviewing State compliance with the provisions of, and amendments made, by this Act in such periodic and random fashion as the Bureau deems necessary, making recommendations to the Secretary based on such reviews; and

(H) performing such other functions relating to the provision of services to individuals with a severe disability as the Secretary may assign (including any function related to a responsibility of the Secretary under subsection (b), (c), (d), or (e) of this section).

(b) TRAINING OF SURVEY PERSONNEL.—The Secretary shall—

(1) with respect to Federal and State personnel who perform surveys under sections 1902(a)(33)(B) and 1910(c)(1) of the Social Security Act of facilities that are certified under section 1905(d) of such Act—

(A) not later than 18 months after the date of enactment of this Act, develop a standardized curriculum for training such personnel which places particular emphasis on valid and reliable methods for assessing the provision of active treatment provided to residents of such facilities in accordance with standards prescribed by the Secretary;

(B) in accordance with the curriculum developed under subparagraph (A), design and initiate a comprehensive training program for such personnel which provides—

(i) initial training not later than 30 months after the date of enactment of this Act in the case of personnel assigned to survey such facilities on or before the date of enactment of this Act,

(ii) initial training not later than six months after the date on which personnel are assigned to survey such facilities in the case of personnel assigned to survey such facilities after the date of enactment of this Act, and

(iii) continuing education to such personnel at least every 36 months; and

(C) develop standards regarding the qualifications of such personnel, including a standard requiring that at least one member of any survey team be a qualified developmental disabilities professional (as defined by the Secretary);

(2) on the basis of a randomly selected sample of Federal and State surveys conducted, periodically conduct studies of the reliability of survey findings to determine the compliance of facilities certified under section 1905(d) of the Social Security Act with the standards prescribed by the Secretary under paragraph (1) of such section;

(3) make such changes in Federal regulations, administrative policies or procedures (or initiate such specialized training programs) as are—

(A) consistent with the findings of studies conducted under paragraph (2), and

(B) necessary to improve the reliability and consistency of survey findings and certification decisions with respect to facilities certified under section 1905(d); and

(4) with respect to Federal and State personnel who perform surveys regarding State compliance with the provisions of, and amendments made, by this Act, design and initiate a comprehensive training program for such personnel that provides for an amount of training at least equal to that described in paragraph (1)(B).

(c) DEVELOPMENT, TESTING, AND DISSEMINATION OF INSTRUMENTS AND STANDARDS.—

(1) Subject to paragraph (2), the Secretary shall support the development, field testing, and dissemination of—

(A) reliable and valid instruments to assess service outcomes in the provision of care and services under this Act, including outcomes in such areas as community integration, individual and family satisfaction, and the impact of environmental factors; and

(B) competency-based personnel standards with respect to every agency or organization involved in providing services to individuals with a severe disability for which any payment is made as a result of the amendments made by this Act.

(2) Nothing in paragraph (1) shall be construed to allow the Secretary to require that a State use a specific outcome indicator or personnel standard selected by the Secretary.

(d) ASSESSMENT OF STATE COMPLIANCE WITH STATE IMPLEMENTATION STRATEGY.—

(1) Beginning with the first fiscal year beginning after the date of enactment of this Act, the Secretary, after consultation with the Secretary of Education and study of any recommendations made by the Bureau of Developmental Disabilities under subsection (a)(5)(G), shall conduct an annual assessment of each State's—

(A) compliance with the provisions of section 1921(c) of the Social Security Act (as added by section 3(c) of this Act); and

(B) progress in carrying out its implementation strategy (required to be submitted under section 1921(c)(1) of such Act), including the steps taken to—

(i) expand the quantity and improve the quality of community and family support services;

(ii) develop essential support services necessary to maintain a responsive network of community and family support services (including the provision of training, technical assistance, and crisis intervention services); and

(iii) promulgate standards governing community and family support services and monitor compliance and take necessary steps to enforce such standards.

(2) The Secretary shall conduct annual assessments of the adequacy of the quality assurance components established by States under such implementation strategy. Such assessments shall include a review of community and family support services provided pursuant to such strategy and visits to community living facilities and entities providing such services.

(3) Nothing in this subsection shall be construed to require the approval of the Secretary of any State implementation strategy submitted under section 1921(c)(1) of the Social Security Act, if such strategy meets the requirements of section 1921(d) of such Act (as added by section 3(c) of this Act).

(e) REPORT.—Not later than January 15, 1992, and biennially thereafter, the Secretary shall submit a report to Congress that is based on the assessments, studies, and other activities conducted under subsections (b), (c), and (d) (and such other information as the Secretary may gather). Such report shall contain an analysis of the findings of such assessments, studies, and activities, a description of all relevant fiscal, programmatic, and demographic data, and recommendations regarding the need for any changes in Federal law.

(f) REGULATIONS.—

(1) Prior to the first fiscal year beginning after the date of enactment of this Act, the Secretary shall issue final regulations with respect to all amendments to the Social Security Act made by this Act, including regulations which govern the preparation, public review, distribution, and annual revision of the State implementation strategy (required to be submitted to the Secretary under section 1921(c)(1) of the Social Security Act, as added by section 3(c) of this Act).

(2) Nothing in this subsection shall be construed to authorize the Secretary to promulgate standards governing the provision of community and family support services.

(3) Nothing in this subsection shall be construed to prohibit payments under section 1903 of the Social Security Act prior to the issuance of regulations under this subsection to States which comply with the re-

quirements of the amendments made to the Social Security Act by this Act.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall apply with respect to fiscal years beginning after the date of enactment of this Act.

SUMMARY OF MEDICAID HOME AND COMMUNITY QUALITY SERVICES ACT OF 1987

ELIGIBILITY

Any individual who meets the state's means test; became disabled prior to age 22 and meets the federal SSI test of disability. The bill includes a provision to phase in, on an annual basis, individuals who become disabled after the age of 22.

SERVICES

The list of home and community based services outlined in the Community and Family Living Amendments of 1986 remains basically the same with some clarifications. These services will be eligible for full federal matching funds.

The legislation provides that the following services are mandatory—in other words, the states must provide them in order to receive Medicaid reimbursement:

Protective intervention services;

Case management;

Individual and family support services (such as respite care and attendent care); and

Specialized vocational services (designed to help disabled individuals learn job skills).

LIMITATIONS

The amount of federal dollars the state spends on intermediate care facilities for the mentally retarded (ICF/MR) will be frozen at the level of spending in the fiscal year preceding the enactment of the bill. In future years, states will receive increases in this amount only when inflation (as determined by the CPI) exceeds six percent in a given year.

ICF/MR and other residential facilities with less than fifteen individuals will be grandfathered—this means that the limitation will not apply to them. In addition, "cluster homes"—facilities which consist of three or fewer small homes with eight or less individuals per home which are located next to each other—are also grandfathered.

There will be no limitation on federal funds used for the community based services outlined in the legislation.

QUALITY AND MONITORING

The bill contains a detailed section on quality and monitoring provisions designed to ensure that the services provided in all residential settings are of high quality and are appropriate.

The bill also requires the Secretary of HHS to establish a Bureau of Developmental Disabilities Services which is designed to be the central office in HHS for administering and carrying out programs relating to individuals with disabilities.

PLANNING

Within two years of enactment, states will be required to amend their state Medicaid plan to comply with the provisions outlined in the legislation. The proposed plan must be available for public comment and must be reviewed by the state's Developmental Disabilities Council.

SECTION-BY-SECTION SUMMARY OF MEDICAID HOME AND COMMUNITY QUALITY SERVICES ACT OF 1987

Note: All dates referred to in this summary assume that the bill will be passed and signed into law between Nov. 1, 1987 and Dec. 31, 1987.

Section 1. Title.

Section 2. Definitions:

Individual with a severe disability: Any individual who meets the state's means test; became disabled prior to age 22 and meets the federal SSI test of disability. The bill includes a provision to phase in, on an annual basis, individuals who become disabled after the age of 22.

Community and Family Support Services: Services made available to an individual with a severe disability (or his or her family) to enable the individual to begin, resume or continue living in a family home, foster family home, or community living facility such services are outlined in the section allowing Medicaid to pay for them.

Family Home: A residence maintained by an individual, couple or a natural or adoptive family in which one or more individuals with a severe disability are living who receive community and family support services.

Foster Family Home: A residence maintained by an individual or couple in which not more than three individuals with a severe disability live and receive community and family support services and that is under contract with an agency licensed to place individuals with a severe disability in such residence.

Community Living Facility: A single household (not a family home or foster family home) composed of related or unrelated persons which:

(a) provides living arrangements and one or more community and family support services; has a number of beds not greater than three times the average family size in the area in which the facility is located; is located in a neighborhood which is representative of residential neighborhoods in such area and which is populated primarily by individuals other than individuals with a severe disability; meets such standards of safety and other standards relating to services provided by the facilities are developed by the state; is staffed by individuals who are trained and retrained according to later requirements in the act and who cooperate with appropriate case managers and other providers in implementing a written habilitation plan for each individual.

(b) A facility that is in operation on Sept. 30, 1987; does not increase its number of beds after such date; and which either does not contain more than 15 beds or consists of a cluster of two or three facilities in proximity to one another, each of which has no more than eight beds and which meets all of the other requirements outlined above, shall be deemed to be a community living facility.

Written Habilitation Plan: A plan for medical assistance and other services for an individual with a severe disability which:

(1) Is developed by an interdisciplinary team consisting of individuals requested to participate by the individual and the spouse, parent, guardian, other family member or advocate of such individual—where appropriate; individuals who are representative of professional and other disciplines which are relevant to the habilitation of such individual and have been or are likely to be involved in providing services to the individual;

(2) Is based on a comprehensive assessment of the strengths of the individual and the services and support necessary to enable such individual to attain or retain to the greatest extent possible capabilities for independence and to assess the services and support needed by the individual to engage in supported employment or other paid employment in an integrated employment environment;

(3) Specifies the individuals responsible for providing service under the plan and the frequency and duration with respect to which such services are provided; the objectives to be achieved with respect to an individual; the dates by which such objectives are to be achieved; program strategies for obtaining such objectives and the priority with which each objective is to be achieved;

(4) Is reevaluated by such team at least once a year.

Case Management Services: Defined page 8 of bill.

Individual and Family Support Services: Defined page 10 of bill.

Specialized Vocational Services: Defined page 10 of bill.

Habilitation Services: Defined page 14 of bill.

Case Coordination Services: Defined page 15 of bill.

Educationally Related Services: Defined page 15 of bill.

Independence, Productivity and Integration: Defined page 16 of bill.

Section 3. Community and Family Support Services for Certain Individuals with a Severe Disability:

This section requires each state to amend its state Medicaid plan by October 1, 1989. If a state does not amend its plan (in accordance with the requirements of all of the provisions in this Act), the state will lose all of its Medicaid funding. In addition, it requires the state to provide an array of community and family support services to eligible individuals—at a minimum the array must include: Protective intervention services; case management; individual and family support services; and specialized vocational services. These services are defined in Section Two.

PAYMENT FOR SERVICES

The section amends the Medicaid statute to treat community and family support services as medical assistance—thereby allowing federal matching funds to be provided to the states for such services.

The list of reimbursable services is: case management, individual and family support services, specialized vocational services, protective intervention, habilitation services, case coordination, educationally related services, occupational therapy, physical therapy, speech therapy, nonaversive behavior intervention therapy, diagnostic and assessment services, personal assistance and attendant care, homemaker and chore services, respite care, crisis intervention, specialized training for families and care givers, special transportation, personal guidance, supervision and representation, preventive services and such other services proposed by the state and approved by the Secretary.

Payment for this list of services will be made only to an individual with a severe disability who is living in a family home, foster family home or community living facility and in accordance with the individual's written habilitation plan.

The following services may not be included as community and family support services: Room and board (except in certain special situations), cash payments as a service, aversive behavior intervention, management or therapies; services provided in a skilled nursing home or intermediate care facility; and any services (such as education, hospi-

tal, vocational rehabilitation etc.) which the individual would normally receive under another title.

STATE REQUIREMENTS

A. In order to receive Medicaid funds for community and family support services, the state must make a series of assurances to the Secretary regarding the provision of such services in the state. These assurances include: reports to and cooperation with the Secretary; development of standards for individual and family support services which comport with principles outlined in the bill; development of a state implementation strategy for community services; maintenance of effort for state expenditures; safeguarding of rights of eligible individuals; equality of access to services regardless of the severity of disability or place of residence; residential services near the individual's family home; and planning for specialized vocational services in integrated environments. The Secretary must review these assurances to ensure that they are in compliance with the requirements of the Act.

B. The implementation strategy referred to above is a five-year plan (updated annually) which the state is required to develop with public participation and comment. The bill outlines the issues that must be addressed in the implementation strategy in great detail. They include the following: strategy for expanding community services and identifying the dollars required; methods for administering community services for those living at home or in other non-institutional settings; methods to protect employees affected by movement of disabled individuals from institutions; appropriate placement of individuals currently living in nursing homes; education, training and retraining of all staff; methods to track individual and system development/progress; due process safeguards for parents and individuals; standards governing the operation and provision of community and family support services; monitoring and quality review. The Secretary has authority to review the implementation strategy; however, only to the extent of determining whether the elements of the strategy meet the requirements of the Act.

WAIVER OF STATEWIDENESS

States are allowed to provide any new community and family support service for up to three years without meeting the Medicaid requirements for statewideness and comparability. After the three year period if the state wishes to continue to provide the services it must do so on a statewide basis and the service must be comparable in all parts of the state. This provision also applies to the mandatory services—in effect, it means that states will three years after their state plan is amended to provide the four mandatory services on a statewide basis.

Section 4. Limitations on Payments for Services Provided in Large Facilities:

Beginning on October 1, 1988 the amount payable to any state under the Medicaid program for skilled nursing facility services and intermediate care facility services furnished to any individual who is under the age of 65 and who is under a disability within the meaning of SSI and the age of onset of such disability occurred before the individual reached the age of 22 in facilities having more than 15 beds shall not exceed the amount the state received for such services in such facilities between October 1, 1987 and October 1, 1988.

States will receive an increase in such funds only in a fiscal year in which the rate of inflation (as determined by the CPI) exceeds 6 percent—the increase will be equal to the difference between 6 percent and the inflation rate at that time.

The limitation will not apply to ICF/MR facilities which meet the size and location requirements for a community living facility; grandfathered facilities; and payments for services for an individual in a facility treated as a community living facility.

Section 5. Protection of Rights of Individuals with A Severe Disability:

The state is required to have a system in effect which is designed to protect and advocate those rights of individuals with severe disability who are eligible for medical assistance which relate to the provision of such assistance.

The services provided by this system for individuals with a severe disability will be eligible for matching funds through the Medicaid program.

Section 6. Private Enforcement:

This section gives private individuals the legal right to bring an action based on this Act.

Section 7. Rates of Payment:

Allows the states to set rates of payments for services outlined under the Act.

Section 8. Eligibility of Certain Individuals with a Severe Disability:

This section deals with some of the common problems associated with the issue of deeming of partental income to individuals with severe disabilities.

Requires the states to treat parental income for individuals living in institutions in the same way as individuals living in community living arrangements.

Allows states, at their option, to deem children under the age of 19 who are living at home, to be eligible regardless of parental income.

Section 11. Responsibilities of the Secretary

ESTABLISHMENT OF A BUREAU OF DEVELOPMENTAL DISABILITIES

The Secretary is required to establish (within HCFA) a Bureau of Developmental Disabilities. The section deals with how such a Bureau should be set up and what its responsibilities should be. The intent of the provision is to create a central organization within HCFA to deal with services provided to individuals with developmental disabilities under the Medicaid program and to ensure that there is input from experts in this area into Secretarial decisions regarding Medicaid funding for these individuals.

TRAINING OF SURVEY PERSONNEL

The Secretary is required to set up education, training and retraining requirements for those who conduct look-behinds and survey state services for individuals with developmental disabilities.

ASSESSMENT OF STATE COMPLIANCE WITH STATE IMPLEMENTATION STRATEGY

The Secretary is requried to make annual assessments of each state's compliance with its state plan amendment.

REGULATIONS

The Secretary is required to issue final regulations by October 1, 1988.

Section 12. Effective Date: October 1, 1988.

Mr. CHAFEE. Mr. President, I conclude by reading a letter directed to me by the Consortium For Citizens With Developmental Disabilities.

SEPTEMBER 10, 1987.

Hon. JOHN CHAFEE,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR CHAFEE: On behalf of the undersigned members of the Consortium for Citizens with Developmental Disabilities (CCDD), we wish to express our wholehearted support for your efforts to enact Medicaid long term care reform legislation for persons with developmental disabilities. In particular, we applaud your forthcoming introduction of the "Medicaid Home and Community Quality Services Act".

You have succeeded in bringing forth a bill which represents a consensus effort to address the many concerns regarding Medicaid-funded services for people with developmental disabilities which have surfaced furing the previous discussions of the Community and Family Living Amendments.

That was the prior bill. We have changed the name.

The bill would achieve a long-overdue refocusing of Medicaid long term care services by reducing the "institutional bias".

And clearly there has been a bias—

of current law and by allowing states to provide quality Medicaid reimburseable services to persons living with their families, in their own homes, or in community-based family-scale environments. Many of the undersigned organizations believe the bill is the most significant legislative effort on behalf of persons with developmental disabilities since P.L. 94-142, the Education for All Handicapped Children Act (which gave children the right to a free, appropriate public education).

I must say that is a very significant statement, to say that this bill is the most significant legislative effort since that monumental achievement 94-142.

We look forward to working with you to enact the bill during the 100th Congress.

Sincerely,

Robert Gettings, National Association of State Mental Retardation Program Directors; Martha Ford, Association for Retarded Citizens; Allan Bergman, United Cerebral Palsy Associations, Inc.

This is a list of the groups that make up the Consortium For Citizens With Developmental Disabilities: American Academy of Pediatrics, American Association of University Affiliated Programs, American Association of Mental Deficiency, Association for Retarded Citizens of the United States, Center for Law and Social Policy, Council for Exceptional Children, Epilepsy Foundation of America, Mental Health Law Project, National Association of Developmental Disabilities Councils, National Association of Protection and Advocacy Systems, National Association of Rehabilitation Facilities, National Association of State Mental Health Program Directors, National Association of State Mental Retardation Program Directors, National Down's Syndrome Congress, National Easter Seal Society, National Head Injury Foundation, National Mental Health Association, National Therapeutic Recreation Society, the Association for Persons with Severe Handi-

caps, United Cerebral Palsy Organizations, Inc.

Mr. RIEGLE. Mr. President, I want to add a comment to the comments that have been made by the Senator from Rhode Island.

Clearly, there are gaps in our Medicare and Medicaid coverage with regard to home health care, which are enormous problems facing this country.

In the last few months, I have been conducting Budget Committee hearings in the State of Michigan. We have now had six public hearings on the issue of health insurance coverage, particularly for catastrophic health costs. What we have found in those meetings across the State of Michigan is, first of all, tremendous public interest in this subject. We have found a scale of the problem that has gone beyond anything that is generally perceived today in terms of the enormous difficulty facing senior citizens, on the one hand, as well as families and individuals of all ages with respect to catastrophic illnesses that strike, that go beyond the scope any kind of protections provided by private or public insurance presently available.

The proposal we have been dealing within the Senate Finance Committee to extend Medicare coverage is an important step to deal with acute illnesses that tend to require hospitalization.

President Reagan and Secretary Bowen have come forward with their proposal, and I think they deserve commendation.

Mr. President, while the proposal we are developing in Congress now is a response to the President's expansion of Medicare, and we have reported that measure out of the Finance Committee, we still have a long way to go before that particular extension of coverage becomes law.

Beyond that, what I have found in the hearings in Michigan indicates to me that there is an enormous unmet need of the kind the Senator from Rhode Island has spoken about today. That affects the area of what is called long term care such as home health care and nursing home care.

Many people today, particularly those moving into the senior citizen group, are of the belief that the Medicare Program will help them if there is a chronic illness that requires extended home health care or nursing home care. The fact is that the Medicare Program basically provides very little help for those kinds of needs, and over a period of time provides no help at all. So if a husband or a wife requires bed rest and could stay at home, there is no coverage today that takes up those costs.

What happens is that individuals are exhausting themselves financially and physically, absent any other help.

What we have found in the hearings in the State of Michigan is that often lawyers are counseling senior citizens in situations where one member of the marriage is chronically ill and the other still has his or her health, that perhaps they should divorce in order for the one person to be able to retain the house they live in. The alternative would be to exhaust their assets, go on welfare and qualfiy for Medicaid to get assistance to pay for the bills which are incurred for the member of that marriage who is chronically ill, essentially impoverishing the healthy spouse.

That is how extreme this problem has become and how insulting and demeaning it is to individuals to find themselves in this situation, with chronic health burdens of the kind they cannot finance.

The figures on the cost of putting somebody in a nursing home today average $22,000 a year. It is higher in some places, and in some places it is virtually impossible to get into an adequate nursing home close to where a person's home might be. At a cost of $22,000 a year, it does not take long before savings are exhausted. There are more humane and more thoughtful ways to provide this such as through a broad national insurance system. I am open, and I think we should keep open, as to how that new system is financed. If we were to have in place a broad national insurance system, perhaps public in part and private in part, we could have a situation where each person, for a modest amount of money, could be protected against these extreme health costs, whether they hit senior citizens or hit families of younger ages.

I just had a health hearing in Marquette, MI, where a young woman came in whose husband was injured in an automobile accident about a year and a half ago. He suffered a traumatic brain injury. Their bills, over roughly a year and a half, have been $800,000. Bills of these kinds, which are occurring in more situations, in families of all ages, go so far beyond the capacity of the average family unit or extended family unit to cope with them that we need an intelligent insurance system to provide protection, so that when those huge expenses strike, we do not see lives destroyed, with people's lives broken apart because of circumstances beyond their control. We should have a way to meet those expenses so that when people have those expenses, coverage is there. That is the way an intelligent nation should work. That is why we have a National Government, to think about how to band together and solve certain problems.

In the city of Warren, we had over 1,200 people come out at 10 o'clock in the morning on a week day—every seat in the Ukrainian Cultural Center was filled—because of the enormous interest and size of this problem.

In Marquette, we had over 350 people show up on a weekday to talk about this problem, to ask about some kind of national response to deal with it.

If people can be given the care they need in their own home setting or even if they have to go into a nursing home, those are far less expensive ways to cope with those problems than requiring that a person go into a hospital, where often the cost can be several hundred dollars a day, often several thousand dollars. If the Government does not do something to provide care appropriate to the scale of a particular medical problem, we will end up spending far more than is necessary. The time has come to deal with this.

Though none of them is in the Chamber at this time, I urge the Presidential candidates of both parties to take up the issue of national health care for senior citizens and families of all ages and bring that issue forward. That is what national campaigns are about—to address national issues that require unified action.

In the case of extraordinary health costs, whether for somebody in the hospital or requiring nursing home care or home care, the costs are beyond the means of all but a handful of American people. The problem is that most of this is being borne essentially by what we think of as the middle class. Those individuals with great wealth can afford the help they need, and it is fortunate for them that they can. Those who exhaust all their resources to qualify for welfare and medical aid receive assistance. It is the people in the middle, the middle class of this country—working people, by and large—who are at risk today, who are essentially unprotected from costs of this sort. Those illnesses can strike at any time, can strike any individual in any family at any time.

I have seen hundreds of cases in Michigan of people in their twenties, thirties, forties, and fifties who have been stricken in their family or individually by illnesses of this kind that created enormous expenses for the family involved, just as I have seen literally hundreds of cases of senior citizens who have been stricken with illnesses—either acute illness like heart attack or stroke, or a long-term disabling illness, like any of the dementia-type problems, Alzheimer's and things of that kind—and we are finding increasingly that these people are being absolutely devastated.

I will just make one additional comment. The airplane that crashed recently in Detroit, the terrible airplane accident that happened where we lost so many people, was a profound tragedy. It was the second-worst plane crash in aviation history in our country. In the rescue squad that arrived

on the scene literally seconds after the plane crashed—and the whole site of the crash was a flash—was a group of workers who rushed in at great risk to their own safety. They looked to see if they could find survivors in the plane crash, and, miracle of miracles, they found the little girl everybody has read and heard about, who is in the hospital now recovering from her injury, the only survivor of that flight. The only reason she survived is because other Americans, who did not know she was there, put themselves at risk to go in that situation to see if someone was there. She lives today for that reason.

That is what we are about as a country. We are prepared to help each other, prepared to go to the scene of an accident, if you will, and help the other person, whether we know them or not, have connections with them or not.

We need to think that very same way with respect to catastrophic health illness. We have to go into these situations where these accidents happen, accidents of chance, accidents of fate, accidents of bad health, sometimes actual physical accidents of a car wreck or motorcycle wreck, or whatever it is, where people are put in a situation where lives are being absolutely torn apart. We ought to have in place some kind of sensible insurance system that responds to health needs and costs in these cases and help these people put their lives back together.

That is what we are doing with this little 4-year old girl today in the university hospital in Michigan and what we have to be prepared to do for citizens across our land who are being hit in other kind of circumstances and ways that are almost as devastating and certainly in financial and physical terms are as devastating as those that she has faced.

I hope we will respond. I think the time to begin this debate is now and, as I say, I hope it will become a centerpiece of the Presidential campaign in 1988.

I yield the floor.

Mr. LEAHY. Mr. President, I am very pleased to be an original cosponsor of this legislation which will improve and reform the system of care of those with severe mental and physical impairments.

This bill will help families to stay together and gives States the opportunity to provide community and in-home care, in addition to already established institutional care.

Earlier versions of this legislation created concerns among some parents groups, caregivers and others that residents might be inappropriately forced from current care situations, and that operating institutions would lose needed financial support.

Senator CHAFEE listened to these concerns. Additional hearings were held resulting in an amended bill that now protects those who require care in an institutional facility while making it possible for people to remain at home or live in more appropriate settings.

Under this bill States can now provide an array of community family support services, rather than just institutional care. This will be an enormous help toward keeping families together, giving people a greater opportunity to become independent, and keeping disabled persons in the community.

The bill also includes strong quality and monitoring requirements designed to ensure high quality services.

I want to express my appreciation and admiration to Senator CHAFEE for his perseverance in developing this enlightened legislation. I am proud to associate myself with the Medicaid Home and Community Quality Services Act and look forward to its swift passage.

Mr. ARMSTRONG. Mr. President, I am pleased to join with the Senator from Rhode Island [Mr. CHAFEE] in cosponsoring the Medicaid Home and Community Quality Services Act of 1987.

In the years ahead, this bill may be viewed as a historic proposal in the evolution of policy for the developmentally disabled. For over a decade, care for the developmentally disabled has gradually shifted from institutions to community-based settings. This legislation recognizes the inevitability of that trend and seeks to encourage it. It reduces the present bias in Medicaid funding for institutional care and, for the first time, mandates Medicaid coverage of at least four community services for retarded citizens.

Community care has helped retarded citizens achieve their greatest human potential through the development of friendships and community contacts. Indeed, community living is not just a kind of care but the very goal of policies to assist retarded citizens.

Community living is, of course, something most of us take for granted. We find it easy to make friends, develop relationships through schools and churches, and live in a comfortable family setting. For retarded citizens, all of this can be a great challenge, made more difficult when there is little alternative to separation in institutions. Institutions certainly try to provide good care, but institutions can mean a lonely and dependent existence. This legislation will establish a better choice.

Mr. President, I am proud to note that the State of Colorado has been a pioneer in the effort to provide community care for retarded citizens. Over the last 10 years, the percentage of individuals in institutions in Colorado has declined significantly. Colorado has also made extensive use of limited Federal funds for community care through the existing Medicaid waiver option. This legislation will expand horizons even further, in Colorado and elsewhere.

Mr. President, I do not routinely sponsor proposals to expand Federal programs. But this is a cause far more worthy than dozens of other Federal programs I would gladly do away with. Those who will benefit are among the most deserving of our citizens: retarded individuals with minimal resources. The legislation is intended to help them become successful and independent members of their communities, and less dependent on institutions and government aid.

Finally, Mr. President, let me acknowledge the outstanding efforts of Senator CHAFEE in crafting this proposal. He has worked on it for several years and stands as one of the great champions of the developmentally disabled in the Senate. I am pleased to join with him in this effort.

Mr. HARKIN. Mr. President, I am pleased to be an original cosponsor of the Home and Community Quality Services Act of 1987. The bill has two major purposes. First, the bill amends the Medicaid legislation to eliminate the current bias in the program. That bias leads to the funding of services for persons with severe handicaps in large institutions. This bill ensures that States will also make services available to persons with severe handicaps in community-based programs. Second, the bill ensures that services provided in all institutional and community-based settings are of high quality and appropriate.

This bill is a bipartisan effort. It reflects months of discussion. It was developed with the help of the disability community, including parents, disability organizations, and professional groups.

This bill updates the Medicaid legislation to reflect current congressional policy governing the provision of services to persons with severe disabilities. Last year, the Congress unanimously passed three landmark pieces of legislation affecting persons with handicaps: The Education of the Handicapped Act Amendments of 1986, Public Law 99-457; the Rehabilitation Act Amendments of 1986, Public Law 99-506, and the Handicapped Children's Protection Act, Public Law 99-372. This year the Senate unanimously passed a bill which I sponsored, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 (S. 1417).

These four pieces of legislation were developed in the Senate by the Subcommittee on the Handicapped, which I now chair and which was chaired during the 99th Congress by Senator

WEICKER. In each case, the same principles guided congressional action.

First. Persons with severe disabilities have competencies, capabilities, and personal needs and preferences in addition to limitations. These strengths and preferences, not only an individual's functional limitations, should guide decisions affecting such persons.

Second. The provision of early intervention services to infants and toddlers with handicaps can minimize their potential for developmental delay, reduce costs to society, and reduce the likelihood of institutionalization.

Third. The family and members of the community can play a central role in enhancing the lives of persons with severe handicaps.

Fourth. Persons with severe handicaps must be provided the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

Fifth. Many persons with severe handicaps can be engaged in competitive work in integrated work settings if provided with ongoing support services.

Sixth. Persons with severe handicaps are entitled to services that are of high quality and appropriate to addressing their unique needs and to procedural due process.

In sum, these principles maximize the likelihood that persons with severe handicaps will lead independent, productive lives in integrated settings. The Home and Community Quality Services Act of 1987 subscribes to these principles and embodies provisions that help assure that these principles are carried out. And it does so in carefully measured ways.

Sections 3, 5, and 6 of the bill ensure that clients receive the services to which they are entitled and that their rights are not abridged. It does this by requiring the States to provide protective intervention services, case management, and protection and advocacy services and by creating a private right of action.

Consistent with the principle of enhancing the employment opportunities of persons with severe disabilities, sections 2 and 3 entitle a person with a disability to an individualized habilitation plan. The plan is designed to provide services to enhance the person's independence and, where appropriate, supported employment in integrated work settings. The bill also requires States to provide specialized vocational services.

To maximize the opportunities for persons with disabilities to exert control and power over their own lives, this bill assures that the person's individualized habilitation plan will include the participation of the person and of people chosen by the person, to be part of the team that develops the plan.

To increase the integration of people with disabilities into society, this bill emphasizes the delivery of services, the residential placement, and the employment opportunities of people with disabilities in integrated settings.

To assure that services are delivered at the highest possible level of quality, this bill contains quality assurance provisions and a proper Federal-State partnership in developing, implementing, and overseeing the implementation of quality-assurance provisions. As the sponsor of S. 1417, which stresses quality assurances, and as one who has asked the General Accounting Office to investigate how the Medicaid look-behind process is working in region 7 of the Health Care Financing Administration, Department of Health and Human Services, I am particularly pleased that there are quality-assurance provisions in this bill.

I am keenly aware that the families of individuals with disabilities, no less than disabled people themselves, require support. Accordingly, I am delighted that this bill provides for an individualized habilitation plan that includes services for families and that it also requires that States furnish family support services.

There is merit to certain aspects of existing service-delivery programs. We should not precipitously dismantle all of the service delivery systems that the Federal Government and the States have created over the years. That is why I am able to support this bill, for it provides for a staged implementation of its provisions, a freeze instead of a phaseout of Federal funding of large ICF-MR facilities, a grandfathering of small and clustered facilities, and provisions for the retraining of the dedicated staff who work in the facilities whose Federal funding will be frozen or whose size is not sufficiently family-like.

Surely this bill will engender much informed and spirited debate. But the very fact that it is consistent with current congressional policy affecting persons with severe disabilities, has received the endorsement of a large number of leading advocacy, consumer, and professional organizations, and represents a highly sensitive response to the concerns raised by some people during the last 4 years as Senator CHAFEE's Community and Family Living Act Amendments were debated, gives me great hope that this bill will pass during this session of this Congress.

I am wholly satisfied with the principles of this bill and with the care it gives to the rights and needs of people with disabilities and their families, to the moderate approach it takes to Federal-State relationships, to the deference it pays to the wholesome aspects of existing service-delivery programs, and to the opportunities it offers, at long last, for people with disabilities and their families to live more independent, productive, and integrated lives.

This bill opens doors that never should have been shut. Together with the provisions of S. 1417, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, and Public Law 99-457, Public Law 99-506, and Public Law 99-372, this bill says to those citizens who have disabilities and to their families that we value them and that we will treat them as we ourselves would want to be treated if we were in their shoes.

Mr. MITCHELL. Mr. President, I am pleased to join with my colleague from Rhode Island, Senator CHAFEE, in cosponsoring the Medicaid Home and Community Quality Services Act of 1987. I commend Senator CHAFEE for his diligent work on this legislation and for his commitment to improve the quality for the developmentally disabled in our country.

This bill will assist States in providing expanded home and community-based facilities for the developmentally disabled, a concept which has been enthusiastically supported in my home State of Maine for a number of years.

Last year, the Subcommittee on Health held a hearing to examine Medicaid financing of services for developmentally disabled persons. At the hearing, witnesses expressed their concerns about the Medicaid Program's lack of flexibility in funding which would allow States to expand home and community-based living situations for the developmentally disabled.

Medicaid is the primary Federal program providing States with funding for long-term care for the disabled. Under current law, most of these funds are channeled to large institutions, only a limited amount is available for small home and community-based facilities.

As understanding of the capabilities and needs of the developmentally disabled have changed in recent years, it has become apparent that traditional long-term care services provided in large institutions are no longer appropriate for the majority of disabled persons.

The Medicaid Home and Community Quality Services Act of 1987 is intended to restructure the Medicaid Program to better meet the needs of the developmentally disabled, while promoting greater independence and productivity for these citizens.

The bill freezes the amount of Medicaid funding States are allocated for large intermediate care facilities for the mentally retarded at the level of spending in the fiscal year preceding enactment. In future years, States will receive increases in this amount only

when inflation exceeds 6 percent per year.

Eligibility for funding will be determined by a State's means test and will include persons who became disabled before age 22. The bill also includes an important provision to phase in, on an annual basis, individuals who become disabled after age 22. This will begin to address the critical need for long-term care for young adults who become disabled with spinal cord and head injuries.

The bill mandates a number of services States must provide in order to receive Medicaid reimbursement. These services include protective intervention, case management, individual and family support services and specialized vocational services.

I am particularly pleased that the bill includes quality and monitoring provisions designed to ensure that services provided in all facilities serving the disabled are appropriate and of high quality. The attention to the quality of care provided should be our highest priority when examining the programs which serve the most frail members of our society.

Many States, including Maine and Rhode Island, have developed a system of home and community-based care for the developmentally disabled which has proven to be highly successful and widely supported by the disabled and their families. Passage of this legislation will support those efforts and encourage other States to develop similar models.

This legislation has been carefully developed over a long period of time, taking into account the needs and concerns of the developmentally disabled and their families. It is an important step toward reforming the Medicaid Program to better meet the needs of this population and to encourage their independence and productivity.

I urge my colleagues to join me in supporting this important reform.

Mr. WEICKER. Mr. President, I rise today with my colleague from Rhode Island, Senator CHAFEE, to introduce the Medicaid Home and Community Quality Services Act of 1987. This legislation will restructure the current system of funding Medicaid services for people with severe disabilities in order to increase their independence, productivity, and integration into the community. Further, it will replace the current fragmented leadership on disability issues within the Federal Medicaid bureaucracy with a centralized unit that will oversee Medicaid disability policy and ensure the delivery of high-quality services.

As lawmakers, it is our responsibility to enact legislation consistent with the constitutional principle of providing for the general welfare. We have adapted this principle to changing perceptions of disabled individuals. We have made mistakes, we have learned from them, and we have moved on to new responses, with disabled Americans themselves now in the leadership of this movement.

Only during the last 20 years or so have we truly begun to break down the barriers that placed opportunity for disabled individuals in a class below opportunity for all Americans.

Disabilities are not selective about the families they touch. We are all potential candidates. But how we support individuals with disabilities is not just an issue for families. It is an economic and a humanitarian issue that touches the essence of what we stand for as a nation.

Today, we can be proud that many laws, such as the Education of the Handicapped Act, the Rehabilitation Act, and the Developmental Disabilities Act, reflect the current state of our knowledge about the abilities of people with disabilities. These individuals have shown us that almost anything is possible, with the right support.

Yet despite over $3 billion commitment to carrying out these visionary laws, we are still spending nearly the same amount of Federal funds to support an antiquated system of services for the disabled through Medicaid. Indeed, the Medicaid Program is the largest financial aid program for people with disabilities, with most of the funding going to the "Intermediate Care Facility for the Mentally Retarded" [ICF/MR] Program. In 1986 the amount expended by the Federal Government and the States for this program was estimated at over $5 billion, and still rising. For the most part, the money is used to fund large, public institutions, which at best offer limited opportunities and custodial care, and at worst promote segregation from families and society, encourage dependence, and allow the abuse and neglect of those very individuals for whom the system was created.

When Congress created the ICF/MR Program to fund services for disabled people 16 years ago, it assumed that Federal Medicaid dollars would be directly linked with quality services. At the same time, however, the program was structured in a biased manner, with funding going primarily to State institutions and few dollars directed toward keeping people with disabilities in their homes and communities. This system has turned out to be very costly.

Average costs vary between States, but one estimate for 1985 says more than $32,000 was spent per year per person. Recent statistics from my own State of Connecticut indicate an annual cost of approximately $73,000 per person per year. Yet we know that these institution-bound funds do not necessarily buy quality services. In fact, the results of hearings on conditions in institutions, conducted last session by the Subcommittee on the Handicapped, indicated just the opposite. These hearings, and the investigation which preceded them, found that the programs funded with Medicaid dollars often provide inadequate services and protections to people confined within institutional walls. While Medicaid enforcement efforts have been stepped up since that time, and some improvements made, serious deficiencies continue to exist in many federally supported institutions. And it is shameful that today, such conditions as were unveiled during those hearings continue, and are financed with Federal funds.

This situation is particularly disturbing given our recognition that people with disabilities need not be bound to a barren life of inactivity and segregation. Indeed we now know that very often these same individuals confined to institutions could be living in the community, where they could have meaningful work and experience the day-to-day joys and sorrows of life among family and friends. But the existing Medicaid system of financing services to people with disabilities inhibits and frustrates the development of needed community supports.

Yet the need for such community-based assistance is greater than ever. Twelve years ago, Congress enacted Public Law 94-142, which marked the beginning of the end of an era of segregation and discrimination against children with disabilities in our public schools. Most of these students have been raised in the mainstream of life. They want to stay there, and their families want them there. But, as I was reminded at one of our Handicapped Subcommittee hearings, too often these students find themselves at the end of their schooling "all dressed up with no place to go." We cannot truly realize the promise of integration which is at the heart of Public Law 94-142, until no disabled person is forced to abandon their bright hopes for the future because there are no alternatives.

People with severe disabilities in our country deserve full access to quality services that are least restrictive in terms of their personal freedom and most effective in terms of providing personal opportunity. And I believe that the changes in the current system of Medicaid funding for people with disabilities which we propose today are critical in assuring this will happen.

Specifically, the bill requires that every State participating in the institutional aspect of the Medicaid Program also develop an array of quality community services and supports. It will allow for choice among the various available services, and choice among a variety of living situations. Most of us take the choices we have in

our lives for granted. But for many people with disabilities and their families, there have been no choices—even when that choice could result in less cost to the Federal Government.

And what of the institutions? The bill we introduce today has not forgotten them. It contains numerous provisions to increase the quality of their services by strengthening the leadership, guidance and support at the Federal level, and through increased training of those whose job is to review the quality of services they provide. But the bill sends a clear message that the future for people with disabilities is not segregation from the mainstream of life.

Because it is outside the locked doors of the institution that the land of opportunity lies. With the passage of this bill, those doors—and others—will open. It will require the dedicated efforts of everyone: families, service providers, politicians, and disabled individuals themselves. But that opportunity will not be denied.

Finally, I would like to extend my special thanks to Senator CHAFEE for his leadership in developing this legislation. He has been a tireless advocate for the development of family and community services for people with disabilities. I look forward to working with him, and other members of the Finance Committee, as work on this legislation proceeds.

Mr. DODD. Mr. President, today I am joining Senators CHAFEE, WEICKER, and others in introducing the Medicaid Home and Community Quality Services Act of 1987.

This bill is the product of a great deal of hard work, particularly by Senators CHAFEE and WEICKER, on a very important subject—providing funds to permit retarded persons to live in community and home settings. Enactment of this bill would expand the opportunities for retarded people, whether they are living in institutions or at home. It is particularly important for mildly and moderately retarded people who today are not eligible for Medicaid funds. It will increase the quality of their lives and that of their parents.

I share the bill's premise that there are inadequate Federal funds for community programs. The Medicaid waiver program has helped in this regard, but it is still not a permanent program and it does not contain adequate quality assurance mechanisms. This bill will remedy both of these problems. At the same time, I think it is important that we avoid throwing the baby out with the bath water. The bill recognizes that institutions will remain a residential option for the retarded and we must assure that they provide quality programs. Institutions for the mentally retarded do provide quality care for many of our retarded citizens, thanks in substantial part to the Federal standards that have been imposed as part of the bargain for getting medicaid dollars. At the same time, as Senator WEICKER's investigations revealed, abuses still take place in some institutions. Therefore, I hope that the bill will be amended to improve quality assurance at the institutions as well so that retarded people will receive quality services, regardless of their place of residence.

I am also somewhat troubled by the bill's provisions that would cap Medicaid dollars for institutions at their level in 1988, except to the extent that the cost of living exceeds 6 percent thereafter. The result would be that funding for institutions would be reduced to about half of today's value within 15 years. That level will make it hard to continue to assure quality care for residents of institutions.

While it would be nice to think that we can serve the needs of many times the number of people being served today for the same dollars, that is simply not a realistic hope. If we are going to expand the Medicaid Program to meet the needs of the entire population of retarded persons, it is going to take more money. We must recognize that reality and confront it head on. Therefore, rather than trying to reallocate existing dollars, I think we need to devise creative ways to increase the size of the pie. Inasmuch as the States presently are receiving billions of dollars in Medicaid funds, one notion might well be to condition the receipt of additional Medicaid funds on States increasing their matching contributions.

Furthermore, as chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism, I would like to see the bill improved to assure greater participation by the families in the decisions about their children's future. The bill appears to leave their inclusion or exclusion up to the professionals who are part of the decisionmaking panels. Parents should be involved as a matter of course, just as they are in the development of individualized education programs under the Education for the Handicapped Act.

In sum, Mr. President, I am pleased that an effort is being made to address the needs of the retarded that are not presently being addressed and I look forward to working with the principal sponsors of the bill to devise a final product that increases the options for quality care for the retarded.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 1674. A bill to amend title 5, United States Code, with respect to the maximum rate of basic pay payable to civilian faculty members at the United States Naval Academy; to the Committee on Government Affairs.

MAXIMUM PAY LEVEL OF CIVILIAN FACULTY AT THE NAVAL ACADEMY

● Mr. SARBANES. Mr. President in 1845, the U.S. Naval Academy was established at Fort Severn at Annapolis, MD, to prepare midshipmen to be professional officers in the Navy. Over the years the needs of the U.S. Navy have changed, and the Academy has evolved as an institution of higher education graduating midshipmen with training, expertise, and the technical competence to operate the most sophisticated and advanced weapons systems, computers and seafaring vessels in the world. As the Academy sought to keep pace it recruited an outstanding civilian faculty with expertise in computer science, engineering, nuclear physics, the natural sciences, and the humanities.

Today, Mr. President I am introducing legislation to increase the salary of civilian faculty of the U.S. Naval Academy. I am introducing this legislation because the Academy runs the risk of losing some of its finest instructors to other institutions of higher education. For the past 3 years the U.S. Naval Academy has experienced difficulty recruiting and retaining experienced, dedicated civilian faculty due to salary. I am quite concerned that the inability to recruit competent, dedicated teachers for the U.S. Naval Academy could threaten the quality of its highly respected academic programs and undermine its ability to fulfill its mission to provide the U.S. Navy and Marine Corps with educated officers.

This bill, the companion of a bill introduced in the House by Congressman TOM MCMILLEN who represents the Annapolis area and is also a member of the U.S. Naval Academy Board of Visitors, would remove the pay cap and give the Secretary of the Navy the authority to increase civilian faculty salaries to a level which would be comparable to the faculty of other prestigious institutions of higher education and I ask my colleagues to join me in supporting this legislation.●

By Mr. McCLURE:

S. 1675. A bill to provide for establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes; referred to the Committee on Energy and Natural Resources.

ESTABLISHMENT OF THE HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

● Mr. McCLURE. Mr President, today I am introducing a bill to establish the Hagerman Fossil Beds National Monument, thereby protecting and preserving for all Americans one of the largest deposits and best known recordings of the Pliocene period in the world.

Discovered by a local farmer, Mr. Elmer Cook, and two companions in 1919 or 1920, this nearly 3½ million year old deposit is today known by sci-

entists throughout the world and is truly a "priceless paleontological treasure." There are currently some 310 registered fossil sites containing remnants of ground sloths, zebra-like horses, saber tooth cats, mastadons, camels, and numerous smaller land and aquatic fauna species.

Scientists from the Smithsonian Institution came to the Hagerman Beds as early as 1931, and today a great many fossils unearthed at Hagerman can be viewed daily at the Smithsonian's National Museum of Natural History.

The legislation I am introducing today is similar to legislation I introduced some 12 years ago during the first session of the 94th Congress. I conducted a hearing in Hagerman, ID, on that legislation on December 13, 1976, but, for a variety of reasons, never pursued the legislation beyond that point. In the meantime, the Bureau of Land Management has managed the primary portion of the fossil bed area—some 4,394 acres, including a 492-acre portion of State of Idaho land—as a national natural area. Principally, such management has provided for preservation of the area—for which the BLM should be commended—but has not provided general access for regulated visitation by the public such as would be provided for through the establishment of a national monument.

This new legislation calls for the continued preservation of the same 4,394 acres, but would further specifically provide for the display and interpretation of the scientific specimens uncovered at the site as well as for continuing paleontological research by private scientists.

While requiring the lands be managed as a national monument, the legislation also specifically authorizes the continued right to operate, maintain, modify, and uprate certain electrical generation and transmission and irrigation pumping facilities currently located within and adjacent to the proposed boundaries. In short, this legislation contemplates little, if any, disruption of current business or ongoing services or activities of the close-by communities.

Costs of this legislation would be kept to a bare minimum because it contemplates no appropriations for acquisition of private property. The lands already managed by the BLM would be transferred to the management of the National Park Service, and the 492-acre State of Idaho parcel would be acquired by the Department through exchange of other Federal lands.

Mr. President, we seldom have the opportunity to provide for the protection of such priceless pieces of our heritage at such little cost. I personally cannot think of a more important or a more appropriate addition to our National Park System, and I hope my colleagues will assist in securing its early consideration.

Mr. President, I ask unanimous consent that a copy 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. 1675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for the benefit and enjoyment of present and future generations the outstanding paleontological sites known as the Hagerman Valley fossil sites, to provide a center for continuing paleontological research, and to provide for the display and interpretation of the scientific specimens uncovered at such sites, there is hereby established the Hagerman Fossil Beds National Monument.

(1) The Hagerman Fossil Beds National Monument shall comprise of lands generally depicted on the map entitled "——", number "——" and dated —— which shall be kept on file and available for public inspections in the office of the Director, National Park Service, Department of the Interior: *Provided, however,* That such area shall not exceed 4,394 acres.

SEC. 2. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands or interests in lands only by donation, purchase with donated funds, exchange or bequest.

(b) Notwithstanding any other provision of law, any Federal property located within the boundaries of the Monument shall be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

(c) Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired only by exchange.

(d) In exercising the authority to acquire property by exchange, the Secretary may acquire title to any non-Federal property, or interest therein, located within the monument; and notwithstanding any other provision of law, he may convey in exchange therefore any federally owned property within the State of Idaho which he classifies as suitable for exchange and which is under his administrative jurisdiction. The values of the properties so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary, as the circumstances require.

SEC. 3. Upon the establishment of the Hagerman Fossil Beds National Monument and thereafter, the Secretary shall administer property acquired pursuant to this Act in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

SEC. 4. Subject to valid existing rights, Congress expressly reserves to the United States such water rights as may be required to carry out the primary purposes of the monument created by this Act with respect to all lands withdrawn from the public domain by this Act. Such rights shall be perfected by the United States pursuant to the procedural requirements of the laws of the State of Idaho. The priority of such rights shall be as of the date of enactment of this Act. The United States may acquire such additional water rights as it deems necessary to carry out its responsibilities under this Act. Such water rights shall be acquired pursuant ot the substantive and procedural requirements of the laws of the State of Idaho. Nothing in this Act shall be construed to reserve any implied water right to the United States. The transfer of lands to the administrative jurisdiction of the Secretary pursuant to section 2 shall not affect any reserved water right which the United States may have acquired for the primary purposes for which such lands were originally withdrawn to the extent such rights are consistent with the purposes for which such lands are to be administered pursuant to this Act.

SEC. 5. All electrical generating and transmission and irrigation pumping and transmission facilities in existence within and adjacent to the boundaries of the Hagerman Fossil Beds National Monument, together with the right to operate, maintain, repair, uprate and modify such facilities, are hereby authorized. The provisions of the Federal Power Act, as amended, (41 Stat. 1063) shall continue to apply to any project as defined in such Act, including all facilities and improvements required or used in connection with the operation and maintenance of said project in existence within the Hagerman Fossil Beds National Monument on the date of enactment of this Act.

SEC. 6. Notwithstanding any other provision of law or regulation pursuant to any law, in order to provide a center for continuing paleontological research, the Secretary shall incorporate in the general management plan provisions for the orderly and regulated use of and research in the monument by qualified scientists, scientific groups, and students under the jurisdiction of such qualified individuals and groups.

SEC. 7. There are hereby authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this Act.●

By Mr. DECONCINI:

S. 1676. A bill to amend the Comprehensive Crime Control Act of 1984 to provide for an orderly transition into sentencing with guidelines, and for other purposes; to the Committee on the Judiciary.

SENTENCING GUIDELINES TRANSITION ACT

● Mr. DECONCINI. Mr. President, I am pleased to introduce the Sentencing Guidelines Transition Act of 1987. This bill, while adopting the guidelines proposed by the U.S. Sentencing Commission on April 13, 1987, would delay their effective date until November 1, 1988. The guidelines would become law on November 1, 1987, but the new system would not go into effect for another 12 months—November of 1988.

The Commission, an independent agency in the judicial branch established by the Comprehensive Crime Control Act of 1984, is responsible for promulgation of sentencing guidelines and policy statements pursuant to section 994(a) of title 28, United States Code. The law as it is now written, requires the Commission to send its initial guidelines to Congress by April 13, 1987, and they take effect automati-

cally on November 1, 1987. As per the 1984 act, the guidelines promulgated by the Commission are intended to further the basic purposes of criminal punishment; deterring crime, incapacitating the offender, providing just punishment, and rehabilitating the offender.

In enacting the sentencing law Congress had three underlying objectives. First Congress intended to enhance the ability of the criminal justice system to reduce crime through an effective, fair sentencing system. To paraphrase, Congress sought honesty in sentencing. Next, Congress sought to narrow the wide disparity in sentences imposed in different Federal courts for like offenses and establish a sense of uniformity in sentencing. Finally, Congress sought proportionality in imposing different sentences for criminal conduct of different severity. A reading of the guidelines indicates that the Commission has taken major steps toward achieving these goals.

Nevertheless, I am proposing this legislation because of the reservations expressed by many interested parties that a November 1, 1987, effective date would not provide an adequate period for training and the addition of new personnel. In particular I have considered the comments of Judge Richard H. Bilby, chief judge, U.S. District Court, District of Arizona, and the Judicial Conference of the United States, the policymaking body of the judicial branch. Additional concern has been expressed about the uncertainty of the impact of the guidelines on correctional resources and other costs of the guidelines. I am also concerned that the final guidelines have not been tested under practical conditions.

The guidelines represent a major departure from current sentencing practice which has been in place since the beginning of the Republic. Although I believe the guidelines are workable and take significant strides toward achieving the goals mandated by the Sentencing Reform Act of 1984, delaying their implementation will allow further refinement prior to implementation.

Some members of the Commission have indicated that a delay is desirable. These members assert that a delay in implementation of the guidelines would allow the Commission to continue to improve upon the guidelines prior to implementation under the process provided in the guidelines.

Other groups have also called for a delay. For instance, the American Bar Association believes a 2-year delay is needed. While some who have counseled delay undoubtedly are not sympathetic to guidelines at all, others are strong advocates of guidelines. Marion Frankel, a former Federal judge who wrote one of the early books calling for guidelines and John Kramer, the head of the Pennsylvania Guideline Commission, have urged that implementation of the guidelines be delayed. Furthermore, on July 16 of this year, the executive committee of the judicial conference endorsed a 12-month extension as embodied in this bill.

I agree with those commentators who suggest that delay is appropriate and I agree that 12 months is an appropriate period. A 12-month delay would allow for a smooth transition into the complex new system. It would allow everyone involved in this implementation of the new system to implement it more effectively and would allow time for additional resources to be put in place. A delay also would allow time for education and training in the guidelines of all those involved in the criminal justice system.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD together with accompanying materials.

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

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

S. 1676

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sentencing Guidelines Transition Act of 1987".

SECTION 2. TRANSITION.

Section 235(a)(1)(B)(ii) of the Comprehensive Crime Control Act of 1984, Public Law 98-473, as amended, is further amended—

(1) in subclause (III) by striking "the day after";

(2) in subclause (II) and (III) by striking "and" at the end thereof; and

(3) by redesignating subclause (IV) as subclause (V) and inserting in lieu thereof the following new subclause (IV):

"(IV) twelve months after the date described in subclause (III); and

SECTION 3. TECHNICAL AND CONFORMING AMENDMENT TO THE COMPREHENSIVE CRIME CONTROL ACT OF 1984.

Section 235(a)(1) of the Comprehensive Crime Control Act of 1984, Public Law 98-473, as amended, is further amended by striking "36 months after the date of enactment" and inserting "48 months after the date of enactment and shall apply only to offenses committed after the effective date of this chapter" in lieu thereof.

SECTION 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act.●

By Mr. CHILES:

S.J. Res. 187. Joint resolution complying with the requirements of section 274(f)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985; pursuant to section 274(f)(1) of Public Law 99-177, referred to the Temporary Joint Committee on Deficit Reduction.

SEQUESTER RESOLUTION FOR FISCAL YEAR 1988

Mr. CHILES. Mr. President, today I am introducing a sequester resolution for fiscal 1988.

The law says the joint resolution must be introduced, and so that's what I'm doing. It's my sincere hope that this joint resolution will never come before the Senate for a vote. If it does, it will mean we've been unable to do our job in a responsible way. It will mean, with the health of the American economy at stake, we couldn't find a way to sort our differences, and cut the deficit in a way in which the effort is evenly shared.

We're in a tricky and very dangerous position. If this resolution isn't approved by the Temporary Joint Committee on Deficit Reduction by Monday, the committee will be discharged. Five days of session after that, we'll have to vote up or down on the sequester on the floor of both Houses of Congress.

If that's what happens we'll be right up against some crucial dates. Under the act, the time for the vote on this joint resolution would probably come on September 22. The debt limit runs out on September 23. And we're due to act on reconciliation on September 29.

So we're in a position here where we're playing roulette with the calendar. And we're also on the edge of an economic thunderstorm. To show how serious the situation really is, let's look at what a sequester this year would mean.

It would mean a 13-percent cut in defense from the Gradison baseline which would bring the budget authority down to $255 billion for national security.

On the domestic side, sequester would mean a 19-percent cut, or about $23 billion.

That's it in a nutshell. That's how sequester would operate to get us down to the $108 billion target which most agree was an unrealistic goal to begin with.

Now, the fact is, a month ago the conferees we're only a matter of hours from working out a fix of the Gramm-Rudman-Hollings Program. We were very close to restoring the discipline with an automatic trigger mechanism. We were close to revising the annual deficit targets, and agreeing to cut $36 billion from the deficit.

It didn't happen a month ago, but I've returned from the summer recess optimistic that we can get the job done. As a spur to those efforts, this sequester resolution is right here. It's a lot like working toward salvation once you've looked down the throat of perdition.

This joint resolution is the bottom of the barrel. I don't think we have to ever reach that point. The way to avoid it, is to move to revise the Gramm-Rudman-Hollings law, and restore the automatic budget discipline. We should revise the deficit targets, and pledge ourselves to $36 billion in deficit reduction.

Now some might ask this: Don't the changes proposed to Gramm-Rudman-Hollings include an automatic sequester? They do. Then it might be asked what's the difference between that plan and the dilemma in front of us?

The differences should be clear. If we submit to the current version of sequester, it will mean we didn't have the will power to make needed changes in our framework for deficit reduction. It will mean we're willing to risk default on our debts as we face the expiration of the debt limit. In short, it will mean a kind of surrender.

If, on the other hand, we make the changes in Gramm-Rudman-Hollings and adopt revised targets and genuine deficit reduction, we will reaffirm that we are willing to discipline ourselves without springing some kind of tremendous punishment on the economy.

So let me repeat something today that I've said time and time again all year long. We need to cooperate. The House and the Senate, Republicans and Democrats, and the President of the United States have to work toward a responsible solution. We have the chance now to put this sequester threat behind us by making sensible cuts in the deficit. We still have time to choose.

Sequester is now a shadow over the economy. We can chase it away. But the only way we can is with joint, bipartisan leadership and cooperation. I hope and trust we can get the job done.

Mr. President, I ask unanimous consent that the text of the sequester resolution appear at this point in the RECORD.

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

S.J. RES. 187

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTENTS OF JOINT OMB-CBO REPORT.

The contents of the joint report of the Directors of the Office of Management and Budget and the Director of the Congressional Budget Office for fiscal year 1988 under section 251(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, transmitted to the Congress on August 20, 1987, pursuant to section 274(f)(1) of such Act, and set forth at 52 Fed. Reg. 31531-600 (1987), shall be deemed to be set forth in this joint resolution and shall serve as the sole basis for the order required to be issued by the President for such fiscal year under section 252(a) of such Act.

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. MOYNIHAN, the names of the Senator from Nevada [Mr. REID] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 27, a bill to establish the American Conservation Corps, and for other purposes.

S. 79

At the request of Mr. METZENBAUM, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

S. 567

At the request of Mr. DECONCINI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor 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. 616

At the request of Mr. DODD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 616, a bill to amend the Truth in Lending Act to provide for more detailed and uniform disclosure by credit card issuers with respect to information on interest rates and other fees which may be incurred by consumers through the use of any credit card, and for other purposes.

S. 699

At the request of Mr. STEVENS, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 699, a bill to designate September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day," and to make such day a legal public holiday.

S. 708

At the request of Mr. PROXMIRE, the names of the Senator from New Hampshire [Mr. HUMPHREY] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

S. 824

At the request of Mr. SPECTER, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 824, a bill to establish clearly a Federal right of action by aliens and United States citizens against persons engaging in torture, or extrajudicial killing, and for other purposes.

S. 840

At the request of Mr. THURMOND, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. REID], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Incorporated.

S. 1052

At the request of Mr. SPECTER, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1052, a bill to establish a National Center for the United States Constitution within the Independence National Historical Park in Philadelphia, Pennsylvania.

S. 1325

At the request of Mr. CHAFEE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1325, a bill to require the Secretaries of Agriculture and Health and Human Services to enforce certain food labeling requirements for packaged foods sold by certain restaurants.

S. 1361

At the request of Mr. DECONCINI, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1361, a bill to amend the Controlled Substances Act to suppress the diversion and trafficking of precursor chemicals and essential chemicals utilized in the illicit manufacture of controlled substances.

S. 1490

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1490, a bill to designate certain employees of the Librarian of Congress as police, and for other purposes.

S. 1513

At the request of Mr. HEINZ, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1513, a bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes.

S. 1529

At the request of Mr. GLENN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1529, a bill to improve financial management in the Federal Government.

S. 1554

At the request of Mr. FOWLER, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Hawaii [Mr. INOUYE], the Senator from North Dakota [Mr. CONRAD], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1554, a bill to provide Federal assistance and leadership to a program of research, development and demonstration of renewable energy and energy conservation, and for other purposes.

S. 1578

At the request of Mr. STEVENS, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1578, a bill to amend chapter 83 of title 5, United States Code, to provide civil service retirement credit for serv-

ice performed under the Railroad Retirement Act, and for other purposes.

S. 1663

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1663, a bill to reauthorize the Child Abuse Prevention and Treatment Act and other related Acts dealing with adoption opportunities and family violence.

SENATE JOINT RESOLUTION 11

At the request of Mr. THURMOND, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 11, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 41

At the request of Mr. GLENN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Joint Resolution 41, a joint resolution to designate the period commencing on November 22, 1987, and ending on November 29, 1987, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 48

At the request of Mr. KARNES, his name was added as a cosponsor of Senate Joint Resolution 48, a joint resolution designating the week of September 14, 1987, through September 20, 1987, as "Benign Essential Blepharospasm Week."

SENATE JOINT RESOLUTION 59

At the request of Mr. THURMOND, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month."

SENATE JOINT RESOLUTION 111

At the request of Mr. KARNES, his name was added as a cosponsor of Senate Joint Resolution 111, a joint resolution to designate each of the months of November 1987 and November 1988 as "National Hospice Month."

At the request of Mr. HEINZ, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Joint Resolution 111, supra.

SENATE JOINT RESOLUTION 177

At the request of Mr. THURMOND, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolution 177, a joint resolution to authorize and request the President to designate the month of December 1987, as "Made in the U.S.A. Month."

SENATE JOINT RESOLUTION 181

At the request of Mr. WILSON, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 181, a joint resolution designating the week beginning February 1, 1988, as "National VITA Week."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. DOLE, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from Arizona [Mr. DECONCINI], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Concurrent Resolution 9, a concurrent resolution to provide for the display of the National League of Families POW/MIA flag in the Capitol Rotunda.

At the request of Mr. HELMS, his name was added as a cosponsor of Senate Concurrent Resolution 9, supra.

At the request of Mr. BYRD, his name was added as a cosponsor of Senate Concurrent Resolution 9, supra.

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Concurrent Resolution 32, a concurrent resolution to express the sense of Congress that volunteer work should be taken into account by employers in the consideration of applicants for employment and that provision should be made for a listing and description of volunteer work on employment application forms.

SENATE RESOLUTION 280

At the request of Mr. DOLE, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Resolution 280, a resolution to commemorate the 100th birthday of the Honorable Alf Landon.

AMENDMENT NO. 676

At the request of Mr. HELMS, the names of the Senator from Colorado [Mr. Armstrong], the Senator from Utah [Mr. HATCH], the Senator from Nevada [Mr. HECHT], the Senator from Alabama [Mr. HEFLIN], the Senator from Alabama [Mr. SHELBY], the Senator from Idaho [Mr. SYMMS], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of amendment No. 676 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.

AMENDMENTS SUBMITTED

SENATORIAL CAMPAIGN REFORM ACT

SYMMS AMENDMENT NO. 677

Mr. SYMMS proposed an amendment to amendment No. 676 proposed by Mr. HELMS 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:

Add at the end of the Helms amendment the following new section:

"SEC. . It is the sense of the Senate that the policy of the United States toward Central America should be based on the principles of the Monroe Doctrine, to wit: "the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Power * * * we could not view any interposition for the purpose of oppressing them, or controlling, in any other manner, their destiny, by any European Power in any other light than as the manifestation of an unfriendly disposition towards the United States.".

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on the Federal Government's handling of Soviet and Communist-bloc defectors.

These hearings will take place on Wednesday, September 16, 1987, at 9:30 a.m., and Thursday, October 8, 1987, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill or John Sopko of the subcommittee staff at 224-3721.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled to receive testimony on S. 1294, to promote the development of technologies which will enable fuel cells to use alternative fuel sources; S. 1295, to develop a national policy for the utilization of fuel cell technology; and S. 1296, to establish a hydrogen research and development program. The hearing is scheduled on September 23, 1987, at 2 p.m., in room SD-366 in the Dirksen Senate Office Building in Washington, DC.

Those wishing to submit written testimony for the hearing record should send it to the Committee on Energy

and Natural Resources, Subcommittee on Energy Research and Development, U.S. Senate, Washington, DC 20510.

For further information, please contact Cheryl Moss at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on September 10, 1987, to hold hearings on the nomination of C. William Verity, Jr., of Ohio to be Secretary of the Department of Commerce.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 9, and Thursday, September 10, 1987, on both days, to hold hearings on oversight of Federal Procurement Decisions on Wedtech.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 10, 1987, to receive testimony from Secretary of State George Shultz on the Central America peace plan.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on September 10, 1987, to receive testimony concerning S. 801, the Coal Distribution and Utilization Act of 1987.

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

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services' be authorized to meet during the session of the Senate on Thursday, September 10, 1987, at 2 p.m. in executive session to receive a briefing on the ongoing INF negotiations.

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

SUBCOMMITTEE ON AVIATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Aviation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 10, 1987, at 2 p.m. to hold hearings on S. 1600, legislation establishing an independent Federal Aviation Administration.

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

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be authorized to meet during the session of the Senate on September 10, 1987, to hold a hearing on benefits for AIDS victims.

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

SPECIAL COMMITTEE ON AGING

Mr. BYRD. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Thursday, September 10, 1987, to hold a hearing on "age discrimination in employment."

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

ADDITIONAL STATEMENTS

RELEASE OF IOSIF BEGUN

● Mr. DE CONCINI. Mr. President, my initial reaction to the news this week that Iosif Begun and several other prominent refuseniks were finally granted permission to leave the Soviet Union was one of great joy. I was reminded of how I felt when former Prisoner of Conscience Anatoly (Natan) Shcharansky walked across a Berlin bridge to freedom in February 1986. I was reminded of how I felt when former Prisoner of Conscience Yuri Orlov arrived in the United States in October 1986. And I was reminded of how I felt when Nobel Peace Prize winner, Andrei Sakharov, was allowed to return to Moscow in December 1986 after several years of exile in the city of Gorky.

Yes, we rejoice that Iosif Begun and several other well-known human rights activists are soon to be free. But for every Iosif Begun there are thousands more whose names and cases have gone unnoticed. For every Iosif Begun there are thousands of Soviet citizens who continue to be followed, watched, searched, arrested, beaten, sent to psychiatric hospitals, or banished to hard labor camps in Siberia.

Are the Soviets genuinely trying to live up to their human rights commitments that they pledged to uphold in Helsinki over 12 years ago? Or is this yet another publicity campaign to improve Gorbachev's image in the wake of a crucial arms control agreement?

I have traveled to the Soviet Union on three occasions. I have spoken to Brezhnev, Andropov and Gorbachev. I have met numerous Soviet citizens whose only "crime" is applying for a visa.

A decade ago, Viktor Brailovsky, Vladimir Prestin, Lev Ovsischer and Arkady Mai personally revealed to me for the first time the life of a Soviet refusenik. In 1985 I met Iosif Begun's wife, Inna, and I also spent several hours with the Lev Elbert family in Kiev. Yes, I am pleased that their cases have been resolved and their suffering will soon end. Yet my colleagues and I know thousands still wait for glasnost, and freedom.

As cochairman of the Helsinki Commission, it is my responsibility to monitor violations of human rights and to ensure that these rights are protected. To date, the Soviets have not lived up to their commitments. To date, their positive actions, though welcomed, have been piecemeal.

Purely and simply, we must continue to hold the Soviets accountable to the promises they have made. We must continue to be persistent in striving to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords. We must continue to let them know that fundamental freedoms are a basic human right. A right that cannot be toyed with.

In the words of social reformer Jacob Riis:

> When nothing seems to help, I go and look at a stonecutter, hammering away at his rock perhaps a hundred times without a crack showing in it. Yet at the hundred and first blow it will split in two, and I know it was not that blow that did it but all that had gone before.

Jacob Riis was talking about persistence. He was talking about the kind of work all of us must do to ensure basic human freedom.

Today, I am happy that the door to freedom has opened for a few more Soviet citizens. But we must continue to work toward the day when that door will remain permanently open.●

AMERICA'S COMPETITIVE TRADE POSITION

● Mr. DODD. Mr. President, this year's trade debate in Congress has taught us much about what we can and must do to improve America's competitive position in the international marketplace. In my view, the most important task before us is to bolster our own domestic foundations; to improve America's system of education and training for current and future workers to ensure we have the human resources necessary to excel into the 21st century. This is not a goal which can be achieved by Government alone. Real and long-term solutions will require effective partner-

ships between Government and the education and business communities which utilize the unique resources and perspectives that each sector has to offer.

The business community, in particular, has much to contribute and much to gain in this effort to develop the basic skills necessary to succeed in the new international economy. Business knows best the new skills that are and will be required and has a direct financial stake in the future productivity of the American workforce. In short, education and training programs are no longer some sort of corporate philanthropy done for public relations purposes; this is an effort that the business community cannot afford not to undertake.

In recognition of the new imperatives facing both government and corporate America, the Congress has undertaken several initiatives to foster public-private cooperation for today and the future. For example, the omnibus trade legislation includes a measure to establish Education Partnerships for Dropout Prevention. These local partnerships would utilize the unique resources and opportunities in the business community to raise student achievement levels and reduce dropout rates. In addition, a successful amendment to the Adult Education Act would establish worksite literacy programs involving local education agencies, local corporations, and labor unions. The Senate trade bill includes another proposal to establish Centers for International business Education at several major universities around the Nation. The centers would help provide current and future business executives with the cross-cultural skills needed to succeed in the global marketplace.

The Parental and Temporary Medical Leave Act addresses another important arena in which public-private cooperation must improve. This legislation would establish a national system of limited parental and medical leave in order to alleviate the ongoing conflicts between the demands of the workplace and a worker's family responsibilities. In a new era of more single-parent and dual career families, we cannot expect our workers to choose between their jobs and their families and still hope for a happy and productive workforce.

Mr. President, I would like to place in the RECORD today two articles which reflect the evolution of a new line of thinking in the business community on these very issues. The first, an article in the September 6 issue of the New York Times, describes a report released Tuesday entitled "Children in Need: Investment Strategies for the Educationally Disadvantaged." The report was commissioned by the Committee for Economic Development, New York based public policy interest group composed primarily of top corporate executives. These business people argue forcefully that increased business and government resources must be focused on early intervention to meet the health and education needs of disadvantaged children. In the absence of such intervention, our children cannot hope to gain the skills necessary to meet private sector demands in the future, and we will be faced with an expanding and permanent "economic underclass." The report argues:

This Nation cannot continue to compete and prosper in the global arena when more than one-fifth of our children live in poverty and a third grow up in ignorance. The Nation can ill afford such an egregious waste of human resources. Allowing this to continue will not only impoverish these children, it will impoverish our nation—culturally, politically and economically.

An editorial which appeared in last Friday's Wall Street Journal also reflects this evolutionary thinking on part of the corporate community. The editorial describes private industry's efforts to help provide educational services both to current workers and to at-risk school age youth. The editorial cites one study which shows that businesses may have to spend as much as $25 billion a year on remedial education in the future.

The main points in both these articles are the same: An educated workforce is critical to our economic competitiveness and the business community is beginning to recognize its own special interests in this regard. I applaud this new line of thought in the corporate sector and look forward to a new era of private-public partnerships based on the mutual imperatives we face as we move into the 21st century.

Mr. President, I ask that the two newspaper articles be inserted in the RECORD.

The articles follow:

[From the New York Times, Sept. 6, 1987]

EXECUTIVES URGE A RISE IN AID FOR POOR CHILDREN

(By Edward B. Fiske)

Declaring that 30 percent of the students in public schools face "a major risk of educational failure and lifelong dependency," a group of corporate leaders has called for increased public investment in the health and educational needs of young children.

In an 87-page report to be released Tuesday, the New York-based Committee for Economic Development urges increased investment in prenatal care for pregnant teenagers, instruction in parenthood, better child care programs and quality preschool programs for disadvantaged 3- and 4-year olds.

The report, entitled "Children in Need: Investment Strategies for the Educationally Disadvantaged," warns that the United States is creating "a permanent underclass of young people" who cannot hold jobs because they lack fundamental literacy skills and work habits.

It further warns that poverty and ignorance could cause shortages of qualified workers in coming years and threaten America's competitive stance in a global economy.

The proposals would raise a number of political and economic questions over how much the Government should do to take care of the poor, but they appear in keeping with liberal positions that society must act or face dire consequences in the future. Although it puts no price on its proposals, the report argues that, over the long run, they would pay for themselves.

The study cites research from the House Select Committee on Children, Youth and Families showing that $1 invested in quality preschool education would return nearly five times that much because of lower costs of special education, public assistance and crime.

"American business has learned forcefully in the last 10 years that it is a lot more effective to design quality in from the beginning than to correct things later," said Owen B. Butler, the retired chairman of the Procter & Gamble Company, who played a key role in writing the report. "If we spend this money now, in the long run we will reduce our tax burden."

The report urges the business community to become a "driving force" in seeking higher public financing for early intervention programs but also argues that the Federal Government "needs to reaffirm its longstanding commitment to ensuring the disadvantaged access to quality education."

"Children in Need" is the latest in a series of major reports over the last four and a half years on the quality of American education. It is the first to focus on the politically divisive topic of how to educate disadvantaged students and the first to stress a connection between formal education and the health and general developmental needs of preschool children.

TOP CORPORATE EXECUTIVES

Donna E. Shalala, president of Hunter College, who helped draft the document, called the report significant because it constituted "the most forceful statement yet from the business community about the Federal responsibility for educating disadvantaged children."

The 45-year old Committee for Economic Development is a public policy research group whose 225 trustees are mostly top corporate executives. Its chairman is Edmund B. Fitzgerald, chairman and chief executive officer of Northern Telecom Limited.

Two years ago the nonprofit committee published an influential study; "Investing in Our Children," that called for higher standards in public schools and urged the business community to become more involved in bringing them about.

In the latest report the businessmen said it made "no economic sense" to allow an "educational underclass" to persist.

"By 1990," they declared, "the impact of new technologies is expected to drive total private-sector demand for employment to 156.6 million jobs, nearly twice that in 1978. If these estimates are only close to the mark, there will be a shortage of over 23 million Americans willing and able to work. Our industries will be unable to grow and compete because an expanding educational underclass will be unable to meet the demands of such jobs."

They continued: "This nation cannot continue to compete and prosper in the global arena when more than one-fifth of our children live in poverty and a third grow up in ignorance. The nation can ill afford such an egregious waste of human resources. Allow-

ing this to continue will not only impoverish these children, it will impoverish our nation—culturally, politically and economically."

SUSTAINED INTERVENTION

The report, which costs $300,000 to produce, said that the most promising approach to solving the problem is "early and sustained intervention in the lives of disadvantaged children, both in school and out." Among the steps it proposes are these:

Prenatal and postnatal care for pregnant teen-agers and other "high-risk" mothers as well a follow-up health care for their infants.

Parenthood education programs for both mothers and fathers, including guidance on nutrition.

Quality child-care arrangements for poor working parents that stress social development and school readiness.

Quality preschool programs for all disadvantaged 3- and 4-year olds.

The committee's report reinforces a growing interest across the country in early childhood education. New York City, for example, has a new program called Project Giant Step that offers educational, health and other services to 4-year olds from low-income families. The number of students served will increase from 2,620 last year to 8,620 in the coming year.

Last year 22 states spent $328 million, or twice the amount of the previous year, on programs for preschool children. Missouri and Minnesota now require local school districts to offer programs on parenthood skills for low-income families.

RESTRUCTURING OF SCHOOLS

Much of the interest has been stirred by reports showing that early childhood intervention programs can have significant long-term effects. Some of the research has focused on the Perry Preschool Project in Ypsilanti, Mich., which helped cut later dropout rates and welfare dependency in half.

"There is not a lot of long-term data on the effects of such programs, but there is enough to say that it is a good idea to go ahead and do more," said Mr. Butler.

In addition to preschool programs, the report urged a restructuring of public education with smaller schools, smaller classes and shared authority between teachers, parents and others:

The research and policy panel of the Committee for Economic Development regularly issues reports on national issues such as trade policy, fiscal policy and economic competitiveness. Its chairman is William F. May, the former chairman of the American Can Company and currently chairman and chief executive officer of the Statue of Liberty-Ellis Island Foundation.

The education report was drafted by a subcommittee led by Mr. Butler. Other members included William S. Woodside, chairman of the executive committee of the Primerica Corporation; John L. Clendenin, chairman of the BellSouth Corporation, James J. Renier, the president of Honeywill Inc. and Donald M. Stewart, president of the College Board.

The report can be obtained from the Committee for Economic Development, 477 Madison Ave., New York. N.Y. 10022. The price, including postage, is $11.55

[From The Wall Street Journal, Sept. 4, 1987]

ALTERNATIVE EDUCATION

American schools continue to get bad marks. Standardized test scores have stopped plummeting, but remain at a low level despite a rising awareness that an educated work force is important to the international competitiveness of U.S. industry.

Efforts at school reform have focused on introducing more competition and consumer choice. Not much has come of the Reagan administration's early hopes for voucher systems. But private firms have resorted more and more to their own remedial training, providing an ad hoc answer to the failures of the public school monopoly.

When New York Telephone Co. launched its first large-scale recruiting efforts in years this spring, it found some 84% of its New York city applicants failing entry-level exams in English and problem-solving. Bureau of Labor Statistics numbers suggest that such inadequacies will create more serious problems. Of the 21 million additional jobs the U.S. economy is expected to generate between now and the year 2000, a high percentage will demand verbal, mathematical and reasoning skills.

Corporate solutions are proceeding apace. Some 1,700 of Polaroid's employees—approximately one-third of the firm's hourly workers—are studying in a program that teaches them kindergarten through 12th-grade skills. The number of such students has tripled since 1985, and the company stresses the program's necessity. "We don't do this to be nice guys," a spokeswoman says.

Since 1977, Adolph Coors's "Golden Door" program has trained 112 chronically unemployable citizens, such as former drug addicts, to work at the firm.

GE recently has shifted its emphasis in philanthropy from teacher training to students. In June it announced a million-dollar program to improve pre-college standards in Lowndes County, Ala., where it has a new plastics plant requiring a high-tech work force. Time Inc. and CBS Magazines recently revoked their support for a high-school writing program because of their unhappiness with the way school officials were running it. When New York area banks offered 250 jobs to city high-school graduates, the public system was able to come up with only 100 acceptable candidates.

IBM says its support for education isn't specifically designed to provide the company with recruits. But it is spending about $18 million, or one-fifth of its educational budget this year, on training centers in inner-cities that give young people starter skills from telephone etiquette to math. It now has 71 such centers, up from eight in 1982. It sees this rise as "an identification of the problem."

Many firms haven't yet made the conceptual jump from general philanthropy in education to applied teaching for their own employees. They see their programs as mainly corporate citizenship endeavors. Prudential trained 400 underachievers and made 150 of them job offers in a remedial training program that was part of the settlement of an employment-practices dispute with the Labor Department. But Prudential, as with some other firms, says it really doesn't want to "get into the education business."

Regardless of how they describe their spending, though, corporations are already party to a private education contract. A Conference Board report shows that since 1978, more corporate dollars have gone to education than to any other category of beneficiary. About 70% to 75% of that money still goes to college-level institutions.

David T. Kearns, CEO at Xerox, has been a leading spokesman for industry concerns. Xerox isn't spending much on remedial education now. And Mr. Kearns estimates that remedial education currently accounts for only about 1% of all corporate education philanthropy. But he points to an American Society for Training and Development study that predicts industry may have to spend as much as $25 billion a year on remedial education in the future.

Efficiency here depends in large part on how soon states, the U.S. government, parents and companies recognize to what extent market forces are already at work in the delivery of education. One way or another, the market will come into play in education as it does elsewhere, producing alternatives if the public sector doesn't improve its performance.●

INFORMED CONSENT: HAWAII

● Mr. HUMPHREY. Mr. President, today I would like to insert into the CONGRESSIONAL RECORD a letter from a woman from the State of Hawaii in support of my informed consent legislation, S. 272 and S. 273. This letter demonstrates the need for informed consent before abortion takes place. The emotional, physical, and psychological effects of abortion can be devastating.

No person should be forced to make a decision about a medical procedure without the benefit of full disclosure. This holds especially true for women facing abortion. Yet, according to the hundreds of letters received by my office, this is the case. Women facing abortions are often denied relevant, medical information about the risks involved with and the alternatives to, abortion.

No matter where you stand on the abortion issue, you must agree that informed consent, which is standard medical procedure, must be applied to termination of pregnancy as well. I urge my colleagues to support S. 272 and S. 273.

The letter follows:

AUGUST 4, 1987.

DEAR SENATOR HUMPHREY: Women must be informed of the mental and physical sufferings often encountered following an abortion. I can speak on this from personal experience.

In April of 1973, at the age of seventeen, I had an abortion in my eighteenth week of pregnancy. I was told it was a simple procedure and that there was just a mass of tissue in my womb. That is the only information I was given. The day after the saline procedure was done, I watched in horror as my dead baby was brought into this world, and quickly whisked away by a nurse. Even today I continue to see my child, dangling lifelessly, I still mourn for my child and wonder what my child would be like today.

As instantly as my baby was taken from me, I was filled with depression and guilt from this horrible act of abortion. The depression led to withdrawal from people and relationship. It led to alcohol and drug abuse. Anything to drown out the pain and suffering I was experiencing. This continued for about five years until I slowly began coming out of it and trusting people again. It wasn't until four years ago however that I was completely set free from those years of

guilt and self-condemnation. Only the Lord could accomplish that.

Physically I have had a few difficulties. I had complications in either the labor or delivery of my two oldest children and last summer had a difficult pregnancy which led to a miscarriage. My monthly cycles have never been normal for long periods of time.

I know I am not alone in these experiences. I know of many women who have suffered physically and/or mentally from the abortions. They too, were never told of these complications. The parents of young girls are not being told of what could happen to their daughters.

So Senator Humphrey, I am in strong support of this bill, and your efforts. I thank God that there are men and women in our Senate who are not afraid to voice their opinion and fight for their beliefs, regardless of strong public disfavor.

In His Service,

SUZANNE CULLEN,
Hawaii.●

A TRIBUTE TO BAYARD RUSTIN

● Mr. DODD. Mr. President, one of the greatest civil rights activities of our time, Bayard Rustin, passed away on August 24.

Bayard Rustin is perhaps best remembered for his commitment to nonviolent protest and for his work as chief organizer of the 1963 march on Washington at which 200,000 people heard Martin Luther King, Jr., give his "I have a dream * * *" speech.

However, Bayard had been devoted to the struggle for peace in the world and equality for blacks since 1941. His crusades began when he helped found the Congress of Racial Equality [CORE] and joined A. Philip Randolph, the head of the Sleeping Car Porters Union, to organize a march on Washington to demand better jobs for blacks in the defense industry during World War II. Franklin D. Roosevelt reacted to Bayard's efforts before the march took place, issuing an executive order banning racial discrimination in all industries with defense contracts and establishing a Federal Committee on Fair Employment Practice.

Further efforts by Bayard, as director of the Randolph Committee against discrimination in the Armed Forces in 1949, resulted in an Executive order from President Truman eliminating discrimination in the U.S. Armed Forces.

In 1955, Bayard helped Martin Luther King organize the Southern Christian Leadership Conference. For 7 years as King's special assistant, Bayard coordinated the Montgomery, AL, bus boycott and organized several nonviolent demonstrations.

Ultimately, two or Bayard's greatest accomplishments included his work behind the scenes coordinating the invitation and arrival of over 200,000 people to the civil rights march on Washington on August 28, 1963, and his organization of the largest civil rights protest to date in 1964—the New York City school boycott—protesting racial imbalance within the school system.

Since 1964, Bayard served as the director, then president, of the A. Philip Randolph Institute. His tenure was devoted to the development of programs to improve the economic and social condition of all Americans, eliminate racial conflict, and promote peaceful solutions to societal inequality.

Bayard can also be remembered for his commitment to such international causes as, independence for India, human rights in South Africa and nuclear disarmament. Bayard was not a man of parochial interests.

Often thought of as a controversial figure—for his political views, for opposing quotas in employment and education, for being a conscientious objector during World War II, and for his commitment to nonviolent protest—Bayard should be remembered as a catalyst for the process of seeking jobs and freedom for blacks and the adoption of the 1964 Civil Rights Act.

Bayard should be remembered and lauded for his stubborn, unwavering, determination to improve the rights of blacks through nonviolent protest. We mourn the loss of a man who devoted his life to the struggle to end racial discrimination in our country and oppression throughout the world.●

ANNIVERSARY OF INVASION OF CZECHOSLOVAKIA

● Mr. SIMON. Mr. President, August 21 marked the 19th anniversary of the Soviet invasion of Czechoslovakia. On that tragic day in 1968, the Warsaw Pact marched across the Czech frontiers and snuffed out the promise held by the reformers of the "Prague Spring."

A few months back Charter 77, the Czechoslovak human rights movement, wrote Mikhail Gorbachev about the disastrous consequences of the invasion. Charter 77 wrote:

> The outcome of the intervention was catastrophic: Tens of thousands of creative people were eliminated from public life. Fundamental political, civil and cultural freedoms were suppressed and human rights were radically curtailed. The economy is stagnant. Corruption has spread alongside nepotism, lawlessness, self-seeking, and the growth of privileges for certain groups. The 1968 intervention also had unfortunate international repercussions, serving to increase distrust among states.

We must do what we can in the United States to make sure that the struggle for freedom continues. I commend the wisdom and courage of Charter 77. I ask that Americans not forget the tragic summer of 1968 and the Czechoslovak people's desire for freedom.●

NAUM MEIMAN

● Mr. SIMON. Mr. President, as you know I have long been involved in the Naum Meiman case. I would like to insert the attached article in the RECORD as it is an excellent description of Maum's plight. I ask that the article be printed in the RECORD.

12-YEAR WAIT BITTER FOR SOVIET JEW—DISSIDENT NAUM MEIMAN, 76, HOPES, BUT NOT TOO HARD

(By Gary Lee)

Moscow, Sept. 9.—Since a Soviet official called Monday to tell Josef Begun he could leave for the West, his activist friend and would-be emigre Naum Meiman has stayed closed to the telephone in his apartment here. In the past two days, there have been 18 calls, all from friends, but none from the visa office.

Meiman denies that he is waiting for word from Soviet authorities granting him permission to leave. At 76, after 12 years of rejection of his applications to emigrate, he feels he has passed the phase of anxious expectation. "If a man is always caught in a time of hope and waiting, it destroys him," he said, leaning back in his rocking chair.

And yet, when the telephone rang, he jumped up anxiously.

It was another friend.

In a year when the emigration of Soviet Jews has increased sharply, including many who have battled for up to 15 years to leave for the West or for Israel, Meiman is among the oldest of the Soviets still waiting for approval to live aboard.

His case symbolizes the plight of those who have not been selected, the so-called refuseniks whose applications are rejected amid official Soviet promises that emigration will increase under Soviet leader Mikhail Gorbachev's reforms.

Of all the hardships endured by Soviet dissidents who fight to leave the country, including the loss of jobs and sometimes imprisonment, Meiman's 12-year vigil seems punctuated by the most bitter experiences.

During his long wait, some of his closest friends and family members, including his only child, have departed. This year brought the harshest blow—the death of his wife Inna in Washington, D.C., only three weeks after she won a long battle to emigrate.

Most of Meiman's friends were swept out of the country in one or another of the emigration waves that have ebbed and flowed over the past two decades; emigration has diminished greatly in recent years from a peak of more than 50,000 in 1979.

A founding member of the Helsinki Watch, the unofficial group of Soviet activities who monitor their government's human rights record, Meiman was close to other members including Natan Shcharansky and Yuri Olov. Both men were taken from prison last year and flown to the West.

"We were all in the house and the struggle together," Meiman said. "When they left, part of me left."

With the imminent departure of friends like Begun, who received permission on Monday to emigrate after 16 years of waiting, Meiman's group of friends nearly will have vanished. "The circle has gotten smaller," he said in an interview. "I am practically alone in it now."

By far the most excruciating experience in his 12 years of waiting, however, was the period between 1983 and last winter when his wife, dying slowly of cancer, fought a long battle to go abroad for medical treatment. "I cannot explain what she went through for the last two years," he said. "It

gave me deep physical pain just to be with her. A human being is not supposed to bear those kinds of things."

When a plea by former senator Gary Hart to Gorbachev finally brought results last December, it was too late. Inna Meiman left for treatment in the United States last Jan. 19 and died of medical complications in Washington three weeks later.

In discussing the case, the neutral tone of voice Meiman adopts when discussing Soviet authorities gradually gives way to deep feelings of bitterness. "This country killed my wife by delaying her departure for so long," he said. "I counted the days and the pain. The experience has made living here intolerable."

As a refusenik left out of the latest group of 15 who gained approval to leave, Meiman is hardly alone. By western estimates, the cases of those consistently denied emigration visas runs into the hundreds, and perhaps thousands.

U.S. officials have appealed to Soviet authorities for leniency in many of the cases, including Vladimir Slepak, a Moscow Jew refused an exit visa for 16 years who celebrated Passover with Secretary of State George P. Shultz here last April.

Like Meiman, many refuseniks have had their applications rejected on the grounds that they possess state secrets. Meiman, a mathematician by training, worked on the Soviet Union's fledgling atomic bomb project in the 1950s.

Although his work in this sensitive area ended in 1955, and Gorbachev has said that the statute of limitations on state secrets should be less than 10 years, Soviet officials still base their rejection of Meiman's application for emigration on the contention that he knows classified information.

In the past year, the emigration of Soviet Jews to the West has risen to over 4,000, more than four times the 1986 figure.

During a long conversation in the sitting room of his apartment, Meiman was quick to dismiss questions about the effect of the new trend on his own chances to emigrate.

"They seem to pick and choose who can go more or less by chance," he said. "And at my age you can't count on being the one to be picked. I used to live next to the telephone but a person can't live in that way."

After returning from answering the telephone call from a friend and falling into a long silence, Meiman added an afterthought: "The human being is very complicated," he said. "Maybe something really has happened in my unconscious."●

MINORITY ENTERPRISE DEVELOPMENT WEEK

● Mr. D'AMATO. Mr. President, it pleases me to join in the celebration and commemorate this year's Minority Enterprise Development Week [MED Week] which will take place the week of October 5.

This annual event is held in the spirit of opportunity for all Americans. America is unique in the flexibility of its free market economy and that every individual can contribute to the Nation's economic well-being.

We must continue to provide the widest possible economic opportunity for all Americans. This remains possible by our continued support of minority businesses. These businesses play an important role in generating new jobs, skills, and technological developments necessary to strengthen the Nation's economy and successfully compete with products made abroad. To remain the leader in the international marketplace, I stress the essentiality of our support and recognition of minority businesses.●

ORDERS FOR TOMORROW

ADJOURNMENT UNTIL 10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Seante completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

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

MOTIONS AND RESOLUTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow motions and resolutions over under the rule not come over.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived on tomorrow.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the two leaders on tomorrow, there be a period for the transaction of morning business not to extend beyond 20 minutes and that Senators may speak therein for not to exceed 5 minutes.

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

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, earlier I stated that on tomorrow the motion to proceed to the consideration of the defense authorization bill would still be before the Senate. I have already asked for an adjournment of the Senate, so I will not seek to change that order. That means that the motion to proceed would die with the adjournment, but I will renew it tomorrow.

ORDER FOR ADJOURNMENT FROM CLOSE OF BUSINESS TOMORROW UNTIL 10 A.M., TUESDAY, SEPTEMBER 15, 1987

Mr. BYRD. Mr. President, so that Senators may know that votes are going to be occurring earlier than at 2 o'clock on Tuesdays from here on out, because we really have a lot of business to transact, I ask unanimous consent that when the Senate completes its business on tomorrow it stand in adjournment until the hour of 10 o'clock a.m. on Tuesday next.

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

ORDER WAIVING AUTOMATIC QUORUM CALL ON TUESDAY

Mr. BYRD. This means, Mr. President, that on Tuesday next, after the first hour has run its course under rule XXII, the automatic quorum will take place and when a quorum is established, the Chair will have the clerk read the motion to invoke cloture on the campaign financing reform bill, and when the clerk has read that motion, then the rollcall vote will begin on the motion to invoke cloture.

That would occur under the rule at around 11:30 or thereabouts, 11:20, and it may be that I would ask that the automatic quorum be waived, but I will not do that today.

Yes, I will.

I ask unanimous consent that the automatic quorum be waived on Tuesday next.

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

ORDER OF PROCEDURE ON TUESDAY, SEPTEMBER 15, 1987

Mr. BYRD. Then Senators will know precisely that the vote is to begin at 11 o'clock on Tuesday next and that is a very important vote. If cloture is invoked on that bill, then the campaign financing reform bill will be the business before the Senate to the exclusion of all other business until disposed of. If cloture is not invoked, then upon the completion of that rollcall the Senate will proceed to vote on the motion to invoke cloture on the motion to proceed to the consideration of the DOD authorization bill.

So there is the likelihood—let us put it this way—I prefer to say the possibility, because I am still hopeful there will be cloture invoked on the campaign financing reform bill on Tuesday, so there is a possibility, and Senators may ponder over that word check and make their own judgments, there is a possibility, I will say, others may say a likelihood, that after that cloture vote there will be a second cloture vote that being on the DOD procedural motion.

So both of those rollcall votes, if two of them occur, as I said, will probably occur before the Democratic and Republican conferences that day, because there is no point in waiting until 2 o'clock and then start having cloture votes and if one of those cloture motions carries getting started on the matter at 3 o'clock in the afternoon or 3:30 or 4 o'clock in the afternoon the day has pretty well shot itself.

So the cloture votes will occur earlier on next Tuesday than they have been occurring in the past. Senators have been given ample notice now, ample notice, well in advance. They can make their airline reservations early.

Does the distinguished acting leader have anything else he would wish to bring before the Senate today?

Mr. QUAYLE. Not at this time, I say to the majority leader.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I move in accordance with the order previously entered that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to, and the Senate, at 6:09 p.m., adjourned until Friday, September 11, 1987, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 10, 1987:

DEPARTMENT OF STATE

DEANE ROESCH HINTON, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, WITH THE PERSONAL RANK OF CAREER AMBASSADOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COSTA RICA.

RICHARD C. HOWLAND, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

THE JUDICIARY

MALCOLM J. HOWARD, OF NORTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NORTH CAROLINA VICE A NEW POSITION CREATED BY PUBLIC LAW 98-353, APPROVED JULY 10, 1984.

EXECUTIVE OFFICE OF THE PRESIDENT

ALAN F. HOLMER, OF VIRGINIA, TO BE A DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE M. ALAN WOODS.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. JAMES A. LYONS, xxx-xx-xxxx/1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 610:

To be admiral

VICE ADM. DAVID E. JEREMIAH, xxx-xx-xxxx/1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5141, TO BE CHIEF OF NAVAL PERSONNEL, AND TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 610:

To be vice admiral

REAR ADM. LEON A. EDNEY, xxx-xx-xxxx/1310, U.S. NAVY.

EXTENSIONS OF REMARKS

COMPREHENSIVE LEGISLATION DEALING WITH THE AIDS CRISIS

HON. LEON E. PANETTA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. PANETTA. Mr. Speaker, this country now faces a crisis that will have its ultimate impact only years from now. This crisis is acquired immunodeficiency syndrome, or AIDS, and it will profoundly challenge and test our responsibility and resourcefulness as a nation. AIDS poses a challenge that must be answered swiftly and forcefully, yet thoughtfully and with foresight, so that the decisions we make can answer this problem for now and for the future. Today, I am taking a step in trying to deal with this crisis for the present and future by introducing a comprehensive package of AIDS legislation.

Few diseases in modern history have created the kind of intense concern that AIDS has inspired. Up to July of this year 37,869 cases of AIDS have been reported to the Centers for Disease Control, and more than 21,000 people have died from the disease. These are the figures that we must confront now. But we must also look at what we will be dealing with 5 or 10 years from now. According to the CDC, by 1991 270,000 cases of AIDS will be diagnosed in the United States, and currently over 1.5 million Americans have the HIV virus that can cause AIDS. Of these, it is estimated that 20 to 50 percent will eventually get AIDS, so that up to 750,000 of these people will at this point die of AIDS. We must act on the present conditions and predictions, and plan, prepare for—and try to change—the future. I believe that this bill works toward these goals by establishing programs for research into preventing and curing AIDS, educating the public as a means of prevention, and care for those who are already stricken with the disease now as well as future victims.

This bill approaches the crisis by providing for increased education for health care workers and the public, expands and intensifies our research efforts, provides for health care for the victims of this desease, and allocates a majority of the funds to local governments and community based organization, where the problem is most effectively attacked.

The National Academy of Science, along with many other knowledgable organizations and individuals, has stated that education is currently the best weapon available against AIDS. In this area, the bill provides programs to educate high-risk groups, health care personnel who deal with AIDS patients, high-risk groups, and the general public. The highest-risk groups now include gay and bisexual men, and intravenous drug users and their spouses and sexual partners. By increasing our efforts in this area, including with new high-risk groups as they develop, we can hopefully avoid a full-blown AIDS plague, which is still a threat. The education program for health care personnel includes risk reduction, educational training, and information. Although most people assume that health care professionals are aware of what is happening with AIDS, this is often not the case. Many of our health care workers are afraid of working on AIDS patients because they are uneducated on the subject. We must make sure our health care workers are well informed, and therefore feel secure in dealing with AIDS patients, if we are to be able to combat this crisis now and in the future.

The bill also provides for an expansion and intensification of our current research efforts. This includes a declaration of a public health emergency, and fellowships and grants for increased research efforts. It will also establish a National Program on AIDS to establish new research efforts and perform the important function of coordinating all research. Our research efforts are of course the key to eventually preventing and eradicating this dread disease, and if we do not increase our efforts here, we may have a bleak future. These efforts are going well now, but we must continue to increase and intensify them. An ongoing National AIDS Advisory Board is also created to help coordinate these research efforts, as well as other parts of the battle against AIDS.

Mr. Speaker, as you well know, the AIDS crisis is already placing new burdens on our Nation's health care system, especially in areas of high incidence of the disease, and this burden is likely to rise almost astronomically as the number of those with AIDS and AIDS-related diseases increases. By 1991, it is projected that AIDS patients will occupy 16,000 hospital beds, over 1 percent of the total nationwide, and much higher in areas with high concentrations of AIDS cases. Also by 1991, the total costs, including medical care and lost productivity due to disability and premature death, will exceed $66 billion per year, more than double the current Medicaid budget. This will pose major challenges for our health care system, and we must find ways to meet this challenge in cost-effective and humane ways. This legislation attempts to do this through a number of provisions.

First, by declaring the AIDS crisis to be a national public health emergency, the bill makes funds available for a number of special activities and expedites carrying out of research and prevention efforts. It does so by authorizing the hiring of up to 690 additional personnel at the CDC, National Institutes of Health, and the FDA, reducing the time period of review and award of Federal research and prevention grants and contracts, and expedites high-priority AIDS-related requests for personnel and facilities. It also authorizes a 90-day emergency program to educate health and safety workers, as well as authorization of an additional appropriation of $50 million for purchases of drugs shown to prolong and improve the quality of life of AIDS patients. AZT, the only drug currently approved for treatment of AIDS by the FDA, costs approximately $10,000 per year, and other drugs that are developed may also be expensive. AZT is now unaffordable to those without health insurance covering it or without Medicaid, and Medicaid often does not fully cover its costs. This provision would supplement $30 million recently approved by the Senate for this purpose.

In the area of health care treatment, the bill establishes networks for this purpose through public and non-profit private groups, which many feel are the most effective way to deliver health services. These networks are supposed to provide a number of services for AIDS patients, including long-term care and hospice services, mental health, counseling, and psychosocial support services, and case management services to coordinate care and treatment. A separate part of this effort consists of demonstration projects for innovative, health service delivery models. These include home health services, adult day care, and services provided by consortia of community physicians. Such forms of community-based care have been shown to be cost effective and humane compared to more traditional forms.

Along these lines, there is also a need to expand services already provided in ways that will specifically deal with the AIDS crisis. Two of the above areas in which I have long had a strong interest and which seem to be appropriate ways of caring for AIDS patients are hospice and home care. I would like to propose changes in both of these areas that will specifically accommodate the needs of AIDS patients, their communities, and the health care system.

Hospice is, as you know, intended to provide care for terminally ill people. As AIDS is, tragically, now considered terminal once it is diagnosed, hospice would appear to be well-suited for caring for AIDS patients in the last part of their lives. As you may know, many AIDS patients courageously and admirably fight their conditions all the way to the end, and therefore do not presently find hospice well-suited to their needs. However, among AIDS cases, the large and rapidly-growing group of intravenous drug abusers and their spouses and partners, often have unstable living situations or are homeless, and therefore cannot be adequately cared for at home. Certain changes in the hospice Medicaid program that would help adapt it to this group, as well as to AIDS patients in general.

My first measure would mandate States to provide hospice coverage under the Medicaid program. This is currently an option for the States, as well as being one of several options under the section 2176 waiver program, but only 4 States now officially have Medicaid hospice coverage. While this number should gradually increase, there is a need, because

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of the AIDS crisis, to make certain hospice care is available to Medicaid beneficiaries with AIDS in those States that do not currently have a program.

The other hospice measures would establish three separate demonstration programs:

Increasing the payment rate to hospices for AIDS patients to reflect the many additional costs hospices incur in caring for AIDS cases, as well as allow hospices to pursue somewhat more aggressive treatment than is normally provided; this would make AIDS patients feel less like they are "giving up" by using hospice services.

Allowing all those officially diagnosed with AIDS to be treated as terminally-ill persons. This would enable them to have access to Medicaid hospice services sooner than they now can, as they must currently be certified as having 6 months to live at most. In practice, this often turns into even less time.

Waiving the restriction on reimbursement for inpatient services to 20 percent of total days of care for AIDS patients would address the need of many, especially among IV drug abusers, to spend more of their time in such settings. Currently, many hospices provide AIDS patients with more than 20 percent of inpatient days, and are just not compensated for this care.

There are also three home care demonstration programs, two under Medicaid and one under the Public Health Service. In many ways, home care is the most preferred setting of AIDS patients and their families, and the AIDS crisis could therefore lead to a great need for expansion of such services. Home care is widely considered cost-effective and humane, the latter because it enables sick persons to stay in their homes and communities with their loved ones.

The two Medicaid demonstration projects would expand home care services to include intravenous drug therapy, and allow home care to be furnished on an intermittent basis as it now is under Medicare. The former would enable AIDS patients to receive a form of treatment that has been found beneficial and which must be administered by trained personnel. The latter would guarantee that a minimum number of days of home care is provided to AIDS patients under Medicaid. The demonstration projects under the Public Health Service would train home health aides and homemakers in dealing with AIDS patients. While professional health care workers are getting a fair amount of training, nonprofessional workers are lacking in this area, and need such training for their own sake and that of their patients. Major criteria in selecting all hospice and home care demonstration projects will a high incidence of AIDS and a demonstrated need for the service.

Mr. Speaker, as I have stated, AIDS will unfortunately still take many lives, cause much suffering for its victims and those they know, and be with us for some time to come. There are many ways in which we must deal with this crisis, including preventing AIDS' spread, trying to find a vaccine and cure for the disease, and caring for those who are stricken now and in the future. This will require a large-scale, many-faceted effort involving the creative use of considerable human, financial and other resources, and the participation of a wide range of public and private groups. As you know, I am by no means an advocate of "free-spending" or simply throwing money at a problem. However, the more resources we devote to the AIDS crisis now and the better we use them, the sooner we will find solutions to the many parts of this crisis, and the less chance there will be of its truly getting out of control. We need to devote our energies now so that in the future, we will be adequately prepared. I urge the support of my colleagues for this series of important measures to combat and defeat AIDS.

A TRIBUTE TO SANDY AND MILTON GORDON

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to two people who have been dear friends for many years—Sandy and Milton Gordon. On Sunday, September 13, these outstanding individuals will be honored by the American Jewish Committee as the recipients of the prestigious 1987 Jewish Heritage Award.

In their professions, their family life and their commitment to public service, the Gordons have worked tirelessly. Individually and as a couple, their accomplishments are extremely impressive and inspiring to all who are fortunate enough to have made their acquaintance.

Sandy Gordon has invested much of her life in her work to provide educational opportunities for both children and adults. Her contributions to the advancement of those with learning disabilities is particularly admirable. Sandy's vision to create a better world for these individuals has led to the formation of the Independence Center, a residential apartment living program for young adults with learning disabilities; and to her work as the founding president of the Tikvah Program at Camp Ramah, a program for learning disabled children.

Sandy's interest in education also led to her service as a member of the State Commission on Child Development and as a member of the school boards of the Akiba Academy and the Herzl schools. She is presently associated with CHILD—Clearing House and Information for Learning Disabilities. In addition, for the past 10 years, Sandy has been the president of the Los Angeles Convention Center and Exhibition Authority Commission.

After serving in the Army during World War II, Milton began his extremely successful career in real estate. He has served the State of California as real estate commissioner, as chairman of the board of investment and as secretary of business and commerce. He currently chairs the Senate Committee on Cost Control in State government, and serves on the Real Estate Management Committee of Los Angeles.

In addition, Milton has been very active in the Jewish community of Los Angeles. He is the chairman of the executive committee of the University of Judaism and a member of the boards of the American Jewish Committee, the Jewish Federation Council, and the Jewish Theological Seminary of America.

Milton and I have been friends since my college days. I have frequently turned to him for his wisdom and counsel and consider him to be a valued advisor and mentor.

It is an honor and privilege to pay tribute to Sandy and Milton Gordon here today. I ask you to join me in recognition of this outstanding couple who, over the last 25 years, have given unstintingly of their energy, time and resources to the service of their friends, their family, and their community. I am grateful to know them and extremely pleased to join the American Jewish Committee in saluting them.

CELEBRATING THE REBIRTH OF NEWARK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. RODINO. Mr. Speaker, in July of 1967, the Nation was shaken by the riots that erupted in Newark, NJ. It was an unbelievable nightmare for all the citizens of Newark, myself included, to witness the loss of innocent lives and to see their city engulfed in flames. When the smoke settled after 5 days of violence, 26 people were dead, businesses were closed and the image of Newark appeared permanently scarred.

But I am happy to report that two decades later, Newark is like a phoenix that has risen from the ashes. A strong spirit of boosterism pervades the city where the recovery from this devasting event, if not complete, is clearly underway. I am proud to have helped in securing Federal funding for the many projects, from senior citizen housing to office buildings, that provided the impetus for private initiative and for this rebuilding.

Today, the citizens of Newark have just cause for their new confidence. The political life of Newark reflects the multiracial character of the city. There are improved relations between the community and the police. The economy is on the rebound with 1,500 new jobs created last year by new small- and medium-sized firms. The downtown area is experiencing its greatest growth and construction projects are visible throughout the city. Newark provides a home to five major institutions of higher learning, including the recently funded Center for Molecular Medicine and Immunology at the New Jersey College of Medicine and Dentistry, and is a leading education center. The Federal and State sponsored renovation of Penn Station under-scores Newark's continued importance as a transportation hub.

Recently, Money magazine listed Newark as one of the top 100 places to live in the United States. All of this clearly reflects that the city is in the midst of a renewal which has created a new image for Newark that is both positive and optimistic.

To celebrate this renaissance, the Newark Church Consultation will sponsor a citywide church service on September 13 to commemorate the 20th anniversary of the Newark

riots with "remembrance, repentance, and recommitment." The guest preacher at the service, to be held in Newark's Sacred Heart Cathedral, will be the Reverend Samuel Proctor of the Abyssinian Baptist Church in Harlem. Also participating will be a choir composed of members from Newark churches.

The Newark Church Consultation is a newly formed ecumenical and interracial organization. It includes representatives from 16 denominations and is composed of concerned pastors who are dedicated to participating in the renaissance of Newark. The group is headed by the Reverend James Scott, the pastor of the Bethany Baptist Church on West Market Street in Newark. Reverend Scott provided the spark for this special service and the establishment of the group when he, along with Rev. David Burgess and Msgr. John Maloney, invited every clergyman in Newark to discuss the riots. In the words of Reverend Scott, the Newark Church Consultation was formed because the clergy of Newark "believes in the city and feels that the churches should join big business, government and a variety of community and civil rights groups in planning for the redevelopment of the city."

The Newark Church Consultation is an outstanding example of the fact that the foundation for the future of Newark remains its people. I applaud their efforts to continue the progress that characterizes Newark 20 years after the riots. We must never forget this tragic event nor lose sight of its underlying causes. But we can all join with the Newark Church Consultation in recommitting our efforts to the ideals embodied in the rebirth of Newark.

CHENANGO COUNTY COURTHOUSE CELEBRATES 150TH ANNIVERSARY

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. BOEHLERT. Mr. Speaker, I would like to take this time to share with my colleagues the pride my constituents and I feel in celebrating the 150th birthday of the Chenango County, NY, Courthouse on September 19, 1987.

The Chenango County Courthouse was erected in 1837 as a symbol of economic opportunity in growing central New York. It was built in a Greek revival style to symbolize the strength and perseverance of the local citizens. With its temple-like appearance and its locale, the courthouse became the place for important meetings and celebrations.

As the years went by, however, the high costs of renovation prompted a movement to tear the building down. Luckily, strong protests by the community, local organizations, and schoolchildren put a stop to any thoughts of replacing the county's symbol.

In 1976 Chenango County began the restoration of the courthouse, an effort which lasted until 1980. During this time, the crown of the courthouse, a statue of Lady Justice, was lowered. Her body had not withstood the harsh elements. Over the years, a hole in her head had been repaired with paper and tar and one of her arms was replaced with a modified furniture leg. As a part of the 150th anniversary celebration, a restored Lady Justice will be unveiled for the first time in a new glass display.

This celebration is especially important to the people of Chenango County because it falls at the same time that we celebrate the 200th anniversary of our U.S. Constitution. Plans are under way to make this a historic and patriotic celebration, with a parade and speeches by many distinguished local leaders.

Pride in our Constitution and our laws has played an important role in America's development, and the 150-year history of Chenango County Courthouse is a testament to the sense of justice that motivates Americans and promoted the spread of courthouses in communities across the Nation.

Mr. Speaker, I am honored to commemorate the distinguished history of the Chenango County Courthouse before my colleagues in the House of Representatives.

DAVE HOWELLS: A COP'S COP

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. RITTER. Mr. Speaker, Allentown Police Chief David M. Howells, Sr., said that when he retired it would not be prompted by turbulent activities within the department but by a desire to make a career change. Dave Howells, who began as a patrolman in 1958, and served as chief of police for the past 3 years, announced last month that he is taking leave of public service to accept a position with Mack Trucks.

I emphasized on July 24, 1986, in my speech in the CONGRESSIONAL RECORD, and I do again at this time, that it has been my good fortune to have the personal pleasure to know and work with Chief Howells. Dave was honored in August 1985 as the Nation's number one police officer by the Veterans of Foreign Wars. The veterans presented the Lehigh Valley law officer with the J. Edgar Hoover Award at their 86th annual convention in recognition of Chief Howell's 27-year law enforcement career in Allentown.

Dave, a distinguished member of the National Rifle Association [NRA], was pictured in March 1986 issue of Life magazine in connection with a campaign sponsored by the NRA to educate the American public about the NRA, its membership and programs. He emphasized "the NRA helps provide some of the finest police training in the country: they've always supported this Nation's law enforcement community."

In that promotion Chief Howells also spoke out on the two-part Firearms Owners Protection Act which was before the Congress. He succinctly stated in his own style, "The Firearms Owners Protection Act is fairer to those who obey the law. And tougher on those who don't." I was pleased to support those bills, now Public Laws 99-308 and 99-360. Both measures passed the House and Senate by large margins and were signed into law by President Reagan.

Mr. Speaker, it was not just these high honors that prompted my remarks in behalf of Dave Howells but the fact that in Dave, I have a deeply religious friend, who practices his religion in his daily relationships with others and in the community and has used his courage, strength, wisdom, and kindness in his professional activities. As a recent editorial states, "He embodied the philosophy of not asking a subordinate to go anywhere or do anything that he, the chief, would not take upon himself. In the street vernacular, "Davey Howells is a cop's cop."

Dave came up through the ranks as patrolman, marine platoon sergeant, detective sergeant, lieutenant, captain, director of training of the police academy, and then chief of police. On behalf of all the citizens of the Lehigh Valley, I wish Dave the very best in his new job as director of Security at Mack Trucks. We're all very glad he's staying with us in the Lehigh Valley.

Mr. Speaker, I was delighted to have the opportunity to extroll his virtues last year and now again am pleased to call to the attention of my colleagues the editorial from the August 16, 1987, issue of the Allentown Morning Call:

DAVE HOWELLS: A COP'S COP

Defining the persona of David M. Howells Sr. is a difficult task; somewhat like trying to paint a moving train. Describing what this big, strapping man has meant to the city of Allentown is a challenge of large proportions. But with the announcement Friday that he is taking leave of public service for a job with Mack Trucks, it is both timely and fitting to attempt to make an accounting of the accomplishments and attributes of Allentown's chief of police.

Davey Howells first strolled the streets of Allentown as a patrolman in 1958. He was a good cop, and he loved being a cop. He worked his way up in the ranks, earning respect as he climbed. And when he was named chief of police little more than three years ago, Davey Howells still held a thread that led back to those days as a beat patrolman. He remembered his roots. In his tenure as head of the 160-member department, he demonstrated openly and repeatedly that he was first a police officer, second an administrator. He embodied the philosophy of not asking a subordinate to go anywhere or do anything that he, the chief, would not take upon himself. In the street vernacular, Davey Howells is a cop's cop.

He kept a high profile, whether on the street or in City Hall. He was a populist chief of police—a fact stunningly demonstrated when he announced his "retirement" in July of 1986. Letters expressing support for Chief Howells poured in to The Morning Call and to City Hall. Frankly, there were serious questions among some circles as to whether that "retirement" was a serious venture or merely a gesture to solidify Chief Howells' position in certain political wranglings. Whatever, he changed his mind . . . much to the satisfaction of his legion of supporters both within and without the police force.

Davey Howells has relished the battles, both with perpetrators of crimes and with some in City Hall. He's a scrapper, one who avoides a fight when possible but who wades in with enthusiasm when the challenge is

thrown. He is vocal, opinionated, stubborn . . . but fair. Policemen are sparing with their respect. Davey Howells has earned the respect of his charges.

The police department is not—and should not be—a reflection of the personality of just one man. It is a team. But this particular team just won't be the same without Big Davey in charge. The Bulldog's gain is the city's loss.

THE HAUNTING FUTURE OF AMERICA'S MORAL WASTELAND

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. DANNEMEYER. Mr. Speaker, accountability is intrinisic to America. It is the cornerstone of the philosophy of freedom. The failure to hold one's self accountable for all of our individual thoughts and actions is the highest form of immaturity and the chief stimulus in destabilizing communal order. It is duplicitous for any individual to promote the cause of self-determination and individualism and, simultaneously, claim exemption from the consequences of one's actions.

Mr. Speaker, a most glaring example of this duplicity was recently provided at a Subcommittee on Health and Environment hearing on August 6 and 7, 1987. The topic was controlling AIDS. Specifically, the subcommittee was discussing laws, standards and accountability when the immoral minority attempted to claim irreclaimable ground. For the record:

Mr. DANNEMEYER. One of the suggestions made is that we need a standard in our society, in terms of accountability, for the conduct of those who have the virus * * * who knowingly engage in activities that result in the transfer of bodily fluids * * * that that person commits a crime. Do you support that concept?

Mr. LEVI (a homosexual rights activist). No, I don't * * * with all due respect, I think it is naive to think you can stop the behavior that might transmit this virus * * * you should be focusing * * * attention on prevention measures and the education programs and the counseling programs that will get the overwhelming majority of people to change behavior [sic] * * *. That is how we stop this epidemic, not with phony laws.

Similarly, responding to the same question on an ABC News "Nightline" special on AIDS, homosexual playwright Harvey Fierstein vehemently objecting to such a law on the grounds that it would sit on the books unobserved stated, "That's how you make your living, you pass laws that nobody uses!" Unfortunately for all of us, Mr. Fierstein's analysis is partially correct. A more correct statement would be that laws are passed which some citizens refuse to observe.

Mr. Levi, Mr. Fierstein, et al. may choose to call some laws "phony," Mr. Speaker, but I see laws as recognizing that none of us are angels. If we are angels, then we don't need laws. Because none of us are, we do. They're called standards, some evidently set a little higher than others would have them set.

Mr. Speaker, a verse was sent to my office the other day which I would like to share with my colleagues. Unfortunately, it was sent anonymously so I can't give credit where it is due. But, I believe it captures the amoral culture we seem to be giving birth to in this country.

There once was a nation of people
Who pleasured themselves quite alot
The children were "Oh such a bother"
When adult supervision they sought

"Please don't bother us children
Take a condom, go outside and play
On you we will not force our morals
If you think it's o.k.—it's o.k.

They chose not to set good examples
Good leadership they did not provide
Wanting not to endanger their lifestyles
Pushed the needs of the children aside

The children reached out to the people
"Please care if we live or we die"
But the people were too busy defending
The joys of the humanist lie

It is said that this nation of people
Took social disease in their stride
The label of "Prude" was commonly feared
And from it the people did hide

"What happened to that powerful nation?"
"Is it true they called nothing a sin?"
"That's right—and it says here by choice
They wasted away from within"

Mr. Speaker, in conclusion, I commend the following article to your attention:

[From Human Life Review, summer 1987]

WHAT IS THE MORAL CRISIS OF OUR TIME?

(By Will Herberg)[1]

Every age has its own challenge to morality, and the character of this challenge may well come to serve as a significant indication of the spirit of the times. What is the character of the challenge to morality that our age offers? Everyone seems to agree that we find ourselves in a moral crisis of an aggravated kind. But what is the nature of this crisis? What shall we make of it? What is its meaning and portent? And how deep is it, how far does it go? These are some of the questions I should like to raise and discuss.

The moral crisis of our time cannot, it seems to me, be identified merely with the widespread violation of accepted moral standards, for which our time is held to be notorious. There has never been any lack of that at any time; and comparisons often prove quite misleading. No—the moral crisis of our time goes deeper, and is much more difficult of define and account for. Briefly, I should say that the moral crisis of our time consists primarily not in the widespread violation of accepted moral standards—again I ask, when has any age been free of that?—but in the repudiation of those very moral standards themselves. And this, indeed, is our time's challenge to morality; not so much the all-too-frequent breakdown of a moral code, but the fact that today there seems to be no moral code to break down.

Sexual "irregularity" among young people has always been common enough, though it was only in recent years that a combination of sociological factors has extended it as a possibility to young women of the middle classes. There is, no doubt, a marked increase in premartial sexual activity to be found among the younger generation on the college campuses; but however disturbing this may be, it is not the real moral problem involved. The real moral problem, the real challenge to morality, is provided not by the girl who goes along, but by the girl who shrugs her shoulders and says: "Well, so what? What's so bad about sleeping around? It's natural, and it's lots of fun, too."

Cheating may or may not be more widespread on the college campuses of this country today; it is certainly not new. The student who cheats and knows that he is doing wrong is a moral problem, of course; but much more profound is the challenge to morality flung out by the student who cheats and says: "What's so bad about cheating? It gets you ahead, doesn't it?"

Fraud or near-fraud in the mass media of communication is something we have learned to expect and protect ourselves against. But what can we do with the attitude that shrugged off the deceptions practiced with official connivance over TV some years ago by a young professor of honoured name, with an indifferent, "Well, so what if it was all fixed in advance? It was a good show, wasn't it?"

I could multiply illustrations to the same effect from every sphere of contemporary life; but the point, I think, has been made. It is my belief that the really serious threat to morality in our time consists not in the multiplying violations of an accepted moral code, but in the fact that the very notion of morality or moral code seems to be itself losing its meaning for increasing numbers of men and women in our society. It is here that we find a breakdown of morality in a radical sense, in a sense almost without precedent in our western history. To violate moral standards while at the same time acknowlwedging their authority is one thing; to lose all sense of the moral claim, to repudiate all moral authority and every moral standard as such, is something far more serious. It is this loss of the moral sense, I would suggest to you, that constitutes the real challenge to morality in our time.

It is difficult to discover the sources of this kind of moral anarchy that is coming to pervade our culture; it is difficult even to distinguish between cause and effect. But one thing we may notice: in every one of the typical cases I have mentioned, there appears to be not merely a repudiation of morality as such, but a repudiation of morality in favor of a way of life governed by a self-indulgent quest for pleasure and fun. Everything is justified by the 'kicks" you get out of it. "Have fun" has become our parting injunction, replacing the long-obsolete "God be with you," In fact, if our time has retained from times past some sense of binding obligation in the conduct of life, it is just this obligation to "have fun." If we have a morality at all, it is a "fun-morality": to "have a good time" is, with many of our modern-minded people, as stern an obligation as serving God was to an old-time Calvinist. Not to be interested in having a "good time" condemns you as a neurotic with a "puritan conscience"—and what could be worse in the eyes of the moderns? Don't think that this pursuit of "fun," of a "good time," is an easy matter. It often demands a single-minded pursuit of status, adjustment, and sociability so strenuous as to shame many an ascetic saint. Children are shown no mercy; whatever their gifts or predilections, they are dragooned very early into the "have fun" and "be a good fellow" competition of the elders. In fact, teenagers have become the favorite vehicles of status

[1] Will Herberg (1909-1977) was a well-known author whose *Protestant, Catholic, Jew* is still generally considered a seminal book on religion and culture in America. This essay was first published in 1968 by the *Intercollegiate Review*, which reprinted it in the Fall, 1986 issue. It is reprinted here with permission (©1986 by the Intercollegiate Studies Institute, Bryn Mawr, Pa.).

display for their parents: they are lavishly provided with money and other facilities for having a "good time," and they are earnestly enjoined not to falter in this pursuit. It has become not uncommon for parents to supply their minor children with hard liquor and contraceptive devices when they go out to parties and other "fun" gatherings. In this kind of euphoric culture—where "feeling good" and "being sociable" are the pressing requirements—morality and moral codes in the older sense are obviously irrelevant.

Our emerging euphoric culture is closely connected with the affluence of our "affluent society." Until very recently, our country, and the rest of the Western world very largely, operated as dynamic production-minded societies drive on by need and scarcity. An ethic of duty, character, hard work, and achievement dominated the culture—that celebrated "Protestant ethic" that is in such bad repute today. Within the past generation, however, a profound change has been taking place in this country and in the more Americanized parts of Western Europe: the older "inner-directed" culture (to use David Riesman's terminology) is being rapidly replaced by a new "other-directed" culture under an economy of plenty, preoccupied with consumption, leisure, and enjoyment. Our current "fun"-morality is obviously an expression of this emerging "other-directed" culture. Affluence brings with it moral problems more perplexing than those that poverty breeds.

The "fun"-morality of our time is also closely connected with the new stress on sociability and adjustment so characteristic of our society, for nothing can so spoil "having a good time" as a taste for solitude and a dislike of being adjusted. But the sociability and adjustment so prized by our euphoric society are of a very curious kind. It is a "non-involved sociability," and an adjustment that swallows up both the so-called conformist and the so-called non-conformist—the junior executive in his "gray flannel suit" and the beatnik in his leather jacket. It is with this kind of "non-involved" sociability that we are particularly concerned at this point.

I am sure you all remember those horrifying stories coming from New York and other big cities, of women being attacked, raped, and sometimes throttled to death, while dozens of people looked on, none of them sufficiently "involved" to phone the police from the security of their apartments. These were all respectable middle-class folk, friendly and sociable, all sharing the "liberal" outlook for which New York is so celebrated. One of the cases reported in the press is particularly interesting. A young woman was being attacked at the foot of the stairs in the hallway of a building in the Bronx. A number of men came out at the first landing to see what was going on. They saw, and they returned to their own business—which was, believe it or not, passing resolutions on world peace and racial justice! You see, they were the executive committee of one of the best known "liberal" organizations in the city. They were all deeply interested in the welfare of their fellowmen—in the abstract, at a distance, by way of passing a resolution or making a speech. The more humanitarianism in the abstract, apparently, the less humanity in the concrete. . . . This kind of "non-involved sociability" is as much part of our euphoric mass culture as the "fun" we are always enjoined to be having. The euphoric way of life requires sociability, but it views with embarrassment and distaste any kind of serious personal involvement; that would spoil everything.

But the moral crisis of our time has even deeper roots than these comparatively recent developments I have been describing. The moral crisis of our time, let me remind you, consists not so much in the violation of standards generally accepted as in the attrition, to the point of irrelevance, of these very standards themselves. Violation of moral standards there has always been aplenty in every age, but until modern times the standards themselves were not questioned; or, more accurately, it was never questioned that there were such standards: this was taken for granted by the very ones who violated them, who, therefore, even in their violation, paid tribute to their authority. In the modern world, for the first time, at least on a mass scale, the very possibility of such standards has been thrown into question, and with it all essential distinctions between right and wrong. Today's culture comes very close to becoming a non-moral, normless culture.

What has been happening? Something that runs deep in our history and gives our culture its characteristically "modernistic" tone. It is the transformation of the very concept of truth, upon which the whole spiritual structure of a society may be said to depend. Until the dawn of modernity, truth was conceived of as something anchored in objective and transcendental reality, and the whole of man's intellectual and moral life was built upon this foundation. In very early times, truth had been seen as embodied in ancestral tradition and ancestral wisdom, the "wisdom of the fathers." But when this was challenged, as it was by the sophists during the breakdown of the older Greek culture, it was reestablished on an even firmer foundation by the philosophers. Such, I imagine, was the essential task that Plato set for himself, and with Plato, all of the subsequent Greek philosophy of whatever school. The philosophers sought to ground the truth, in its objectivity and transcendence, on the rational nature of things. The Hebrew prophets sought the truth in the revealed word of God. But despite the difference between the two approaches, basic and irreconcilable as they are at some points, Greek philosopher and Hebrew prophet were at one at least on this, that the truth by which man lived was something ultimately independent of him, beyond and above him, expressing itself in norms and standards to which he must conform if he was to live a truly human life.

It was precisely this conviction about truth that was first challenged with the emergence of modernity. It was challenged on one level by the rise of relativism. What sense did it make to speak of truth in the old way when truth was so relative, so obviously man-made and culture-made, varying (as Pascal had put it) with the degree of latitude, or (in the later vocabulary) with the psychological conditioning and cultural pattern? This kind of relativism was full of contradictions, to be sure, and flew in the face of the best evidence, but it appealed to the modern mind, which was rapidly losing all sense of transcendence. Relativism, of a kind more radical and persuasive than the Greeks had ever dreamed of, soon came to dominate the advanced thought of the West, and increasingly also the convictions and the feelings of the common man. In this kind of cultural climate the dissolution of moral standards, in the sense in which Greek philosophy and Hebraic religion had understood them, was only a matter of time.

But if relativism began the process, it was the triumph of technology that carried it to its disastrous completion. We are not yet in a position to grasp fully what the accelerated and unfettered expansion of technology has done to human life in the past three hundred years. But we can at least begin to assess its major impact upon the consciousness of the West, and that is the *exaltation of power over truth as the object of man's intellectual and moral quest.* From the earliest times, the object of the knowledge-seeking enterprise had been *truth*—the truth of reason for the philosopher, the truth of revelation for the man of biblical faith—but truth as something to apprehend *intellectually* and live by *morally.* Now, however, some time in the sixteenth or seventeenth century, perhaps, a new conviction arose, constituting a radical subversion of the older view. The whole tradition of the West—that "knowledge is *truth*"—was overturned, and replaced by the new, militantly proclaimed creed, "Knowledge is *power!*"—first, power of man over nature; then power of man over man. This shift from truth to power marks the full scope of the revolution effected by the technological spirit at the very dawn of modernity.

The evacuation of moral standards soon came to aggravate the effects of technology. Nearly a hundred years ago, Jacob Burckhardt, the great historian who so well discerned the ominous outlines of the twentieth century, pointed out with great penetration: "When men lose their sense of established standards, they inevitably fall victim to the urge for pleasure or power." This "urge for pleasure or power" defines as nothing else can the pseudo-ethic of our time.

The technological spirit exalting power, and the ideological relativism that destroys the authority of all moral norms, have cooperated to undermine the older foundations of morality, in fact, the very meaning of morality itself. Human problems are increasingly seen as technological problems, to be dealt with by adjustment and manipulation; the test is always how it satisfies desires or enlarges power, not conformity to a truth beyond man's control. In fact, the belief seems to have emerged that there is nothing beyond man's desires, nothing beyond man's power. His "values" are his to make or unmake, the only criterion being satisfaction and power. Pleasure and power have taken over, and the bitch-goddess Success, which William James so scornfully denounced, has come into her own. This is the moral crisis of our time in all its amplitude.

Some twenty years ago, in a happier day, Bertrand Russell raised a question that we are still far from being able to answer:

"There are certain old conceptions [he said] which represent man's belief in the limits of human power; of these, the two chief are God and truth. . . . Such conceptions tend to melt away; even if not specifically negated, they lose importance and are retained only superficially. . . . What then?"

Traditionally, through centuries and millennia, the limits upon pleasure and power had been set by the "higher law," a law beyond all human manipulation and control. And this "higher law" was understood to emanate from that which was ultimate in the universe, God for the Hebrews, Reason for the Greeks. The entire spiritual structure of the Western world was built upon these convictions. With these convictions so rapidly losing their appeal to the modern mind, nothing has been left but the indulgence of pleasure, the anarchy of power,

and the chaos of "self-created values." The moral crisis of our time is, at bottom, a metaphysical and religious crisis.

It is hardly surprising, though it is painfully ironical, that man's success in his frantic search for pleasure and power has brought with it the gravest threat to his humanity. Without grounding his being in something beyond, man cannot preserve his humanness. At the very moment when Algernon Charles Swinburne, echoing the new modernity, was singing "Glory to Man in the Highest, the Maker and Master of All," forces were coming to a head that were to drive Western man, through unimaginable disasters, to a point where his very survival would come into question. But even more than physical survival, it is the survival of man in his humanness that is becoming problematic.

I wish I had a more cheerful report to present to you. I wish I could offer a word of reassurance, and tell you that the moral crisis of our time is merely a surface phenomenon, an interim thing, transitional between the old and the new. I wish I could report that I have discovered, as some observers claim to have done, the fundamentals of a "new" morality already emerging out of the shattered ruins of the old. I wish I could announce these things; but I can't, since I am simply not able to see things that way. The contextualism and situationalism so eagerly espoused by exponents of the "new morality" have their point, of course, but allow them to be carried away by their own logic, and you end up in either moral platitudes or moral anarchy. They do not offer a way out.

Situationalism, especially seems to offer a strong appeal to the philosophical and theological champions of the "new morality," and therefore deserves closer attention. Its fundamental insight, shared by the contextualists in a weaker form, is that one must make his moral decisions not in the abstract, or in obedience to some eternal code of law forced upon him from the outside. I must respond *here and now*, not then and there; in *this* my situation, not in terms of some other—and if my response is to be genuine and authentic, it must be made with true inwardness, as *my* response, not in imitation of someone else's. The one "rule" of situational ethics would appear to be: "Respond from *within* your situation, and respond authentically, with the wholeness of being." After all, has not Saint Augustine counseled us: 'Love [God], and do what you will?"

But while this situationalist principle, rooted in a profound existential insight, is, in itself, quite valid, it is hardly enough to rescue the man who acts on it from moral chaos and ethical arbitrariness. For there is not the slightest hint in the situationalist principle as to content, positive or negative. The worst abominations of a Hitler or a Stalin may meet the demand of authenticity as well as the finest act of heroism or charity. Sartre himself tells the story of the young man in Paris under the Nazi occupation who came to consult him about a dilemma in which he found himself. The young man, it appears, did not know what to do—to join the Nazis in collaboration, and thus gain a secure position for himself and his family; or to go into the underground Resistance, and thus bring himself and his family into the direst peril. And what did Sartre, who was himself at the time in the Resistance, say to him? By his own account, Sartre told the young man that the important thing was not which of the two ways he chose; the important thing was that he choose his way with inwardness and authenticity. A philosophy that can say this, but cannot and will not say anything more, may be able to create something new, but not a new *morality*!

Or take another case. The barbarous vandals, many of them teenagers, who invaded the magnificent Spanish Stairs in Rome some time ago, and gleefully fouled up the world-famous work of art in a nihilistic protest against beauty and culture, may well have been acting out of their inner authenticity as much as the anonymous builders who, four centuries ago, created that magnificent structure. In fact, that's exactly what they claimed. Yet is there anyone bold enough to maintain that the two courses—creating and defiling—are morally on the same level if only one acts in either case with true inwardness?

No, authenticity may be a primary quality of moral response, but it cannot be all there is to it. Unless *some* principle, some standard, *transcending* the particular context or situation, is somehow operative *in* the context or situation, nothing but moral chaos and capriciousness can result. No human ethic is possible that is not itself grounded in a higher law and a higher reality beyond human manipulation or control. In the depths of our tradition, we find this higher reality to be, for the Hebrews, God, for the Greeks, Reason; and the higher law derived therefrom, the divine or the natural law. But, as Russell notes, in our time these foundation-conceptions "tend to melt away," and we are left with no grounding or anchorage. A contextual or situational ethic will not save us; rather, in accentuated form, it points to that which we are to be saved *from*.

For it is the humanity of man that is at stake. The humanity of man—our wisdom and our suffering ought to have taught us—is ultimately grounded in that which is *above* and *beyond* man, or the pride and power of man. To realize this profund truth is to realize the full depth and measure of the moral crisis of our time. How to revalidate the moral life in a culture in which the very idea of a moral law binding on man because it is grounded in what is beyond man, has been eroded almost to nullity: this, rather than any particular problem of personal or social morality, no matter how acute or how urgent, seems to me to be the moral dilemma of our time and culture—a dilemma in which we are caught, and from which we, as yet, see no way of escape. Real standards come in and through tradition. "Only he who has the tradition has the standards," the old Greek poet Theognis was wont to say. We have lost, we are losing, the tradition—the tradition of the higher law and the higher reality—and are therefore also losing our standards. Is it ever possible simply to regain what has once been lost? We do not know. That is our problem, our plight, and our task.

AN EXPERIMENT IN FREEDOM

HON. ERNEST L. KONNYU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. KONNYU. Mr. Speaker, a nationwide high school essay contest recently awarded a constituent of mine, Siegrid Voelkel of Cupertino, CA, a $250 scholarship to the college or university of her choice as runner-up for her fine efforts in the "Land of Freedom" essay contest. The rules for the contest sponsored by Friends of Free China specified only that the contestant write a 1,000 to 1,500 word essay on the topic "How Freedom Affects Progress" and relate it in some fashion to the Republic of China on Taiwan.

Friends of Free China is a national bipartisan, nonpolitical, tax-exempt organization dedicated to the preservation of freedom and understanding between the people of the United States and the people of Free China.

Mr. Speaker, in order to share with my colleagues the outstanding essay which my constituent prepared, I will insert it into the CONGRESSIONAL RECORD:

AN EXPERIMENT IN FREEDOM

Over the past 35 years, the Republic of China on Taiwan and Communist China have provided a unique living "experiment" on the effectiveness of different systems in promoting economic growth and social progress. The governments of these two countries have pursued widely divergent policies—with very different results. Mainland China has been an enthusiastic proponent of Communism and centralized economic affairs, while Taiwan has adopted a decentralized private-enterprise system.

These two Chinese states are the most notable examples of how freedom affects progress. By every economic measure, Taiwan has greatly surpassed Communist China. The Gross National Product of Taiwan has increased over $40 billion in one decade, making Taiwan a world-class industrial power. In contrast, the People's Republic of China, with 55 times the population of Taiwan, has only five times as much economic output.[1]

Freedom makes the difference! The economic and social freedoms that the people of Taiwan are allowed provide motivation. And with this motivation comes progress.

The United States is Taiwan's number one trading partner. Over eighteen billion dollars worth of products were exported to the US in 1985, up four million dollars from the previous year.[2] Per capita income on Taiwan is over 3,000 US dollars a year. That sum is almost ten times the income on Mainland China![3] And while Americans must come to terms with double-digit unemployment figures, the citizens of Taiwan are living comfortably with an unemployment rate that is just over two percent.[4] As amazing as they may seem, these statistics are true.

But economic development is not an end in itself. It must be translated into social freedoms which will guarantee the people a healthy and orderly life. Special emphasis has to be placed on the social aspects of life, which are so important according to Chinese tradition. On Taiwan there have been many remarkable resutls along these lines.

Literacy and higher levels of education are more and more required for the development and maintenance of technology as well as for the revitalization of culture. The Constitution of the Republic of China guaran-

[1] Dr. Yung-Hwan Jo, *Taiwan's Future?* (Arizona, Union Research Institute, 1980), p. 2.

[2] "Keep Markets, Cut Margins," *The Economist*, June 28–July 4, 1986, p. 66.

[3] Daniel Southerland, "Taiwan's Middle Class Pushes for Moderate Change," *San Jose Mercury News*, January 2, 1987, Sec. C, p. 7.

[4] *Republic of China in Figures*, Government Information Office, (Taiwan, 1985), I, p. 10.

tees all citizens the right to receive an education. Education in Taiwan stresses cultural traditions, technical knowledge, and the ability to contribute to the community. Nine years of compulsory education are free. Is it any wonder then that 90 percent of the people of Taiwan are literate, while only 60 percent of the people of Communist China are? [5]

An equal opportunity to receive an education is one basic freedom that citizens of America and Taiwan may sometimes overlook. Another basic right, religious freedom, may not always seem important. But religious freedom, guaranteed by the Republic of China's Constitution, is barely tolerated in Communist China. During the Cultural Revolution thousands of clergymen on the mainland paid for their beliefs with their lives.

Churches of all faiths are apparent on Taiwan, though, and are obviously an active part of the lives of the people. Taiwan has thus become a bastion of religious freedom in Asia.

Freedom of the press is also an inalienable right in a free society. Taiwan has no censorship either before or after publication. The media there uphold the principles of social responsibility and public enlightenment, which are the prerequisites of progress.

What better example do we have of how freedom affects progress than by comparing Free China with Communist China? In only three decades the people of the Republic of China have increased their standard of living almost to the level that we Americans have toiled so hard for the past 200 years. Mainland China, however, appears to have barely emerged into the 20th century.

The difference between these two Chinese states is Freedom. Freedom fosters Progress. And isn't progress what Taiwan does best?

Freedom has made Taiwan a beacon of hope to the oppressed people of Communist China. The Republic of China on Taiwan was meant to be an endless experiment in freedom—with no limits to its hopes and no restrictions to its future accomplishments.

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OPPRESSION OF SOVIET JEWS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. LAGOMARSINO. Mr. Speaker, I am honored to be a part of the 1987 Congressional Call to Conscience, an effort to raise public attention for the continued oppression of Soviet Jews. As you may know, the Congressional Call to Conscience began in 1976 as a means for Members of Congress to speak out on behalf of Soviet Jews seeking freedom of religion and the right to emigrate.

The Government of the Soviet Union, the same government that has proclaimed a policy of "glasnost" suppresses religion, encourages anti-semitism, and ignores its obligations under the Helsinki Human Rights Treaty to allow for freedom of emigration. The Soviet Government has targeted innocent Jews by withholding emigration visas thereby forcing Jews who want to leave to remain prisoner in a country that despises them. Should any of these Jews protest their treatment or question the Soviet authorities, they face the serious consequences of unemployment, restrictions on their already guarded lives, imprisonment or banishment to a "psychiatric" hospital or hard-labor gulag.

Because of the deplorable living conditions and discrimination, over 350,000 Soviet Jews have begun the application process to leave. Twenty thousand are listed as "refuseniks"—those who have made application to be rejoined with their families abroad and have been refused. One of those "refusenik" cases I would like to bring to the attention of my colleagues is the plight of Vladimir and Maria Slepak. The Slepak's case may be familiar to you because their son, Alexander, held a 17-day hunger strike here in Washington to protest the lifetime refusal given to his parents. Vladimir Slepak has been targeted by the Soviets because he is one of the founders of the Soviet Jewry emigration movement and, largely, because of his efforts, over 260,000 Jews have been permitted to leave the Soviet Union.

Since he began his humanitarian activism in the 1960's, his home has been repeatedly raided and searched. Many of his belongings have been confiscated, his telephone disconnected and electronic "bugs" installed in his walls. He has been the subject of public condemnation through the Soviet Government controlled media. Moscow television has listed him in their "Traders of Souls" television show and have labeled him as a "soldier of Zionism inside the Soviet Union" and as part of an anti-Soviet conspiracy. In 1977, Izvestia maliciously accused him and other Jews of espionage and treason. Vladimir has been interrogated and imprisoned twice on unknown, obviously false, charges. In June 1978, Vladimir and his wife Maria were arrested for displaying a banner from their window saying, "Let Us Go To Our Son In Israel." Vladimir was sentenced to 5 years of internal exile in Siberia for the bogus charge of "malicious hooliganism." Maria voluntarily shared this intolerable fate with her husband after her three-year sentence was suspended. Siberia is no vacation land—the land is barren and the climate very harsh. Despite his ill health, Vladimir worked at odd jobs, often in sub-zero weather. In 1982, Vladimir was allowed to return to Moscow. But, knowing of the Soviet authorities' ability to ship their citizens off to the gulag on a whim, I am concerned about just how long the Slepaks can remain in the relative safety of Moscow.

If the Soviets are serious about the rhetoric they often produce regarding the need to uphold human rights, then they will back their words with actions—positive actions like allowing the Slepaks to rejoin their family abroad. I urge my colleagues to remember the Slepaks and other subjugated Soviet Jews when considering other matters pertaining to our relations with the U.S.S.R., like arms control. Trust the Soviets? Ask the Soviet Jews. I also urge my colleagues who have not yet done so to join in the Congressional Call to Conscience and help the Soviet Jews. As Elie Wiesel said, "What hurts the victim most is not the cruelty of the oppressor, but the silence of the bystander." Please do not be a silent bystander.

[5] *Ibid.,* p. 9.

RULE ON H.R. 2310, THE AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I wish to serve notice to my colleagues that, pursuant to the rules of the Democratic caucus, I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of an amendment to H.R. 2310, the Airport and Airway Improvement Amendments of 1987. It is the committee's intention to offer this amendment, which is necessary to continue the funding for this authorizing legislation, as a separate revenue title to H.R. 2310.

CISPES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. CRANE. Mr. Speaker, I rise to address an issue that will not be probed by an "independent counsel" or a special congressional committee. This scandal has been lying under the rug far too long. Now, it is time to clean the pile of dirt that has been collecting under our noses while emanating from the left corners of the House floor.

This is the saga of private fund raising for a bunch of Marxist guerrillas in Nicaragua, who stole a revolution—the Sandinistas. A perfect example of this is the U.S. Committee in Solidarity with the People of El Salvador [CISPES]. Right now, they are mailing out ballots calling for the U.S. Government to "end all aid to the Contras."

This is just one of several leftist organizations that have been embarked on an effort to fund Communist Central America. Given these indications, perhaps it is time for an investigation of the private support by advocacy groups in this country for a Marxist Sandinista dictatorship.

I urge my colleagues to read the following articles, which sheds much-needed light on the details of this disturbing matter.

[From the Capital Research Center Magazine, August 1987]

ORGANIZATION TRENDS: WHAT ABOUT THE LEFT'S PRIVATE FOREIGN POLICY IN CENTRAL AMERICA?

Efforts by people outside of government to aid the anti-Communist resistance in Nicaragua have provoked much righteous indignation but little fairness. Sen. Howard Metzenbaum (D-OH) has urged an Internal Revenue Service investigation of eight nonprofit groups listed in the Tower Board report; and Rep. Lee Hamilton (D-IN), chairman of the House Committee investigating the Iran-Contra affair, has warned that "use of private parties to carry out the high purposes of government makes us the subject of puzzlement and ridicule."

Yet these denunciations have a one-sided ring. As Norman Podhoretz noted in the Washington Post, "private American citizens raising money and lobbying for the communists in Central America do so with impunity, while private American citizens raising money and lobbying for the anticommunist democrats there are treated as criminals."

A perfect example is the U.S. Committee in Solidarity with the People of El Salvador (CISPES), which is mailing out ballots for a "National Referendum to End the War in Central America." The ballot calls for the U.S. government to "End all aid to the Contras"; "End all military and war-related assistance to the governments of El Salvador and Guatemala"; "Remove all U.S. bases, troops, and National Guardsmen from Honduras and end military aid to that country"; and "Promote peaceful solutions by supporting the Contadora process, establishing cooperative relations with the government of Nicaragua, and promoting negotiations within El Salvador and Guatemala."

The CISPES referendum is also sponsored by the Coalition for a New Foreign and Military Policy, Network in Solidarity with the People of Guatemala, Office of the Americas, Religious Task Force on Central America, and SANE.

The accompanying letter, signed by CISPES National Coordinator Angela Sanbrano, urges the sympathetic to "support CISPES and its National Referendum with a generous financial contribution." Sanbrano estimates CISPES will need to raise $130,000 over the next two months to support referendum organizers, mailings, radio advertising, and presentation of the ballots to Congress and the media. CISPES, a 501(c)(4) tax-exempt organization, says it is soliciting contributions "in the name of democracy."

In fact, CISPES was founded in 1980 specifically to organize support for the Marxist FMLN guerrillas of El Salvador and to mobilize opposition to U.S. aid to the Salvadoran government. CISPES works through a claimed "450 affiliate groups across the country" and plays an active role in the sanctuary movement, which illegally brings in politically motivated Salvadoran and Guatemalan aliens to foster opposition to U.S. policy in Central America (see Studies in Organization Trends #1, Second Front: Advancing Latin American Revolution in Washington, and #2, Smuggling Revolution: The Sanctuary Movement in America).

In a document captured by the Salvadoran government in late 1980 and made available by the U.S. Department of State in 1981, Farid Handal, an FMLN guerrilla leader and brother of Shafik Handal, head of the Communist Party of El Salvador, described his travels to the United States to bring about the creation of CISPES.

Arriving in the U.S. in February 1980 to meet with left-wing activists from union, church, and other groups and members of the Communist Party, U.S.A., Handal proceeded to Washington, where he made useful contacts at an Institute for Policy Studies seminar and in meetings with Rep. RON DELLUMS (D-CA) and sessions with two Communist Party members. Armed with DELLUMS' invitation to come back to Washington at a later date to address the Black Caucus, Handal took off to organize chapters in cities like Chicago, San Francisco, and Los Angeles.

In New York a second time, Handal met with officials of the Cuban United Nations delegation and with Sandy Pollack, Communist Party leader and U.S. Peace Council Solidarity Coordinator. Pollack suggested "there should be a national conference under the auspices of the U.S. Peace Council, the National Council of Churches, Amnesty International, the Washington Office on Latin America, and various unions in the U.S. for the purpose of establishing a support mechanism for the solidarity committees in those states where it does not already exist." This led to conferences in Los Angeles and Washington with more than 100 "solidarity" groups in October 1980 which launched CISPES nationwide.

Handal returned to Washington, where he met with DELLUMS and the Black Caucus. "Monday morning the offices of Congressman Dellums were turned into our offices," Handal reported. "Everything was done there . . . . The meeting with the Black Caucus took place in the liver of the monster itself, nothing less than in the meeting room of the House Foreign Affairs Committee."

Congressional support for groups like CISPES also includes Rep. PATRICIA SCHROEDER (D-CO), who has served as a fundraiser and advisory board member for the Nicaragua Network, an organization claiming close ties to CISPES; and, according to Rep. BILL MCCOLLUM (R-FL), SCHROEDER, Rep. JOHN CONYERS, JR. (D-MI), and Rep. MERVIN DYMALLY (D-CA) have signed letters or otherwise helped raise funds for both CISPES and new El Salvador-Today.

Ties to CISPES are also a part of the biography of Benjamin Linder, the American killed April 28 in a firefight in Nicaragua, according to the Washington Times, while armed with a Soviet AK-47 rifle and uniformed in Sandinista garb. Linder was a founding member of CISPES on his campus at the University of Washington in Seattle.

PRIVATE FUNDING

CISPES has enjoyed some support from the foundation world, receiving grants in 1984 from National Community Funds ($8,500), Liberty Hill Foundation ($4,560), North Star Fund ($2,500), Bread and Roses Community Fund ($500), and Vanguard Public Foundation ($250). The Boehm Foundation contributed $1,000 in 1983, and National Community Funds donated another $14,600 in 1985.

Support for CISPES is only part of a distinct pattern of American private support to far-left forces in the United States and Central America. National Community Funds, which donated $23,100 to CISPES over a two-year period, provided at least $538,783 to support Central America-related radical political activity in 1985 alone. NCF is a project of the Funding Exchange, referred to in one grantmaking manual as "a national umbrella organization established to facilitate communication among regional community funds, provide development assistance for the funds, start new funds in other parts of the country, and operate the [NCF] project [see *Organization Trends*, August 1986.]"

NCF's 1985 annual report proclaims that "In the area of Central America work, our funding continues to grow, making NCF the major funding source in the country for this important work. We believe that our most pressing task is to keep groups like . . . CISPES . . . alive and kicking." At a later point, the report states that "NCF does not measure the success of its grantees in this arena by votes in Congress." Instead, "We look . . . to the proliferation of solidarity groups, to the growing church sanctuary movement, to the professional groups raising money for Nicaragua. . . ."

One professional group aiding the regime in Nicaragua is the Quixote Center, a 501(c)(3) Catholic relief agency based in Mt. Rainier, Maryland. According to the *Christian Science Monitor*, Quixote's Sister Maureen Fiedler says the Center's national "Quest for Peace" campaign has channeled almost $40 million of supplies and labor to Nicaragua since July 1986 and hopes to collect another $60 million by fall to match the $100 million Congress is sending to the rebels. The Quixote Center has been shipping supplies to Nicaragua since late 1983 and now acts as a clearinghouse for tracking donations sent to Nicaragua by more than 500 private groups across the country.

Perhaps the most egregious example of "mainline" foundation support for such activity is the Ford Foundation. In addition to more than $1.3 million in direct grants to the Sandinista regime since 1984 through Nicaragua's Ministry of Foreign Cooperation and other agencies (most often the International Reconstruction Fund of Nicaragua and the Central American Institute of Business Administration in Managua), Ford has provided hundreds of thousands of dollars for centers and churches harboring alien sanctuary activists in actual defiance of U.S. law and continues to fund groups like the Washington Office on Latin America, the Youth Project, and the Institute for Policy Studies.

The Council for Inter-American Security has asked Attorney General Edwin Meese to look into the tax-exempt status of groups like CISPES who aid the Central American Communists, presenting him with a 138-page draft study by J. Michael Waller entitled "Financing Terrorism in El Salvador." CIS President L. Francis Bouchey says "twenty times as much money" has been raised for these causes than was raised in behalf of anti-Communist forces by the National Endowment for the Preservation of Liberty.

Given these indications, perhaps it is time for a thorough investigation not just of private support for the anti-Communist resistance in Nicaragua, but also of the significant amounts of private support rendered by individuals, advocacy groups, and foundations in this country for the Sandinista dictatorship and guerrilla movements like El Salvador's FMLN. Even the most rudimentary considerations of fairness and balance would seem to require no less.

A TRIBUTE TO THOMAS J. MONTGOMERY

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding member of my community, Mr. Thomas J. Montgomery. Tom was recently elected as president of the board of directors of the Northeast Valley Health Corporation, a system of health care facilities providing medical care for the poor in California's San Fernando Valley.

In 1965, Tom participated in a project that surveyed the availability of medical resources for consumers in the San Fernando Valley. The findings of the study led to the creation of the Northeast Valley Health Corp. which now serves over 9,000 persons in the area. In his new position as the 1987 president of the board of directors, Tom is at the helm of an organization that faces many challenges as it expands and diversifies its coverage for those in need of medical care.

In addition to his role as a leading local and national advocate of health care for the poor, Tom is the chairman of the 39th Assembly District (Los Angeles County) Democratic Central Committee and he is a decorated World War II veteran. He represented consumer interests in the National Association of Community Health Centers as the first president of the organization's consumer branch and is at the forefront of the Health Center Movement.

It is my distinct honor and pleasure to thank Thomas J. Montgomery and the Northeast Valley Health Corp. for their dedicated service to the community. Their work demonstrates a commitment to the improvement of the quality of life for the people of the San Fernando Valley.

NINTH ANNUAL NEW JERSEY ETHNIC FESTIVAL

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. RODINO. Mr. Speaker, this weekend, the Ninth Annual New Jersey Ethnic Festival will be held at Liberty State Park in Jersey City, NJ. This notable celebration, sponsored by the New Jersey Ethnic Advisory Council, will bring together representatives from New Jersey's many rich and diversified cultures. In recognition of the Bicentennial of the Constitution, the theme of this year's program is "We The People-Together." The 1987 festival will pay special tribute to the German community for its role in the development of our State and Nation.

The activities will begin on Saturday with an opening celebration that features a "Parade of Nations." A very important event is a naturalization ceremony where 200 new citizens will be sworn in. Other activities include music and dance performances by 20 different groups and the display of crafts and foods from many ethnic organizations.

I applaud the efforts of the organizers and participants of the Ninth Annual New Jersey Ethnic Festival. These events will highlight the cultural contributions that many ethnic groups have made to our State. There are over 100 different ethnic groups in New Jersey, making it one of the most ethnically diverse States in the country.

The celebration will also serve as a reminder of the important historical role New Jersey has played as a gateway for millions of immigrants seeking a new life in America. The melting pot is the backbone of American greatness and we are all enriched by the diversity of cultures and ideas that characterizes our society. I want to express my best wishes for the success of the Ninth Annual New Jersey Ethnic Festival.

HONORING JOHN R. JONES FOR OUTSTANDING VOLUNTEER WORK

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. BOEHLERT. Mr. Speaker, I take this occasion to rise in honor of John R. Jones, a constituent from Utica, NY, who has performed outstanding voluntary work for the people of Utica and New York.

Mr. Jones has volunteered his time and has given of himself for 30 years, despite many physical problems which have plagued him. He has won wide acclaim from many in New York, especially for his contributions to Spring House, a program in Utica of cerebral palsy and handicapped persons. He certainly exemplifies the American spirit of volunteering, and is an active and important member of the community.

I thank Mr. Jones for his spirit and leadership—and for helping us realize just how important volunteers are to this country.

THE CUBAN MISSILE CRISIS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. RITTER. Mr. Speaker, I offer the following excellent article to my colleagues in hopes that the mistakes made with Cuba will not be repeated with Nicaragua. We must never abandon the cause of peace and freedom in Nicaragua as we did in Cuba. The human suffering and impact on U.S. national security would be too great.

KENNEDY'S CAVE-IN LEFT A SORRY LEGACY: THE CUBAN MISSILE CRISIS WAS A TRIUMPH—FOR THE SOVIETS

(By George Will)

WASHINGTON.—Clio, the muse of history, is in bed with a splitting headache, prostrated by the task of trying to correct the still multiplying misunderstandings of the Cuban missile crisis. Most Americans believe 'twas a famous victory won by a resolute president prepared to take the world to the brink of nuclear war. Actually, there was not much of a brink, and no triumph worth celebrating.

In last Sunday's New York Times magazine, J. Anthony Lukas reported on a reunion of former Kennedy administration participants in the crisis. The meeting was last April at a Florida resort with the wonderfully inapt name of Hawk's Cay.

Because the crisis began when the Soviet Union began putting missiles in Cuba and ended when the missiles were removed, it was considered an unambiguous triumph achieved by a president more hawkish than some dovish advisers. (The terms "hawks" and "doves" were popularized by this crisis.)

Now much is being made of a letter from former Secretary of State Dean Rusk, a letter read at the April reunion. The letter is said to show that Kennedy was a dove.

In the crisis, Robert Kennedy notified Soviet Ambassador Dobrynin that U.S. missiles in Turkey would be withdrawn within months of withdrawal of Soviet missiles from Cuba, but it was imperative (obviously for domestic American political reasons) that the linkage of the withdrawals not be announced. Rusk's letter reveals that if the Soviet Union had insisted on public linkage, Kennedy would have complied.

That historical morsel is only redundant evidence of what should by now be patent: Kennedy succeeded because his military advantage was huge and his goal was tiny.

The Soviet Union was not going to war at a time when U.S. advantages were three to one in long-range bombers, six to one in long-range missiles and 16 to one in warheads. The Kremlin must have been astonished—and elated—when Kennedy, in spite of advantages that would have enabled him to insist on severance of Soviet military connections with Cuba, sought only removal of the missiles. He thereby licensed all other Soviet uses of Cuba.

The stunning revelation in Lukas' report is not Rusk's letter; it is something said at the reunion by Ted Sorensen, the aide closest to Kennedy.

On Aug. 31, 1962, five weeks before the administration discovered the missiles, New York's Republican Sen. Kenneth Keating, trusting information received from intelligence and refugee sources, said offensive missiles were going into Cuba. Republicans were making an election issue out of Soviet shipments to Cuba. In September, Kennedy warned the Soviets, with interesting preciseness, not to put in Cuba "offensive ground-to-ground missiles." Now, Sorensen says that the president drew a line where he soon—in October—wished he had not drawn it:

"I believe the president drew the line precisely where he thought the Soviets were not and would not be. That is to say, if we had known the Soviets were putting 40 missiles in Cuba, we might under this hypothesis have drawn the line at 100, and said with great fanfare that we would absolutely not tolerate the presence of more than 100 missiles. . . ."

Sorensen is a member of the McGovernite wing of the virtually one-wing Democratic Party. But he also is an assiduous keeper of the Camelot flame. Thus it is fascinating that he says, in praise of Kennedy, that Kennedy wanted to practice appeasement but calculated incorrectly.

This is amusing in light of Arthur Schlesinger Jr.'s rhapsodizing about Kennedy's handling of the crisis that Kennedy, according to Sorensen, wanted to define away: "He coolly and exactly measured. . . . He moved with mathematical precision. . . . This com-

bination of toughness and restraint, of will, nerve and wisdom, so brilliantly controlled, so matchlessly calibrated. . . ."

Even assuming Sorensen is wrong, Schlesinger's romanticizing is not right. In 1978, MIG-23s (nuclear-delivery vehicles far more menacing than the 1962 missiles) were introduced into Cuba. Kennedy's noninvasion pledge, given as part of the crisis-ending deal, guaranteed the survival of this hemisphere's first communist regime and makes attempts to remove or reform the second seem disproportionate.

The Reagan administration, which began by talking about dealing with Nicaragua by "going to the source"—Cuba—is reduced to clawing for piddling sums for the Contras, a recipe for another protracted failure. Today, most "peace plans" for Central America postulate the moral equivalence of U.S. and Soviet involvements in the region, another legacy of the missile-crisis "triumph" that killed the Monroe Doctrine.

A few more such triumphs and we shall be undone. The romanticizing of the missile crisis makes such triumphs more likely.

AMERICA DESERVES AN OPEN DEBATE ON THE SUBJECT OF DIVIDED LOYALTIES

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. DANNEMEYER. Mr. Speaker, in this glorious country of ours we can feel fortunate that there are no laws against what any of us think. In fact, there are very few laws determining how we express what we think. It's no different for Members of Congress. We're pretty much free to express our opinions as we choose. Besides the restrictions of protocol, which deal with how we say things, the only other real restriction placed on Members by our constitution pertains to the public trust afforded each of us in what we promote.

The American public has entrusted us to keep their best interests and the Constitution at heart. Domestically, there is a plurality of opinion due to regional diversity. But on the foreign front, Members' opinions have historically run singular. From the first Congress, citizens of this Republic have entrusted each Member of Congress to protect our shores from foreign aggressors. And with the advent of Marxist-Leninist doctrine, the public trust has also sanctioned America's struggle against communism throughout the world as wisdom dictates.

So how are we to react, Mr. Speaker, when some of our colleagues break with this traditionally sanctioned trust and use their office to gain American's affections for Marxist-Leninist political movements in foreign countries? I pose this question with all due respect to you, Mr. Speaker, and our colleagues. As a body, we must ask ourselves, when do we cross the line? When does a Member of Congress violate the public trust by implicitly or explicitly—but all the while consciously—using their office to endorse or encourage the philosophy or political activism of Marxist-Leninism abroad?

Mr. Speaker, during the highly publicized Contra hearings many Members defended their anti-Contra opinions saying that it is not un-American to vote against the support of the freedom fighters in Nicaragua. This issue, it seems to me, is a subject on which loyal opponents may justifiably differ. However, it also seems to me, that where a loyal opposition may be justified in opposing assistance to the Nicaraguan freedom fighters, this same opposition is not justified in their opined support of, say, Communist insurgents in El Salvador.

Mr. Speaker, I commend the following articles to all of us, in attempting to help Members answer these difficult questions—questions which will become ever more prominent in the days ahead, and answers to which the public will surely demand and which they deserve.

[From the American Spectator, August 1987]

DEMOCRAT FOREIGN POLICY SCANDALS

(By Daivd Brock)

Forget, for a moment, that riveting Iran-contra inquisition. Another earthshaking Washington foreign policy scandal is poised to blow. Like Iran-contra, this is a tale of secret fundraising for a ragtag bunch of Central American guerrillas; of nefarious foreign governments manipulating naive American officials; of an effort to misinform Congress; of possible abuse of the U.S. tax code and obstruction of justice; and of ideological fervor run amok.

But unlike Iran-contra, this is a scandal that will not be probed by an "independent counsel" or a special congressional committee. Nor, for that matter, by anyone so empowered. For this scandal is not a scandal at all in the eyes of the would-be prosecutors in Congress and the media. For them, a conspiracy by members of Congress to aid the Communist cause in Central America should either be applauded or simply swept under the rug.

Five years ago, this radical underworld was rather marginal, even in Democratic councils. But today its members have assumed key policymaking dealing with Central America. In a report on the influence of the far-left Instititue for Policy Studies on members of Congress, the Heritage Foundation said, "It can be argued that this group is hardly representative of the ideological mainstream of the House of Representatives; but it must also be conceded that many of these men and women have been among the most vocal and visible members of the House in recent years. They have formed a left-liberal grouping that has managed to achieve a degree of influence in certain specific areas and which has been especially active in the national defense-national security area." At the head of this new class: Rep. George Crockett, who was installed by the Democrats to head the Western Hemisphere subcommittees of the House Foreign Affairs committees after last November's election.

Crockett, who has a long history of associating with the U.S. Communist Party, edged out the senior subcommittee member, Rep. Dan Mica, to become Dodd's counterpart in the House. (Mica failed the Democrats' litmus test: he supports contra aid.) Crockett has been a sponsor of the Civil Rights Congress and an officer of the National Lawyers Guild, both widely thought to be Communist front groups. In the 1960s, Crockett was identified in media reports as a registered agent for the government of Cuba (government records were not kept on foreign agents at the time, so this can't be verified). While in Congress he has advocated lifting economic sanctions against Cuba. What is more serious, as chairman of a House panel, Crockett and his staff now have increased access to classified U.S. documents.

In May, the public got its first taste of how the House Western Hemisphere subcommittee will operate under Crockett. Crockett invited David Linder, the father of Benjamin Linder, an American working for the Sandinistas who was killed in a Nicaraguan combat zone in April, to testify; Linder charged that the U.S. government had killed his son. Crockett, over the objections of his colleagues, allowed highly tendentious "medical data" from the Sandinista government about the circumstances of Linder's death to be introduced. No note was made of the fact that the Sandinistas have given conflicting accounts of how Linder died, nor that Linder had crossed the line dividing civilians and combatants by toting an assault rifle and traveling with Sandinista militiamen. Crockett staffers attempted to have J. Michael Waller of the conservative Council on Inter-American Security struck from the witness list, but Republican objections staved off the move.

A cable from the U.S. Embassy in San Salvador dated December 1986 identified Crockett and a dozen other congressmen as sponsors of Medical Aid for El Salvador, which collects funds for "social projects" in Salvadoran zones "liberated" by the Farabundo Marti National Liberation Front (FMLN), the principal Cuban-supported umbrella group for Marxist guerrillas in El Salvador. This influx of cash frees up FMLN funds for more weapons to be used in their campaign of terror. In August 1985, Medical Aid for El Salvador sent a team to San Salvador to perform surgery on Nidia Diaz, a leader of the FMLN faction that had killed four U.S. Marine Embassy guards the previous June.

Also named as sponsors of the group were Reps. John Conyers, George Brown, Ronald Dellums, Julian Dixon, Mervyn Dymally, Thomas Foglietta, Robert Garcia, Mickey Leland, Parren Mitchell, Pete Stark, and Bruce Vento. Both Dymally and Garcia serve on the House Foreign Affairs Committee. Foglietta and Dellums are on Armed Services, Dixon is on Foreign Operations, and Conyers serves on Government Operations, all influential and sensitive posts. In a section explaining the "interlocking relationship of various front groups," the U.S. cable says that the activities of Medical Aid for El Salvador are coordinated by the Committee in Solidarity with the People of El Salvador, a "KGB active measure." The cable also noted that a fundraising request for another "FMLN support activity," the U.S. group New El Salvador Today, was signed by Conyers. Conyers, Dellums, and Dymally hosted a Washington reception for the group in July 1986.

Rep. Patricia Schroeder, a ranking Democrat on the House Armed Services Committee, has been a fund-raiser and advisory board member of the Nicaraguan Network, a U.S.-based Sandinista "solidarity committee" with close ties to Cuba's intelligence service. The network has sent hundreds of American volunteers to work and possibly fight for the Sandinista government. According to a report in the Washington Times, Schroeder's network activities were coordinated by a paid aide in her Denver office, Sister Agnes Ann Schum, the Rocky Mountain regional director of the Nicaraguan Network and a national board

member. (Schum was removed from Schroeder's payroll in December after the arrangement was reported in the local press.) One Network letter signed by Schroeder said, "If you can afford a gift of $200 or more and want a tax deduction, please join me as a sponsor of the Nicaraguan Network . . ." But according to IRS records, the Nicaraguan Network has never been granted tax-exempt status. Lately, Schroeder has been talking about running for President.

The Nicaraguan Network and Medical Aid for El Salvador are but two of dozens of private groups raising money for the Sandinistas or the Communist guerrillas in El Salvador. In April, thirty-five organizations that claim to have raised over $30 million for the Sandinista regime convened a National Mobilization day in Washington and San Francisco. Their current goal is to raise another $100 million to offset U.S. aid to the contras. The Mobilization was formed in the late 1970s with the help of the Soviet World Peace Council. At the demonstration, a large contingent of Communist Party members marched openly under CPUSA banners. Others carried the banners of the Pledge of Resistance, Witness for Peace, and various inter-religious groups involved in the sanctuary movement to harbor illegal immigrants from Central America.

Before the Mobilization day convened, John T. Joyce of the Bricklayers and Allied Craftsmen union warned his members that "anyone who knows or remembers the popular fronts put together by the Communists in the 1930s will know precisely how the April mobilization works and what it is all about." Apparently several members of Congress could use a refresher course in history. The roster of speakers at the event included Democratic congressmen David Bonior, John Conyers, and Ted Weiss, D.C. Delegate Walter Fauntroy and Lynn Cutler, vice chairman of the Democratic National Committee. A written endorsement came from Sen. Claiborne Pell, the new chairman of the Senate Foreign Relations Committee.

In 1985, Rep. Charles Hayes led a workshop at a U.S. Peace Council Conference, an affiliate of the Soviet World Peace Council. Telegrams of support for the conference came from Reps. Major Owens, Barbara Kennelly, and Bruce Morrison. Other House members, like Sam Gejdenson of Foreign Affairs, Peter Kostmayer, and Bonior, regularly lend their names to reports from groups like the Washington Office on Latin America and the Council for Hemispheric Affairs concerning alleged "human rights" violations by the government of El Salvador and the contras. These groups regularly overlook the widespread abuses of the Communist regimes in Nicaragua and Cuba.

The Democrats' scandal even has its own cover-ups. In 1982, an ethics complaint was lodged against Representative Dellums for allowing Grenada's government—under Marxist Maurice Bishop—to review a draft of Dellums's Armed Services subcommittee report on the Point Salines airfield in Grenada. Dellums had been assigned to determine the airfield's purpose, military or commercial. He omitted evidence that the Soviets and the Cubans had supported the project financially. After Bishop's review, Dellums issued a report concluding that "nothing being done in Grenada constitutes a threat to the U.S. or her allies." The ethics committee never investigated the matter.

In 1981, Romesh Chandra, then the chairman of the World Peace Council, was hosted on Capitol Hill by a group of Democratic congressmen. In 1982, Rep. Edward Boland, then the chairman of the House Intelligence Committee and the author of the much-vaunted anti-contra Boland Amendment, released a report on Soviet active measures in the U.S. While the Boland report mentioned the Chandra visit, no note was made of his dealings with members of Congress. Allan C. Brownfeld and J. Michael Waller report in the book The Revolution Lobby that "Boland's staff allowed some of the evidence to be doctored to prevent the public from knowing of the collaboration of some Democratic congressmen and the Soviet World Peace Council."

The Iran-contra scandal, and the other side of the coin, the Democrats' scandal detailed here, are of course part of a struggle since at least the Vietnam war between the executive and legislative branches over primacy in foreign policy making. The legislative branch, even before the presidency was wounded by the current round of show trials, was winning the battle. The number of globetrotting, self-appointed congressional "ambassadors" has been on the rise in recent years, and the net effect of their missions is almost always detrimental to U.S. interests.

Look, for example, at some of the personal diplomacy undertaken so far this year. On a trip to the Philippines in January, Rep. Stephen Solarz, head of the House subcommittee on Asia and Pacific Affairs, took it upon himself to become the first American official to meet with the leaders of the Communist New People's Army, a gang whose murderous modus operandi closely parallels that of Pol Pot. Solarz says the meeting was meant to be "off the record," but soon after it broke up, the NPA, delighted that Solarz had conferred legitimacy on their movement, spread the word. In April, House Speaker Jim Wright led a congressional delegation to the Soviet Union, only to be confronted with a suggestion by General Secretary Gorbachev that the United States create separate living areas for blacks to solve its racial problem. While the other delegation members protested, Wright maintained that Gorbachev had been "misinterpreted." Wright did not want anything to stand in the way of what he called the "new attitude" of the Soviet leadership, or of an arms control pact. Even though the Constitution explicitly denies the House any role in the formation of treaties, upon his return Wright successfully tacked on to an appropriations bill a requirement that Reagan comply with the unratified SALT II treaty. Perhaps the ultimate congressional power grab was in May, when Sen. Jim Sasser dispatched himself to tour the Persian Gulf after an Iraqi plane shot up an American frigate. Sasser was making public statements even as the U.S. government's fact-finding team was arriving on the scene.

These free-lance forays raise serious ethical and legal questions. When Wright and nine of his Democratic colleagues (including Boland, Solarz, and Lee Hamilton) penned the infamous "Dear Comandante" letter to Daniel Ortega in 1984 applauding his steps to "open up the political process," an enraged Rep. Newt Gingrich called for a congressional inquiry. "This letter clearly violates the constitutional separation of powers. It's at best unwise, at worst illegal."

During the Iran-contra hearings, Lee Hamilton, who chairs the House Intelligence Committee, observed that the "privatization of foreign policy is a prescription for confusion and failure. The use of private parties to carry out the high purpose of government makes us the subject of puzzlement and ridicule." Hamilton has asked some tough, and justifiable, questions of the Administration in these past weeks. But these same questions ought to be aimed at the Democrats and their pro-Communist Central America network. Why must contra supporters like Ellen Garwood be cross-examined by Congress when the fundraisers for the Sandinistas or the Salvadoran guerrillas go unidentified and unquestioned? If an effort by U.S. officials to keep the contras going constitutes a "conspiracy," why not find out if the congressmen who aid the groups sending Americans to Nicaragua to work for the Sandinistas are conspiring to break any laws? What is the legal status of the Nicaraguan Network or Medical Aid for El Salvador or U.S. Out of Central America, all of which send money and supplies to the Sandinistas or the FMLN? Have they violated the Foreign Agents Registration Act? Finally, why is it legal (even though the Constitution says otherwise) for individual members of Congress to conduct their own foreign policies but illegal for the President to conduct his?

None of these questions is likely to be answered, or even posed, for several reasons. The first is that the Administration has not presented a coherent case in defense of its policies. The "law" which the Administration's prosecutors say was broken was unconstitutional when passed; the Boland Amendment trespasses on the President's constitutional prerogatives to act in foreign policy. The only charge of which the Administration is guilty is that it by-passed unconstitutional congressional restrictions in an effort to prevent the consolidation of another Soviet-backed Communist government in our hemisphere.

The second reason is that inquisitions are reserved exclusively for use against the executive. Congress does not investigate itself nor allow anyone else to investigate it.

The final reason is that all of these scandals boil down to subjective questions of politics and morality, not to objective ones of legality. And those who have the power to define what makes for a hot Washington scandal have never been on the side of the small-d democrats. (Compare, say, the number of news columns devoted to the CIA's "illicit" activities in Central America to reports of activities of the KGB.)

This summer's inquisition, playing as scripted, will surely brand Ollie North & Co., the anti-Communists, as scoundrels or worse. And the subterranean activities of the apologists for Communism will surely continue with impunity, until they ultimately triumph.

[From the Washington Times, Aug. 11, 1987]

THE SPIRIT OF OLD JOE MCCARTHY

(By David Horowitz and Peter Collier)

(David Horowitz and Peter Collier, former editors of Ramparts magazine and leaders of the 1960s anti-war movement, are directors of the National Forum Foundation's Second Thoughts project.)

When the new Congress organized in January, George Crockett, three-term Democrat from Michigan, became the new chairman of the House Subcommittee on Western Hemisphere Affairs. It was an appointment that should have been controversial because of Mr. Crockett's long association with pro-communist causes. Ironically, however, Mr. Crockett was shielded from scruti-

ny by the ghost of his old enemy, Joseph McCarthy.

A coalition of conservative groups held a news conference to express alarm at the position of authority given the 77-year-old legislator.

In part they were bothered by his position on the politics of the Western Hemisphere.

Mr. Crockett doesn't disguise his belief that the Sandinistas are architects of a brave new world in Managua, and he has consistently sponsored groups of U.S. radicals sending money to Marxist guerrillas in El Salvador and elsewhere in the region.

In addition to pointing out these facts, the conservatives noted that there is a consistency between Mr. Crockett's present views and his attitudes toward other foreign-policy issues over the last 40 years.

In 1947, when President Harry S. Truman was establishing a plan to contain Soviet expansionism, Mr. Crockett, then a young attorney, joined other "progressives" in defending the "peoples' democracies" the U.S.S.R. had imposed on the captive nations of Eastern Europe. He attacked U.S. "imperialism" during the Vietnam War. He defended Fidel Castro's Cuba throughout the 1960s.

These commitments may have gone unnoticed, but some of Mr. Crockett's more recent positions have not. In 1983, when the Soviets shot down Korean Airlines Flight 007 and the House voted 416-0 to condemn this act of murder, Mr. Crockett abstained. In 1985, when U.S. Army Maj. Arthur Nicholson was shot down in East Germany and denied medical attention for 45 minutes while he bled to death, Mr. Crockett defended the Soviet Union during the debate about this tragedy on the House floor.

In their press conference, the conservatives itemized some of the other particulars of Mr. Crockett's record in addition to the foreign-policy positions noted above. In 1947, for instance, Mr. Crockett and his law partner were run out of the CIO by Walter Reuther, who accused them and their communist clients in the union hierarchy of having betrayed their membership. And in 1949, Mr. Crockett served as counsel for 11 of the top leaders of the Communist Party, including present CP boss Gus Hall, who had been indicted under the Smith Act.

But when the spokesman for the conservative groups finished, the questions from the assembled members of the press had nothing to do with the record he had just summarized. Rather they challenged his right to raise the issues at all. A reporter from Newsweek spoke for his colleagues when he said, "Isn't this McCarthyism?" The mention of this single word, McCarthyism, meant the discussion was over.

It was a symptomatic episode that suggests the degree to which the issues of divided loyalties and political subversion, once central concerns of this country's politics, have become taboo. Although the phenomena have not disappeared, using terms like "communist" and "fellow traveler" are considered bad form these days. Some people may be friendly to communist totalitarianism; but to raise this issue is to commit an even worse offense. It is to be guilty of a McCarthyism.

As it is used today, this term has become disembodied from its historical precedent. Those who most readily call someone a "McCathyite" do not refer to the reality of the 1950s, when civil liberties were under assult. "McCarthyism" has become an aggressive term used to stifle discussion and establish left-wing orthodoxy.

A "McCarthyite" is no longer narrowly defined as someone engaged in character assassination and reckless disregard for due process. It is usually someone who is an anti-communist. Someone called a McCarthyite today is far less likely to be abusing someone's civil liberties than questioning whether or not that person has communist sympathies.

Those who constantly accuse anti-communists of "McCarthyism" do not seek to preserve liberal values but to undermine them. Those who try to stigmatize someone as a "McCarthyite" today are very likely trying to prevent him from scrutinizing "solidarities" between Americans with questionable commitments and the dedicated enemies of our democracy. A charge of "McCarthyism" is thus a way of invoking cloture on what should be an important debate; a way of ruling a critical subject off limits.

In the 1950s, Joseph McCarthy's name was synonymous with attacks on communist sympathizers. In the 1980s, his name is invoked to keep these sympathies from being discussed. Back then he was the worst enemy of pro-communists. Today he is their friend and protector.

BUILDING THE ROAD TO PEACE: THE MODEL PEACE EDUCATION PROGRAM

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. SOLARZ. Mr. Speaker, as another school year begins, educators throughout the country are hard at work preparing the curricula and lessons that will be taught to our young people. I would like to take a moment to pay tribute to an outstanding group of people in my district who have put together an important, dynamic, and remarkably successful educational initiative—the Model Peace Education Program.

The Model Peace Education Program was developed in the spring of 1985 by the staff of the special projects division of Brooklyn's Community School District 15 in cooperation with the New York City Board of Education, Division of Curriculum and Instruction. School district 15 is located in the heart of my Congressional district and serves nearly 20,000 children from the neighborhoods of Red Hook, Carroll Gardens, Park Slope, and Kensington. Among the district's strengths is its harmonious ethnic diversity—it boasts large numbers of Hispanic, black, and white children. A majority of the students are from economically disadvantaged families, so it is only fitting that these young people are being exposed to one of the richest educational opportunities I have ever come across.

I would like to make particular mention of four individuals who have spearheaded school district 15's outstanding achievements: Phil Scala, the school board president; Jerrold Glassman and William Casey, the past and the present superintendents; and Arthur Foresta, the director of special projects.

Mr. Speaker, our children's lives are steeped in conflict. From family arguments to schoolyard squabbles to neighborhood crime, the average child is directly involved in a host of conflict-filled situations each day. In addition, the quantity and explicitness of the violence which is fed to our young people in movies and on television is steadily increasing. Through the sophistication of today's news media, children can witness a murder in New York City or a military battle in the Middle East at almost the moment it occurs. While it is certainly unrealistic and possibly unwise to censor a child's exposure to the electronic media, it is imperative that we provide our children with strategies to cope with the conflict in their lives. The Model Peace Education Program fulfills this objective in two meaningful ways. First, it teaches children the importance of finding alternatives to violent means of resolving conflicts. Second, it takes children beyond the personal level to an awareness of the role they can play in building a more peaceful world.

Last year, the peace education curriculum was taught by 35 teachers to hundreds of students in six of district 15's schools. Three more schools have been added to this year's program. Each teacher takes part in a 14-session training course which acquaints them with the curriculum. This training procedure is followed up with at least 12 classroom visits by expert consultants. The specifics of the curriculum are varied according to the age of the children. A first grade class may construct a peace collage consisting of pictures cut from magazines which are interpreted by the children to represent peace. Sixth grade students are trained to be conflict mediators and take turns monitoring the playground to mediate disputes between their peers.

In addition to classroom activities, the students involved in the Model Peace Education Program have participated in a number of exciting events. In October of 1985, 500 Brooklyn children participated in the Children's Parade for Peace, commemorating the 40th anniversary of the United Nations. One month later, many students attended the Children for Peace Concert, where actor Peter Boyle presented district 15 with the Cathedral Peace Education Award. One participating school—P.S. 230—has developed a sister-school relationship with a school for refugee children in the Philippines, and there are plans in the works for certain classes to participate in an exchange of videos with children in India.

I am also pleased to note that several articles in the press have given favorable coverage to the Model Peace Education Program. Stories about the program have appeared in the Christian Science Monitor, Newsday, and a number of Brooklyn publications.

Finally, Mr. Speaker, I would like to share with my colleagues a description of my own personal involvement with the peace education initiative. Last May, I had the pleasure of hosting a visit to Washington by 25 students from P.S. 15 who were participating in the program. During lunch, I joined the children in a wide-ranging discussion of many of the issues that were on their minds, from Brooklyn street crime to military spending to the prospects of nuclear war. The students also conducted an impressive demonstration of some of the conflict resolution techniques they were learning in the classroom. The children met with two of our colleagues, Rep. FLOYD FLAKE [D-NY] and Rep. HOWARD WOLPE [D-MI], as well as

an official from the Embassy of the Philippines. This busy and exciting day concluded with tours of the Capitol and the Smithsonian Air and Space Museum.

As so often happens when I meet a group of young people, the students became teachers and I became their student. From these motivated and dynamic children, I learned that our younger generation has a passionate interest in resolving the conflicts that surround them, on the personal, societal, and global levels. The children of P.S. 15 taught me once again that Congress has no more vital mission than to enrich the lives and protect the future of our children. The teachers, parents, and administrators who have created and nurtured the Model Peace Education Program, along with the students themselves, have taken their own giant step forward in accomplishing these goals. I am proud to give the program my complete and unequivocal support, and I strongly urge my colleagues to support similar programs in their own districts.

EMERGENCY ASSISTANCE FOR LEBANON

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. HAMILTON. Mr. Speaker, on August 14, 1987 the Committee on Foreign Affairs received notification of the furnishing of up to $8.5 million from the emergency refugee and migration assistance fund for unexpected and urgent needs in Lebanon and Africa.

Under Presidential Determination No. 87-19, up to $4.25 million of this amount would be for contributions to the U.N. Relief and Works Agency for Palestinian Refugees and to the International Committee of the Red Cross to meet urgent needs of Palestinian refugees and other civilians affected by the continuing conflict in Lebanon. The provisions of these funds fulfills a commitment made to several Members of Congress this last spring at the time of an emergency U.N. appeal following severe fighting in and around the refugee camps in Beirut.

The Presidential determination and its justification follow:

U.S. DEPARTMENT OF STATE,
Washington, DC, August 14, 1987.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: This is to inform you that the President has authorized the furnishing of up to $8.5 million in assistance from the Emergency Refugee and Migration Assistance Fund for unexpected urgent refugee and migration needs in Lebanon and in Africa. These relief efforts were not anticipated when the Department prepared its FY 1987 budget request.

A copy of the Presidential Determination and justification statement is attached. Should your staff require further information, please contact my office.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative and Intergovernmental Affairs.

Enclosures.

[Presidential Determination No. 87-19]

THE WHITE HOUSE,
Washington, August 5, 1987.

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended.

I hereby determine, pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)(1)) ("the Act"), that it is important to the national interest that there shall be made available from the United States Emergency Refugee and Migration Assistance Fund up to $4.25 million for contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the International Committee of the Red Cross (ICRC) to meet the unexpected urgent needs for assistance to Palestinian refugees and other civilians affected by the conflict in Lebanon. I further determine also pursuant to Section 2(c)(1) of the Act that it is important to the national interest that there shall be made available from the Emergency Refugee and Migration Assistance Fund up to $4.25 million for contributions to the United Nations High Commissioner for Refugees and to the ICRC to meet unexpected urgent needs of refugees and persons affected by strife in Africa.

The Secretary of State is requested to inform the appropriate committees of the Congress of this Determination and to arrange for the prompt publication of this Determination in the *Federal Register.*

RONALD REAGAN.

JUSTIFICATION FOR PRESIDENTIAL DETERMINATION AUTHORIZING THE USE OF UP TO $8.5 MILLION OF FUNDS FROM THE UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

Under section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended ("the Act"), the President may authorize the furnishing of assistance from the United States Emergency Refugee and Migration Assistance Fund to meet "unexpected urgent refugee and migration needs" whenever he determines that it is "important to the national interest" to do so.

The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) has urgently appealed for additional contributions of $20 million to meet emergency relief operations for Palestinian refugees in Lebanon. Up to $3 million is needed from the U.S. Government to address these urgent needs and thus to support a peaceful solution to the strife in the region.

These funds are needed on an unanticipated emergency basis to meet life-sustaining needs of refugees that are normally not provided by UNRWA in Lebanon. UNRWA's major function, in normal times, is to provide education to refugee students. As a result of the unexpected camp wars, extended sieges of the camps and displacement of so many refugees, there has been tremendous destruction of facilities and deprivation for the refugee community. Therefore, UNRWA, as the United Nations agency mandated to help Palestinian refugees, has been forced to issue the special appeal to raise funds to meet these unanticipated emergency needs. Among others, these needs include the rebuilding of schools, hospitals, homes, and roads and the distribution of food rations.

The International Committee of the Red Cross (ICRC) has also urgently appealed for $6.5 million for activities related to the strife in Lebanon, particularly aiding affected Lebanese civilians, as well as assisting the wounded, evacuating those in immediate danger, and visiting detainees. Up to $1.25 million is needed from the U.S. Government to address these urgent needs.

In Africa, continuing strife and unanticipated, though welcome, refugee repatriation also have created unforeseen funding requirements. As a result, $7.6 million for emergency aid in Mozambique has been added to the 1987 ICRC program for Africa, bringing its total Africa program to $80.0 million. In Mazambique and Angola alone, unabated conflict over the last year has doubled the total numbers of displaced victims to some two million. Other situations where ICRC is engaged in life-saving relief, such as northern Uganda and Ethiopia, also are worsening because of fighting and drought respectively. In order to address the increased needs, it is important to contribute an additional $3 million to the ICRC.

The United Nations High Commissioner for Refugees (UNHCR) has made unanticipated special appeals for emergency aid to growing numbers of Mozambican refugees in Malawi (over 230,000 compared to 1,000 a year ago) and for urgent support of the unexpected voluntary repatriation of some 26,000 Ethiopian refugees from Djibouti, Somalia, and Sudan. The return movements are occurring in the context of a growing threat to first asylum in the Horn of Africa where countries are feeling the acute strain of large refugee populations. Up to $1.25 million is required to address these new needs. This emergency assistance will provide humanitarian relief, will help protect first asylum, and will advance our foreign policy objectives by contributing to stability in these key areas.

Funds to address these activities are not available within the current appropriations for Migration and Refugee Assistance. Nor is a supplemental appropriation feasible at this time. The Emergency Fund is the only alternative available to provide funding within the short time period needed. Therefore, it is important to the national interest that there shall be made available from the United States Emergency Refugee and Migration Assistance Fund up to $8.5 million for emergency assistance in order to meet these unexpected urgent migration and refugee needs.

DHCP EQUALS GOOD PATIENT CARE

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. MONTGOMERY. Mr. Speaker, the Veterans' Administration's decentralized hospital computer system (DHCP) has improved the quality of care provided in the VA's hospitals. The DHCP frees physicians, pharmacists and nurses from administrative tasks so more emphasis may be placed on direct patient care.

The following letter received from the chief of the pharmacy service at the VA medical center in Miles City, MT, Stephanie Davis, illustrates the advantages of the DHCP.

117 SOUTH JORDAN,
MILES CITY, MT,
May 21, 1987.

Hon. G.V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The VA Medical Center in Miles City, Montana has utilized the Decentralized Hospital Computer Program since 1985. The current program should be maintained for the following reasons:

1. Time, effort and resources have been spent implementing the current program. Definite advantages would have to exist before implementing a new program could be considered profitable. In addition to the expenditure of more resources, stress placed on personnel is costly.

2. With current and unpredicted budget constraints, administration is ever more reliant upon accurate cost and productivity information. With our DHCP that information is readily available, allowing for more expedient decision making. If this source of information is lost, the gathering of information would occur manually, resulting in slower, less accurate data. The outcome would be loss of productivity and resources due to slower decision making.

3. When administrative tasks are streamlined with computer programming more emphasis can be placed on patient care. Patient profiles are more accessible to the multidisciplinary team. Histories are readily available, providing information such as patient compliance with medications. Physicians obtain printed profiles that act as a prescription, if signed, eliminating the expenditure of costly time writing renewals. Patients are provided with refill documents that serve as a medication record in their keeping. If the DHCP were lost or altered these devices which keep patients and health personnel informed would be lost. The quality of patient care would suffer.

Great strides have been made in computerization. We have invested in the program and are now reaping the benefits. It would be a counterproductive managerial decision, therefore, to change our direction at this time.

Sincerely,

STEPHANIE DAVIS, R.PH.
Chief, Pharmacy Service.

OUR CROWDED SKIES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. FRANK. Mr. Speaker, it has become increasingly clear that action is needed by various Government agencies to alleviate the unfortunate conditions which confront airline passengers. Recently, the Massachusetts Port Authority under the leadership of Executive Director David Davis made a series of proposals to deal with these problems as they impact on Logan Airport in Boston. The Boston Herald responded to these proposals with a very thoughtful editorial outlining a sensible program which ought to be adopted by Congress, the FAA, and those who control airports in congested areas. The proposals put forward by the Boston Herald represent a thoughtful balancing of the various interests involved and would do a great deal to improve safety, which must be our primary goal, and also diminish inconvenience to passengers.

I commend the editorial staff of the Boston Herald for their advocacy of sensible and moderate government action in this area and I ask that the editorial from the August 30 Boston Herald be reprinted here.

OUR CROWDED SKIES

Two things about the proposals Massport has made to reduce the traffic—and with it the possibility of disaster—in the crowded skies over eastern Massachusetts:

First, while they surely will be unpopular with those adversely affected by them, they will also cut the number of aircraft—and lessen the chance of some tragedy—at or approaching Logan Airport.

Second, they'll do the job in this area faster only if Massport and the Federal Aviation Administration work together in implementing them. Cooperation in putting the remedies to a fair test will serve that purpose; a dispute over turf between the two can only delay and impair the search for a solution.

Briefly, these were the four major steps Massport chief David W. Davis outlined to improve air safety, service and scheduling at Logan:

Raise the minimum fees charged general-aviation and commuter traffic using Logan, and institute a higher "peak-hour pricing" policy for all aircraft during periods of heavier traffic. The intended effect would be to shift marginal carriers, commuter and private planes to smaller, less-crowded fields in this area;

Urge and assist the FAA to make available to regional airports the money for improvements that will enable them to attract and safely, profitably accommodate this diverted traffic;

Give airline users better service by drafting and distributing a "Passenger Bill of Rights," how and where they can get help or information regarding carriers' policies on cancellations, overbookings, lost luggage, and

Lobby Congress and the federal Department of Transportation to increase the number and training of air-traffic controllers; require that all aircraft carry so-called "crash-prevention" transponders, which will enable controllers to automatically track their location and altitude; and make better use of surplus or underused military airfields for civilian purposes.

It's important that Sen. John Kerry, Rep. Joe Kennedy and Secretary of Transportation Fred Salvucci are partners, so to speak, with Massport's program. Their aid and commitment are needed to get off the ground—because only then will our crowded skies begin to clear and become safer.

A TRIBUTE TO THE CHRISTIAN EMERGENCY RELIEF TEAM

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. DANNEMEYER. Mr. Speaker, I have traveled to every country in Central America, except Nicaragua. And I have witnessed refugees of the Communist fallout in most of these countries, but never had I met with a group of refugees, such as the Miskito Indian Tribe, whom the Sandinistas have promulgated extinction orders for the entire population. During my recent trip to Central America I experienced Nicaragua firsthand and also rejoiced in the valiant spirits of the Miskito people.

On July 24 our group of four arrived at Puerta Lempira, in the southeastern part of Honduras about 15 miles from the northeastern Nicaraguan border. We assembled a raft and motored across a lagoon to the Prumnitara refugee camp.

The camp contained approximately 300 refugees, an equal mixture of men, women, and children. They had built huts up on stilts to protect themselves from flooding, although a rain strong enough to flood would almost certainly penetrate the makeshift structures. There are only outdoor privies and food and water are supplied by the United Nations.

All in all, their existence is minimal. The Honduran Government won't allow refugees to compete for jobs with their own citizens, and understandably so. In fact, the area in Honduras where this camp is located is largely undesirable and has basically been discarded by the government.

Of whatever they lack, religion cannot be listed among them. Every night at 7 o'clock the Miskitos hold a church service. The service usually lasts about an hour and a half and consists of singing and preaching by a selected member of this group. It was humbling to see the spirit of hope in the faces and demeanor of this people nothwithstanding the duration of their foreign stay and the prospects for their return to their homeland.

We left behind most of our food and supplies before we departed. My host for this trip was David Courson of the Christian Emergency Relief Team. CERT teams have visited this particular refugee camp on 16 previous occasions since 1980. They bring doctors and dentists into these camps and donate medical and other humanitarian aid for the benefit of the residents. Dave Courson is one of the finest human beings I've had the pleasure to meet with, a man who I saw give the very suit he was wearing to a minister who needed it more then he did. This is religion in action.

Mr. Speaker, in tribute to this manifest religion—voluntarily giving to the poor and oppressed—I commend the following article for your consideration:

BULLETS AND BANDAGES

(By Laura M. Gilbert)

Mild-mannered, rather thin, with glasses perched precisely so on his nose, David Courson bears little resemblance to the cinematic conception of a hero. And unlike his large-screen, machine-gun toting counterparts, Courson packs medical supplies and Bibles rather than a pistol. But with Rambo-like determination, he plans to make a difference in the lives of refugees in a shattered Central American nation.

As often as possible, Courson and several volunteers fly, boat and hike into the tropical jungles of the Honduran-Nicaraguan border, to render medical and spiritual aid. Each venture is unique. Last year, for example, he took nine volunteer medical workers, including five paramedics, to a Honduran refugee village to teach paramedic skills to U.S.-backed rebels, called contras. An equally daring venture was undertaken five months later when he and six others—in-

cluding a doctor, dentist, paramedic and film crew—visited an unidentified village within Nicaragua to document Communist activity.

In a word, Courson wants to minister. And to him and his group, the Christian Emergency Relief Team, this means providing physical and spiritual support to a hungering Third World nation. Each group he ushers down to this war-ravaged border region is made up of volunteers from all over the United States. Based in Carlsbad, Calif., and a branch of the National Christian Fellowship, CERT has also been successful in gaining access to Central American countries with governmental approval—something many other organizations have failed at.

Formed in 1974 to aid hurricane victims, the group has since been bringing food and medical supplies to devastated regions of Central America and other Third World nations. Christian Emergency Relief Team volunteers, as the name implies, usually have some type of medical background, although that is not mandatory, and all are Christians.

The two-day filming excursion to document Communist activity in Nicaragua was the first time the team entered Nicaragua without permission. But Courson, a former Marine who fought in the 1968 Tet offensive in Vietnam and an emphatic anti-Communist, said several more "unofficial" visits are scheduled.

CERT excursions range from the clandestine two-day visits to officially sanctioned two-week missions. While in the makeshift refugee camps, the teams give what aid they can and "just spend time fellowshipping with the people," Courson said. Each volunteer CERT team consists of at least one doctor, dentist and paramedic, who provide "jungle medicine." Specifically, they provide aid for war-related injuries, management of tropical infections and instruction in preventative medicine. Infections and illnesses inherent to the Atlantic Coast of Honduras and Nicaragua include parasites, pneumonia and TB. Malaria is endemic to the area and almost all the children have intestinal worms. As a result, the volunteers' medical routine often consists of managing disease, splinting and bone setting.

The conditions in the remote villages are grim. Water and food supplies are unreliable, medical facilities are makeshift, malaria-carrying mosquitos are thick and the war-inflicted wounds of the villagers are grave. "It's less than primitive," Dr. Ronald Strahan told a local newspaper reporter upon his return from one of the trips. "It's less than square one. There's no stable water supply or food supply."

Volunteers face other challenges as well. Besides traveling through the jungle by foot and dredging the alligator-infested swamps by dugout canoe, the teams carry thousands of pounds of medical and other relief equipment. Volunteers who made the covert excursion last April, for example, carried 2,400 pounds of supplies into villages 40 miles from the Honduran border—all for a two-day stay! The team traveled with the customary armed guards.

Courson points out, however, that relief teams are careful not to enter combat zones, "We travel only under the supervision of the people who live there and who know where the danger is," he said. "Not one (CERT) member has died, broken a bone or been seriously ill since we began sending teams out.

"Statistically, you are safer going with a CERT team than driving down the freeway. The most dangerous part is probably the airplane ride home," he added.

Apparently, CERT volunteers find the experience more rewarding than frightening, with the benefits outweighing the hardships. "There is no greater joy than helping one's fellow man, as most paramedics already know," said Gary Becks, an EMT and former battalion fire commander in San Bernardino, Calif. Becks, also a Vietnam vet, recently quit his job to work full time with CERT.

Much to Courson's surprise, the organization has no lack of volunteers. Inquiries are received from eager applicants—many of them EMTs and paramedics—from all over the country. "Many people in health professions would like to help Third World countries," said Kris Courson, David's wife and co-worker. "And we try to accommodate them by going for 10 days at a time. That way people who normally cannot take a lot of time off from work can go."

Mere interest, however, does not ensure a place on the CERT team. Applicants are put through a fairly extensive screening process to weed out, what Courson refers to as, the would-be Rambos. "Because we receive so many applications, we have to screen for would-be Rambos, adventure-seeking 'Club Medders' or soldier-of-fortune types. Neither do we want starry-eyed people who want to save the world or correct the faults of the missionaries.

"What we do look for are adults who are realistic, who recognize the limitations of short-term emergency relief and who realize we can't stop wars."

The target of CERT's efforts is the Miskito Indian rebel force, known as Kisan (Moskito for United Indigenous Peoples of Eastern Nicaragua). The Miskito force, which is thought to be one of the smallest constituents of the contra forces, fights in the vast wilderness of Mosquitia, on the Atlantic Coast of Nicaragua. Initially, they were forced to flee across the Nicaraguan border into Honduras after Sandinistan troops burned their villages and imprisoned their leaders in 1982, Courson said.

It was 20 of these Miskitos who were selected to be trained in paramedicine by CERT last October in an undisclosed Honduran village. Five paramedics spent 10, 12-hour days teaching the contras basic paramedic skills. Once trained, the new "paramedics" were ready to provide medical services to civilians and the military at refugee camps. As a graduation present, they received backpacks full of donated medical supplies.

"These people are college-educated and sharp," said Kris Courson. "They would rather learn to help their own than receive aid from outsiders."

Not surprisingly, a CERT volunteer's day is long, beginning before the sun rises. At 4 a.m., volunteers join villagers for a prayer meeting in the church—the focal point of the community. Following prayer, the church is converted into a makeshift hospital by hanging curtains as partitions and sectioning off the opensided structure into clinical work stations. At each station, some medical function is performed. For example, at one station, a tooth will be numbed; then at the next station, it is pulled. Because CERT volunteers staff each station, medical backgrounds come in very handy.

Although Courson has been on more than 15 missions, the April excursion, the first to be cloaked in secrecy, was one of the more memorable. He and six men quietly ventured into a devastated village deep within the war zone on the northeast coast of Nicaragua, to film what Courson refers to as "Communist atrocities." The film, tentatively scheduled for release this summer, will be used to educate the public and to coax funds from a skeptical U.S. Congress, he said.

The unidentified village was ravaged by Sandinista attacks in 1983, forcing the Indian villagers to flee into nearby mountains, where many later died of disease and malnutrition. Approximately 300 refugees have since returned to the area, now controlled by contra forces, to rebuild. Courson said these villagers are only a few of the estimated 40,000 to 60,000 Nicaraguans who have fled their homeland in recent years.

Getting into the village proved difficult for the seven-man relief team. The first attempt was aborted after the Honduran army discovered the three journalists among CERT volunteers and ordered the entire team out of the area. They tried again the following day.

Their second attempt, although successful, proved rather challenging. The team and three contra guides had endured close to a five-hour ride on a 36-foot Panga loaded with medicine, clothing and food, when the boat became submerged on a sandbar less than 150 yards from the opening to the Caribbean Sea. "The overloaded boat was in a vulnerable position—exposed to possible gunfire—and unable to beat a hasty retreat in the thigh-deep water," recalled volunteer and CERT Vice-President Cal Hubbard. The tension mounted when one of the contra boatmen remarked, almost casually, that they had been ordered not to bring weapons and asked Courson and his men to pull out theirs. Of course, the CERT volunteers didn't have any weapons—each assuming the other was armed.

Fortunately for all involved, friendly villagers showed up and helped them negotiate the winding lagoon channels to the village, or what was left of it. "Everything in the village had been destroyed (in an 1983 attack)," Hubbard explained. "The church was burned to the ground. Houses were leveled. The cows and pigs were killed."

Depsite these hardships, the villagers were surprisingly healthy, he said. The five-hour clinic, staffed by physician N.O. "Andy" Anderson of Michigan and dentist Dean Rust of Pennsylvania, was shorter than usual as the fear of being discovered by the Sandinistan troops hung heavily in the air. But the doctors and their aides managed to treat more than 170 patients for worms, parasites, malaria, gum disease, severe dental abcesses, fungus, whooping cough, severe malnutrition, skin infections and anemia. Communication was hardly a problem as many of the villagers spoke fluent English, a legacy of earlier missionary work.

The two doctors' skills, however, were sorely tested by the lack of medical equipment. "It's like working in the trenches," Dr. Rust told Hubbard. "(But) it is very gratifying, very satisfying to know you are helping somebody who really needs it."

He gave an example of a 4-year-old village child who was suffering from seven severely infected teeth that were draining through the gums. After sedating the child with Vistaril®, all the teeth were pulled—a surgical procedure conducted in hospitals in the United States.

Anderson, the physician, worked under similarly primitive conditions. "Lacking X-rays, lab reports and equipment, he was forced to draw on years of experience to di-

agnose and treat the various problems," Hubbard said. The medics saw all types of illnesses and injuries, often the result of torture-inflicted wounds—slashed ears and throats, and nails embedded in fingers. One of the villagers told Hubbard that her husband, who had refused to allow his trucking business to be confiscated by the government, was "wet down with water and tied to a metal mattress spring. Soldiers then repeatedly jolted his body with electricity." Fortunately, he survived.

Clearly, the emotional scars of the Nicaraguan refugees run just as deeply or, in some cases, more deeply than their physical ones. Thus, the spiritual outreach the CERT volunteers offer is often more important than medical assistance, Hubbard asserted. So far, more than 7,000 refugees have received assistance from the volunteers.

The need for volunteers is increasing, Hubbard said, as the number of refugees pouring into the makeshift border camps increases. And the key to helping these people is preventative medicine, added Courson. At the moment, CERT can only manage the infections and war wounds.

"Teaching preventative medicine is both rewarding and frustrating," he continued. "We are dealing with college-educated, intelligent people who come from middle-class lives and backgrounds. But, they have been driven from their middle-class homes and forced to start over with nothing. On top of that, many are plagued with severe infections."

Unrestrained pigs and a lack of latrines are the source of most infections, he said. As a result, relief volunters spend a large amount of their time trying to instill the importance of personal hygiene and sanitation—especially the use of latrines. They also encourage the villagers to fence in their pigs and to build pathways for drainage between their houses and the church. "To instill the importance of such things, we tell [the villagers] that we will not come back until they build latrines and keep the kids away from the pigs," Courson said.

Before every CERT excursion to Central America, via a major international airport, volunteers fill suitcases with donated medical supplies—for example, penicillin, ampicillin and tetracycline for severe infections, as well as chloroquine for malaria and phenobarbital for severe cases of whooping cough—and Bibles.

Although the teams are limited in what they can collect and carry, the villagers are grateful for any donations. "The equipment on hand in the villages is so limited that everything they do has to be improvised," Gary Becks said. "On one excursion, our boatman informed us that he used a bayonet to dig his tooth out when the CERT dentist wasn't around."

Although CERT has received Reagan's personal praise and his photographic image smiles benevolently from Courson's office shelf, the relief team receives no financial or logistical aid from the American government. Therefore, CERT volunteers must pay their own way and supply their own food at a cost of $1,200.

The positive aspect of paying one's own way, according to Becks, is that the volunteer creates a support group in an attempt to raise money and get time off from work. "Many families and fellow church members become involved once they donate money toward the person's trip," he said. "I've seen firefighters supporting other firefighters and paramedics by trading C-shifts or taking shifts.

"If you are looking for a C-shift opportunity, this is a marvelous opportunity to get out and do some stuff and see some stuff."

Courson added, "I can just about promise anyone who comes on a trip will find it will change their life; but, I can absolutely promise it will change someone's (in the village's) life. It may be a medical thing . . . a simple first-aid technique mentioned in passing. The paramedic may not even realize they heard."

The refugees' relationship with the contra rebels seems affable. The refugees seem to gain comfort from the visiting contras' presence in their makeshift villages, Hubbard said. But both groups are concerned about the increase in numbers of Cuban and Soviet advisors, troops, weapons and equipment being imported into Nicaragua.

The contras have received outside aid as well, from both private groups and U.S. government agencies. "With computerized radios, hand-held anti-aircraft missiles and other modern equipment," contends the Los Angeles Times in a June editorial, "[the contras] may be the best-equipped guerrilla army in history."

And so the battle lines are well-drawn, and imminent victory for either side appears dubious. But as long as the U.S.-backed contras and the Soviet-backed Sandinistas wage war in the jungles of Central America, CERT will quietly continue to minister to the medical and spiritual needs of the Nicaraguan refugees.

VILLAGE OF TEQUESTA'S CONSTITUTION PARK DEDICATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. LEWIS of Florida. Mr. Speaker, as we approach the 200th anniversary of our Nation's Constitution, which we celebrate 1 week from today, our thoughts inevitably return to that marvelous document and its creators.

This year our Constitution marks its bicentennial as a pillar of stability and a beacon of hope to the world. Our Constitution endures because its principles are as valid today as when they were written in Philadelphia two centuries ago.

Americans everywhere—representing a diverse but unified Nation of people—will unite next week to honor the U.S. Constitution, which has been aptly described as "the most wonderful work ever struck at a given time by the brain and purpose of man."

One group of Americans whom I would like to recognize today are the citizens of Tequesta, FL, a town I have the distinct pleasure of representing in the U.S. Congress. The people of Tequesta, as part of the celebration honoring the bicentennial of the Constitution, will dedicate Constitution Park on September 17. In the open spaces of this beautiful park, named Constitution Park, its visitors will be reminded of the many rights and freedoms only Americans enjoy because of their Constitution.

It gives me great pleasure to recognize here on the floor of Congress the village of Tequesta and its new Constitution Park. I commend village leaders and other residents for their patriotic spirit and for making the National Celebration of Citizenship a hometown affair. At this point I would like to include in the CONGRESSIONAL RECORD the Tequesta Village Council's Proclamation declaring September 17, 1987, as "Constitution Park Dedication Day."

VILLAGE OF TEQUESTA PROCLAMATION OF CONSTITUTION PARK DEDICATION DAY, SEPTEMBER 17, 1987

Celebrating the United States Constitution Bicentennial

Whereas, the Constitution of the United States of America was signed at 4:00 P.M., September 17th, in the year of our Lord 1787; and

Whereas, this momentous event is to be officially commemorated at the dedication of Constitution Park in Tequesta, Florida 200 years later at 4:00 P.M., September 17th, 1987; and

Whereas, this occasion affords the opportunity for all citizens to recall the high ideals and devotion to liberty of those who framed our Constitution; and

Whereas, Tequesta citizens are inspired to rededicate their efforts to preserve the Constitution as the instrument which forged our freedom: Now, therefore, be it

Resolved, That this Proclamation be permanently posted in Tequesta Village Hall as a reminder of our hallowed heritage—the Constitution of the United States.

By authority of the Village Council of Tequesta, we hereby proclaim September 17, 1987 as Dedication Day for Constitution Park, with the Official Seal of Tequesta affixed hereto.

RETIREMENT OF KEN HILL

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mrs. BOXER. Mr. Speaker, I wish to bring to the attention of my colleagues the contributions of Mr. Ken Hill to the labor movement over the past 28 years. I have known Ken for many years, and have a deep and profound respect for his accomplishments during a long and illustrious career.

Ken went to work for the Teamsters as an organizer for the Western Warehouse Produce Council in 1959 and later was assigned to the local 853 Montgomery Ward organizing campaign. In 1960 he was elected as a trustee to local 853 and served as business agent-organizer. He went on to become vice president and served in that capacity on the National Montgomery Ward Council.

In 1969 he took the position as personnel director and claims manager at the Teamsters security fund.

In 1972 Ken was hired as a business agent for Teamsters Local 655 and went on to become president in 1975 and ascended to the position of secretary-treasury in 1978. During this time he served on the Teamsters-ILWU Northern California Warehouse Negotiating Committee and handled all the major negotiations for local 655.

In 1984 Teamsters Local 655 was merged into Local 78 and Ken became the chief executive officer. In 1985 he was appointed a member of the automotive policy division of the western conference of Teamsters, and

also served as the chairman of the Teamsters and Employers Trust Welfare Fund.

He is a man of ability and humor, and is richly deserving of the great respect he engenders among his peers. I rise today to honor Ken as he enters a well-deserved retirement, and thank him for all he has done. He will be honored for his work at a dinner September 25, 1987, and he deserve all the praise he will receive from his friends and colleagues.

THE NICKERSON FAMILY CELEBRATES 350 YEARS IN AMERICA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. LANTOS. Mr. Speaker, two centuries ago, the British statesman Edmund Burke said, "People will not look forward to posterity who never look backward to their ancestors." At this time when Americans are honoring the 200th anniversary of the signing of our Constitution, it is most important—and most appropriate—that we as a nation also honor those women and men who laid the foundation of our Nation.

Mr. Speaker, I would like to call to the attention of this Congress one important effort to honor those individuals who laid the foundation of our Nation and our democracy. This week in Chatham, MA, the Nickerson Family Association will honor the 350th year of the arrival in America of their ancestor William Nickerson.

William Nickerson was born about 1604 in Norwich, England, and was a weaver by trade. He, like many other religious nonconformists of that day, were persecuted by English religious leaders for their religious beliefs. On April 15, 1637, William Nickerson, his wife Anne Busby, and their four children sailed from Yarmouth, England, to Massachusetts.

For the first few years, he was resident in Boston, Salem, and Watertown. In 1641 he moved his family to Cape Cod where he acquired a farm in Yarmouth. Later he purchased a large tract of land including all of the area that later became the town of Chatham.

In 1641, William Nickerson's minister complained that he was "a Scoffer and jeerer of religion," which probably had to do with his decision to move into unsettled territory contrary to the wishes of the religious leaders of the colony. It clearly reflects his independence and strong will. This complaint, however, apparently did not affect his standing as a citizen, because he continued to hold responsible civil offices in the community.

William and Anne Nickerson had nine children, and they married and remained in the area around Chatham. While many of the Nickerson descendants remained on Cape Cod, many others spread out to other parts of New England, to Nova Scotia, and many other of what became the United States. Today, thousands of Americans are descended from William and Anne Nickerson.

One of these is my dear friend Mary Griffin, a supervisor of San Mateo County, CA, and one who has carried on the Nickerson family tradition of public service and independent, democratic action. She, with many of her Nickerson cousins, will be celebrating the 350th anniversary of the arrival of their common ancestors in Ameirca.

Mr. Speaker, the Nickerson family should be commended for honoring William and Anne Nickerson for the democratic values they exemplify. The Nickerson family are indeed people who can look forward to a distinguished posterity because they have looked backward to their ancestors.

THE SACRAMENTO SYMPHONY 75 YEARS OF EXCELLENCE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. FAZIO. Mr. Speaker, with great pride and admiration, I rise today to honor the Sacramento Symphony on the eve of its 75th anniversary. The esteemed symphony opens its 75th season at the Community Center Theater with Mason Williams as featured guest on September 11, 1987 and a gala dinner and opening night concert on the following evening.

The creation of the symphony began in October, 1910 when a small group of musical enthusiasts gathered in the Sacramento High School Auditorium to plan music programs for interested community members. On June 30, 1911 54 musicians gathered on the stage of the Theater Diepenbrock under direction of the town's first conductor, Harry Olson. This initial gathering lead to the formation of the Sacramento Symphony and Oratorio Society in 1912.

After a silent period due to World War I and financial problems, the symphony was again reorganized in 1924 under the direction of Franz Dicks. Tickets then were only fifty cents. The symphony reorganized as a nonbudgeted organization in 1929, but could do little more than rehearse during the Great Depression. With the creation of radio concerts, the symphony was given a boost and it incorporated with the Sacramento Symphony Foundation in 1934.

Over the following years, the symphony was conducted by Fritz Berens, Willem Van den Berg, and the great Alfred Hertz. As the symphony began to mature, it began to attract soloists such as a 14-year-old Isaac Stern, basso Paul Robeson, and the blind pianist Alec Templeton. The symphony continued to flourish and, in 1959, the first professional manager was hired, followed by the first Ford Foundation grant of $500,000 in 1966. In 1968 it performed its first "Nutcracker" with the Sacramento Ballet and performed the first concert in the Community Center Theater in 1974.

The symphony has indeed come a long way, from a group of amateur musicians to a fully professional organization. Some musicians can remember when many of the players in the fledgling symphony did not have their own instruments and players were given $1 for rehearsals. In the early days of FM radio, the symphony rehearsals, including all the pauses and directing, were broadcast live on KFBK-FM.

But as the city of Sacramento grew and prospered, so grew the Sacramento Symphony along with it. The symphony now boasts 87 full members, with a full choir group of 40 and a chorus of approximately 120. The repertoire has expanded and matured from works such as "Zampa" by Herold and an "Egyptian Ballet Suite" by Luigini, to Beethoven's symphonies and concertos, Brahms, Bach, Mozart, and Tchaikovsky.

This year, during its 75th season, the Sacramento Symphony, with the conducting of Carter Nice, will be able to show the music world just how good it is. The excellent program for this season includes works from Mozart to Mancini, appealing to classical and pops lovers as well. Featured artists include Henry Mancini and the Fifth Dimension in the pops series, and pianist John Browning and cellist Gary Hoffman in the classical series. One of the highlights this season will be a performance with the Sacramento Ballet featuring Rudolph Nureyev and a ballet company from Paris.

Mr. Speaker, the Sacramento Symphony has been giving the gift of joy and music to Sacramento for 75 years. It is truly a pleasure to join the people of the Sacramento area in saluting the Sacramento Symphony as it begins its 75th season.

THE POPULATION THREAT TO THE NATURAL ENVIRONMENT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. VENTO. Mr. Speaker, emerging now as a top-priority issue among sportsmen and other natural resources conservationists is the matter of human population growth on a global basis. Leaders of the 10 largest environmental organizations in the country identified population growth as a key issue in their 1985 book, "An Environmental Agenda for the Future." In fact, our global population has exceeded the 5 billion mark in 1987.

Our colleague Mr. MACKAY recently introduced a bill, H.R. 2212, the Global Resources, Environment, and Population Act of 1987, to provide a statement of national population policy that these environmental leaders advocate.

The impact of population growth on wildlife and other environmental resources were brought to the attention of Minnesotans recently through an interesting article on the subject in the Sunday, July 5, edition of the Minneapolis Star and Tribune. Based on a speech to the Outdoor Writers Association of America by the executive director of Population-Environment Balance, Inc., Dr. M. Rupert Cutler, the article outlines both the problem and a range of practical political responses.

Clearly, Dr. Cutler raises some provocative thoughts in his recent statement to this outdoor writers group. I commend this analysis to my colleagues' attention:

POPULATION REMAINS THE BIGGEST THREAT TO WILDLIFE'S FUTURE

(By Bob Schranck)

KALISPELL, MONT.—The message was simple. The greatest threat to wildlife is too many people.

Calling for "a sound national population policy," M. Rupert Cutler, executive director of the Population-Environment Balance, told members of the Outdoor Writers Association of America that there is a greater awareness that population is the ultimate wildlife threat.

"Stabilization of our population size is essential to the preservation of the quality of life in this country," he said, adding that he expected "a groundswell of public opinion favoring limits to growth to surface, first in local elections. Harried citizens in hundreds of U.S. communities already are debating how large they want their home towns to become."

His organization, originally called the Environmental Fund, was founded in 1973 in response to the Commission on Population Growth and the American Future, chaired by John D. Rockefeller III. The name was changed in 1986, Cutler said, "but the goal remains the same because most of the commission's recommendations have yet to be adopted."

Population-growth advocates like the University of Maryland's Julian Simon and the American Enterprise Institute's Ben Wattenberg, who wrote "Birth Dearth," make his job difficult, Cutler said.

Cutler, former assistant Secretary of Agriculture in charge of the U.S. Forest Service, said he anticipated more support of conservationists' point of view as the public saw the consequences of human congestion.

He cited longer commuting times, higher real estate and insurance premium costs, more time spent waiting in lines, higher taxes, more governmental regulation and a more impersonal, less responsive government.

Cutler quoted Garett Hardin of the Population-Environment Balance board, who said, "we ought to be willing voluntarily to trade off some of our lesser freedoms, such as the freedom to have large numbers of children, to help protect and perpetuate our 'greater freedoms,' which include the right to a high-quality environment and minimum governmental regulation."

A lack of warblers near Washington, D.C. this spring may be related to extensive loss of wintering habitat in Latin America and the Caribbean, "where expanded food-production efforts accompanying the human population explosion has led to widespread chemical pesticide use and vast deforestation and wetlands destruction," Cutler said.

"According to the World Wildlife Fund, we're losing tropical forests equal to the size of New York state every year, and the result may be that between 500,000 and 1 million species may become extinct by the end of this century. The forests are being converted to feed in exploding human population."

He said failed population policies worldwide contributed to uncontrolled migration of people in search of jobs, as world population grew by 83 million last year to about 5 billion. "I have seen the future in east Africa in the form of vast numbers of school children along the roads. With a population growing at the rate of 3.9 percent annually, Kenya will have to find jobs and food for twice as many people as it has today in just 18 years.

"The magnificent and unique wildlife resource of east Africa—the magnet which attracts hard-currency income through tourism—seems doomed in the face of the region's skyrocketing demand for cultivated grain in domestic livestock for human food."

Cutler said the same thing could happen in the United States because national wildlife refuges and state wildlife management areas are regarded by many "merely as nonessential amenity areas—reserves of useful commodities that will become available for extraction when market conditions change, when the price is right."

"They're not waiting to attack the protection we thought had been given in the unique Arctic National Wildlife Refuge in Alaska," he said, "even though the estimated volume of oil there represents an almost imperceptible impact on the U.S. energy situation according to the World-watch Institute."

Cutler cautioned that there could be overuse of productive habitats "by those who love them best—hunters, fishermen, hikers, backpackers and campers." Deterioration could result if user numbers are not controlled.

"Then there are those human activities outside wildlife management areas such as acid rain and the buildup of greenhouse gases, which can change and harm wildlife habitat," Cutler said. "Wildlife is as vulnerable as we are—some species even more so—to the pollution which accompanies human population growth."

Cutler's suggested policies:

No incentives to have large families, including unlimited income tax personal exemptions for dependents.

No government subsidies for construction of new roads, airports, hospitals, sewer and water lines and other infrastructure outside already urbanized areas. No subsidies which would encourage urban sprawl onto farm and forest land, wetlands and flood plains.

Universal, effective public school sex education and population education from the earliest grades.

Real control of international borders to limit immigrants.

"It's a list of very difficult political objectives," Cutler said. "But what is the alternative? Can we keep Spaceship Earth from colliding with overpopulation and ecological collapse and steer it toward a sustainable future?

"Or, as Aldo Leopold put it, can we turn toward a future in which men are in harmony with the land?"

CELEBRATING THE CONSTITUTION'S BICENTENNIAL, SEPTEMBER 17, 1987, NORWALK, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. TORRES. Mr. Speaker, the city of Norwalk, in the 34th Congressional District, has been designated by the California Bicentennial Commission as an "Official Bicentennial Community." This designation allows the residents of the city to take part in programs that will officially recognize the 200th anniversary of the U.S. Constitution.

The Norwalk City Council has appointed a five-member bicentennial committee of Norwalk residents that are developing plans and programs that will be highlighted throughout the community the next 3 years. Members of this committee include Donald R. Carter, Alfredo C. Alvarado, Margaret Scantlebury, Dona J. O'Donnell, and Lisa Marie Vernola. Patricia Andrews, Norwalk director of personnel, is currently serving as staff liaison.

The committee has adopted a 3-year plan to allow every citizen in Norwalk to better understand and appreciate the Constitution and the benefits that we as Americans derive from it. The beginning of this multiyear celebration will take place in Norwalk during a two-part ceremony, on September 17, 1987, at 1 p.m. [pst], when the exact moment that the framers of the Constitution signed the document in Philadelphia will be marked with ringing bells, sirens, and a massive balloon release by schoolchildren at Patriots Concourse in Norwalk City Hall. Concurrently, the President of the United States will lead the Nation in this celebration that will be held in Philadelphia, at exactly the same time. The second part of Norwalk's program will be held that evening and will feature a reading of the Constitution, an appearance by the Norwalk All-City Band, and an employee-resident "signing of the Constitution ceremony." The committee will conclude the celebration with the dedication of conference room No. 7 in Norwalk City Hall and designate it as the "U.S. Constitution Room."

Mr. Speaker, I ask that my colleagues join me in congratulating the members of the bicentennial committee of Norwalk, CA, for the outstanding work they have done in preparing for the celebration of our Constitution's bicentennial. I am confident that the residents of the community will support the activities sponsored by the committee and the city of Norwalk.

ARBITRARY TAX

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. MATSUI. Mr. Speaker, today, JOHN DUNCAN and I are introducing a bill which would restore prior law and remove a burdensome tax cost on utility customers, governmental agencies, farmers, home buyers and renters, developers, and others in your district. The Tax Reform Act of 1986 repeals a provision of the Internal Revenue Code which had allowed a utility company to exclude from its gross income, for Federal income tax purposes, the amount of money or value of property which a utility customer or another party had contributed to the company. Such contributions in aid of construction [CIAC] allow a utility company to provide—or continue to provide—electric, gas, water, or sewage disposal services to its customers. The 1986 tax legislation now causes such contributions to be taxable.

The current tax on CIAC impacts not only the average customer but also governmental agencies, including the Federal Government. CIAC includes contributions—in cash or property in kind—made to utilities to defray con-

struction costs as distinguished from operating costs.

The current tax is not a tax on utilities. Public service commissions, which regulate the utility companies, require them to collect the cost of the income tax attributable to the CIAC: First, ratably from customers generally, or second, from the payor of the CIAC. For example, if a farmer in your district needs a special utility line extension to service his farm, he generally must pay the utility for the cost of constructing it. The cost of the tax on the CIAC is either charged to the farmer or to all customers of the utility company, depending on the rules of the public service commission. Similarly, the cost of the tax is imposed on the payor of the CIAC or all customers where a hospital needs an emergency back-up powerline; a State or local government needs a separate waterline for a school or municipal building; or the Federal Government needs an extra gasline to a military or similar facility.

In addition, the tax on CIAC may impact on the price of new homes. Where the cost of the tax on CIAC is paid by the homebuilder, the cost of a new home could increase by as much as $2,000. This increase is also felt by renters who indirectly pay the cost of the tax through rent increases. In short, any user of services of a utility or others that cause a special need for equipment could be affected by the tax on CIAC.

As under prior law, a payor of CIAC—for example, a governmental mass transit agency or owner of a building which needs a special electric, gas, water, or sewage line—would not be charged the cost of the tax in addition to the price paid for construction of a new line. Also, in cases where States require all the utility's customers to pay the cost of the tax on CIAC, this bill would preclude such an increase in customers' costs.

This bill would not be a windfall to the utilities. Although the tax on CIAC is considered to be imposed on utilities, the utilities are simply conduits. The payor of the CIAC or customers generally bear the ultimate costs.

It is simply not good public policy to impose this arbitrary tax. Moreover, this tax on CIAC indirectly results in taxing State and local governments, as well as the Federal Government, which is totally inconsistent with the goals of sound public policy. I urge immediate consideration of this legislation.

IMPLICATIONS OF AN INF AGREEMENT

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. GRADISON. Mr. Speaker, negotiations with the Soviet Union on the question of intermediate-range nuclear forces [INF] in Europe have reached a critical phase. Although obstacles remain, American and Soviet negotiators in Geneva appear to be within reach of an agreement to eliminate the superpowers' INF systems from Europe.

If an accord, based on the "zero-zero" option, is reached, it would be an important milestone in the history of arms control. This prospective INF agreement would be unique in that it would cause actual reductions in the level of nuclear armament, rather than manage its escalation.

However, the prospect of an agreement is not without serious political and strategic ramifications for the Atlantic alliance. On September 4, 1987, the Cincinnati Enquirer published an essay I wrote on the implications of an INF agreement. I would like to take this opportunity to share it with my colleagues:

THE RISKY PATH TO ARMS CONTROL

(By Bill Gradison)

In recent months, particularly since the October, 1986, summit meeting between President Reagan and Soviet General Secretary Gorbachev in Reykjavik, substantial progress has been made toward an agreement to remove the superpowers' intermediate-range nuclear forces (INF) from Europe. While obstacles remain, American and Soviet negotiators appear to be within reach of a breakthrough that could remove the remaining impediments to an agreement.

Public-opinion polls in the United States and Western Europe indicate strong support for the concept of eliminating these weapons from Europe. The prospect of an INF accord, however, has raised serious questions among some analysts concerned with the stability of the East-West balance in Europe. The members of NATO, particularly major European powers such as France, Great Britain and West Germany, have officially supported the American position in Geneva, but with varying degrees of enthusiasm.

AN ALTERED PICTURE

The at-times-troubled and uncertain response of the allies to developments in the negotiations reflects anxiety and uncertainty about the implications of an INF agreement for the future of the Atlantic alliance. An INF agreement may ultimately alter significantly the nature of the U.S. defense presence in Western Europe. Although the United States maintains that an INF agreement with Moscow would enhance European security, many Europeans, already uneasy about the long-term American commitment to Europe, are less certain about the long-term political and military implications.

The current debate has its roots in decisions made by NATO nearly 10 years ago. Intermediate-range nuclear forces, including American bombers and missiles, have played a role in the European balance throughout the post-war period. Yet, by the mid-1970s, a serious gap in the deterrent capability of the alliance existed. American F-111 bombers, based in Great Britain, were the sole remnant of the alliance's intermediate-range deterrent.

In 1977, the Soviet Union began to deploy an upgraded replacement, the SS-20, for the intermediate-range missile systems it already had targeted on Western Europe. The SS-20, with three independently targetable warheads, combined greater accuracy and increased range with mobility. In the context of an already comparatively weak allied intermediate-range deterrent, the deployment of the SS-20 presented the West with a significant military challenge.

ROLE OF FLEXIBILITY

For over two decades, NATO has relied on a policy of "flexible response" to deter the Soviet Union from initiating an attack on any members of the alliance. Flexible response developed out of a recognition in the early 1960s that an American threat to retaliate massively against Soviet aggression, utilizing American-based missiles and bombers, would not be credible as the Soviet Union developed a large intercontinental nuclear capability of its own. For deterrence to hold, the allies had to demonstrate the ability to respond effectively to Soviet aggression, if required, at levels below that of massive retaliation.

The Soviet Union and its Eastern European satellites possessed, and continue to possess, conventional superiority in the European theater. Soviet improvements of the INF systems in the 1970s threatened the military balance at the nuclear level. To restore the balance and ensure that flexible response remain credible, NATO had to respond by upgrading its own INF systems.

In December, 1979, NATO decided to counter the Soviet SS-20 with the deployment of 108 Pershing 2 missiles and 464 ground-launched cruise missiles (GLCMs). Deployment was scheduled to begin in 1983 in five European countries, Great Britain, Belgium, the Netherlands, Italy and West Germany, and was accomplished in spite of significant political opposition in those countries.

The NATO decision on INF in 1979, however, had "two tracks." While the alliance decided the maintenance of European security required the deployment of weapons systems comparable to the SS-20, the allies also agreed to seek their eventual elimination through negotiations with the Soviets. In keeping with the allied position, when negotiations on INF began in November, 1981, the initial proposal of the United States was for the dismantlement of all U.S. and Soviet INF systems, the so-called "zero-zero option."

Since 1981, both sides have put forth numerous proposals and challenged the other's commitment to real progress. To the surprise of many, at the Reykjavik summit, the Soviet Union dropped its longstanding position that the independent nuclear forces of France and Britain be included in the INF negotiations. Then, in February, 1987, Moscow dropped its previous insistence that an agreement limiting the Strategic Defense Initiative (SDI) be concluded prior to one over INF.

Within the last few weeks, the Soviet Union made a series of additional crucial concessions. Although far from agreement on the details, both sides were already prepared, in principle, to agree to a reduction in INF systems that would leave the United States and the U.S.S.R. with 100 warheads each. On July 22, Moscow made an even more significant concession in accepting a longstanding American offer to eliminate globally all land-based, intermediate-range missiles.

An agreement based on a global zero-zero option would certainly be easier to verify than one in which both sides were left with 100 warheads each. American officials have already indicated that agreement on the verification provisions of an accord such as this would be easier to reach.

In spite of this progress, critical differences between the American and Soviet positions remain. Nevertheless, an agreement to reduce the level of nuclear armament, rather than manage its escalation, is apparently within view. The alliance is close to realizing the outcome envisioned in the 1979 two-track decision on INF. However, an INF accord will not be agreed to in a vacuum. An agreement, based on the double-zero option,

carries with it a number of serious military and political challenges for the West.

Gen. Bernard Rogers, recently retired supreme allied commander in Europe, has been one of the harshest critics of the prospective INF agreement. During General Rogers' eight-year tenure at the helm of allied forces in Europe, the alliance has made significant progress in upgrading, modernizing and integrating its conventional defense capability.

Even with these improvements, and even given NATO's technological edge, the Warsaw Pact continues to enjoy substantial numerical superiority. In addition, the phenomenal growth in recent years of the Soviet Atlantic fleet poses a formidable threat to the ability of the United States and Canada to reinforce allied positions in Europe.

Generals Rogers argues that, given the conventional imbalance of military power, the zero-zero option will ultimately mean the decouping of Europe from the American nuclear deterrent, forcing the West to revert back to a non-credible policy of massive retaliation to deter aggression and keep the peace. In Rogers' view, this places NATO in a decidedly worse position than in 1979 before the alliance undertook the decision to deploy the Pershing 2s and GLCMs in Europe.

Others, notably former President Nixon, Secretary of State Kissinger and Sen. Sam Nunn of Georgia, have also expressed concern about the implications of an INF accord. They add that an INF agreement will only contribute to stability in Europe if an agreement can be won to reduce the level of conventional forces in Europe.

Negotiations on conventional forces have been under way for over a decade, but an agreement is nowhere in sight. To ensure deterrence holds, NATO will have to improve the quality of its conventional deterrent. A further emphasis on improving conventional forces, beyond that already planned, means that every member of NATO, including the United States, will have to spend more on defense, over and above projected spending to maintain the present force structure.

Estimates about the required increase for NATO's total defense spending vary. Reasonable estimates range from $10 billion to $40 billion, or approximately 4.5% real growth in NATO defense spending.

ANOTHER POSSIBLE STRAIN

Where that funding will come from is a potential source of conflict that could lead to additional strains within NATO. The United States certainly is not in a position to shoulder the financial burden alone, nor should we be expected to do so. The allies recognize that improvements in the conventional defense of NATO must be equitably borne on both sides of the Atlantic.

While the members of NATO are committed to increasing their commitment to the common defense, progress has always been spotty and uneven. That is a fact of life for a nearly 40-year-old alliance of 16 democratic societies. Yet we must recognize that an INF accord will have a price. To maintain the same level of commitment to the defense of the West, the United States and its allies will have to spend more and use its resources more wisely. It would be dangerous to enter into any agreement without attempting to determine how NATO will more equitably share the burden.

Arguments about burden-sharing, however, are indicative of more than a debate over who is spending how much. Policy differences between the United States and is allies have arisen more frequently in recent years. Terrorism, the situation in Central America, and how to respond to the latest developments in the Persian Gulf are but three of the latest issues which have divided Western opinion with varying degrees of severity.

ALLIED CONSULTATIONS

After nearly four decades, the emergence of divergent views between the United States and its allies on a number of issues affecting international security are to be expected. European concern, however, that the United States did not adequately consult its allies prior to the Reykjavik summit on issues deeply affecting European security is an indication that the differences among the allies may be greater than is generally conceded.

A prospective agreement on INF forces in Europe is not an end in itself. The dismantling of intermediate-range nuclear forces, on both sides, will require adjustments in Western defense in order to maintain a credible deterrent capable of maintaining peace. Those adjustments will have political consequences. In order for an agreement to be in our interest, the public, on both sides of the Atlantic, must be aware of the implications and be prepared to ensure that the consensus among the allies on the nature of the threat to the West, and how best to deal with it, be maintained. If that consensus breaks down, what victory there might be for the cause of arms control could be a Pyrrhic one.

RECOGNIZING ELDON LESLIE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. GORDON. Mr. Speaker, I would like to pay tribute to Mr. Eldon Leslie who is being honored this month for 20 years of service to his community as the executive director of the Putnam County Chamber of Commerce.

As the owner of two businesses himself, Eldon Leslie understands the problems and concerns of business-people. Since 1967, Eldon Leslie has used that understanding to assist others, dedicating himself to promoting the economy of the Upper Cumberland region without regard to personal gain.

Eldon Leslie has represented Tennessee on missions promoting trade with other countries. He also has served the United States as a Presidentially appointed observer of the Panama Canal Treaties and a member of the Citizens Advisory Committee on the SALT II Treaties.

He has succeeded in bringing new business to Putnam County and to the city of Cookeville. He also has helped neighboring counties in their development efforts. Eldon Leslie has always done what he could for business-people and their customers.

In order to honor Eldon Leslie, a scholarship program has been established in his name at his alma mater, Tennessee Technological University, located in Cookeville. The scholarship program will be ongoing and funds will be used to assist students from the Upper Cumberland area of Tennessee who enroll at Tennessee Tech.

I am proud to join the many people in the Upper Cumberland region and throughout Tennessee in honoring the accomplishments of this fine gentleman.

A LEADER AND A GUIDING LIGHT; A TRIBUTE TO DR. PEDRO C. SANCHEZ

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. BLAZ. Mr. Speaker, during the August congressional recess, the people of Guam lost a very special leader and I lost a very dear friend. I feel a sense of deep sadness and profound loss at the passing of my boyhood friend, Dr. Pedro Sanchez on August 17 at Queens Medical Center in Honolulu. He was 62 and is survived by his beloved wife, Florida, and their seven children.

Known affectionately to the people of Guam as "Doc," Pete Sanchez was an exemplary man—a true rock of the community as an educator, administrator, historian, publisher, and political leader.

He was a man of intellect, learning, wisdom, distinction and achievement , but Doc was admired and loved, most of all, for his moral courage and human compassion.

He was one of a kind. He was gifted in every conceivable way, especially in his relationships with people. He was at ease with the rich as well as the poor, and treated everyone with respect and dignity.

Above all, he was a deeply spiritual man with superior moral integrity and courage. He was a guiding light of Citizens for a Decent Community, a community effort to rid Guam of pornography and other threats to the morals of our younger generation. He was a moving force in our effort to establish a new political relationship with the U.S. Government.

His value to our community was best evidenced by his election to the 19th Guam Legislature and selection as chairman of the Guam Legislature's Committee on Federal, Foreign and Legal Affairs as well as vice chairman of the Commission of Self-Determination.

He was a pioneer in public education in our territory and former president of the University of Guam. Doc also served his country with great distinction in educational administration, serving as commissioner of education for the Virgin Islands, director of education for American Samoa and in the Federal Department of Education. He also served as Deputy Director of the Peace Corps in the Philippines.

Though our territory has lost a man of many accomplishments, his spirit and example will never be forgotten. The legacy of his leadership and his positive influence on the young and old in the territory and the nation endures.

SSC NOT AT ODDS WITH UNIVERSITY RESEARCH

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. FAWELL. Mr. Speaker, one of the most prominent misconceptions surrounding the Superconducting Super Collider is that small science, such as university research, will suffer for the sake of large-scale projects like the SSC. This argument underestimates the administration's commitment to other sciences and the importance of universities to high energy physics research.

Both the administration and the high energy physics community have made clear that the SSC must not be at the expense of other sciences. It is rarely noted that, prior to the President's approval of the SSC, the administration had proposed doubling the budget for the National Science Foundation over the next 5 years. The administration has also approved construction of a replacement space shuttle ($2.1 billion) and space station ($20 billion when transportation is included). The SSC promises no fewer benefits for our Nation's scientific and technological enterprises than the space program, though one rarely hears criticisms that the space program is robbing other sciences of funds.

Contrary to popular belief, the SSC—like the NSF—will primarily benefit "small science" and university research. The SSC, like the existing accelerator facility at Fermilab, will be operated by a consortium of 70 universities. Typical research teams that will use the SSC will include one professor, an assistant professor, and a handful of graduate students and postdocs. Hardly big science. Experimental data will be openly available to all. Rather than rob universities of research funds, the SSC will improve the research and educational capabilities of our Nation's universities by providing them ready access to a state-of-the-art research facility.

It is also fiction to state that high energy physics is too remote or esoteric for practical benefit. One need look no further than the present graduating class of doctorate students. Only half of today's Ph.D.'s in high energy physics remain in the field. The rest fan out into industry, medical research, health, and a variety of other fields, taking with the scientific and technical skills they learned from physics. In addition, the scientific expertise at facilities such as the Fermilab often yields practical results. In a recent example Fermilab played a principal role in the design of the Nation's first hospital-based accelerator, which will be used for the treatment of cancerous tumors.

Just as important is the fact that the scientific knowledge gained from high energy physics impacts so many other diverse areas. The astrophysics and cosmology communities, for example, are counted among the strongest supporters of the SSC. The history of practical physics has also clearly shown that there are practical benefits to this research. Over one-third of the products and industries that constitute our Nation's GNP rely on knowledge of the atom. Clearly, then, there is nothing remote about the fundamental study of nature, a quest that mankind has been pursuing in various ways for thousands of years.

History has also shown that the construction of newer and more powerful accelerators has not come at the expense of other sciences. The same criticisms against the SSC were raised when the Fermi National Accelerator Laboratory and other accelerator facilities were constructed in the 1960's and 1970's. Yet high energy physics did not "gobble up" other sciences. Instead, just the reverse happened. The percentage of Federal basic research funds for high energy physics declined from 11 percent in the 1960's to only 7 percent today. Clearly the Nation found a way to fund physics and other sciences as well.

Legislation is currently pending in Congress to authorize funds for the SSC in fiscal year 1988. At last count H.R. 3228, introduced by Congressmen BOB ROE (D-NJ) and MANUEL LUJAN (R-NM), has over 230 cosponsors—well over half of the House of Representatives. Skeptics will claim that cosponsors were motivated only by their interests in the SSC competition. However, I believe that their support reflects a growing awareness on the part of Congress that the future health of our Nation's industries and economy requires greater investment in civilian research and development. Basic research—long-term and often unpredictable—is a unique responsibility of the Federal Government and offers untold benefits for the future. The SSC will benefit our Nation's universities and research capabilities and deserves our full support.

TRIBUTE TO ASHCOMBE FARM AND GREENHOUSES

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. GOODLING. Mr. Speaker, today I would like to recognize the silver anniversary of a unique and wonderful enterprise in Mechanicsburg, PA. For 25 years Ashcombe Farm and Greenhouses has been growing in size and reputation, building quite a following amongst inhabitants in my district.

Glenn M. and Mary Ellen Gross modestly began marketing homegrown farm products at a tiny country roadside stand in 1962, and have since seen Cumberland County's most unusual farming operation expand to 90 acres, 40 greenhouses and matching marketing and other facilities at 906 Grantham Road.

A program of pick your own small fruits—blueberries, strawberries, red raspberries, and black raspberries—gives Ashcombe's customers a unique experience to which has recently been added pick your own flowers.

One of its newest departments, Ashcombe's Country Creations, is wholesaling dried floral designs up and down the east coast, with concentration in Baltimore and Washington. More than 30 flowers are grown for dried flower processing for this unusual market. Dried flower arrangements provide the improbable mix of the sophisticated and the rustic, bringing a "quaint beauty and lasting quality." The new marketing venture has also created a number of new jobs for the local economy.

Over the years Ashcombe's has built a relationship with the prestigious 2-year Professional Gardeners Program at Longwood Gardens in Kennett Square, PA. The traditional two-way flow of staffers and program graduates is a measure of Ashcombe's recognized place in horticulture.

Ashcombe's, where Governors have shopped and whose flowers have added beauty to the White House, marked its 25th anniversary in August.

IN HONOR OF THE HONORABLE AND MRS. BERNARD NEWMAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. GREEN. Mr. Speaker, I rise today to offer special recognition to the Honorable and Mrs. Bernard Newman and to their many contributions to New York and the Nation.

A lifelong resident of New York, Judge Newman is proud of his humble beginnings. He is the son of the revered Isidor and Sarah Newman, who were noted on the Lower East Side for their leadership in orthodox Jewry, and for their many good works. Judge Newman is married to his college and law school classmate, Kathryn Bereano.

An honor graduate of the college and law school of New York University and an associate editor of the Law Review, Bernard Newman is a lawyer's lawyer and a judge's judge. He has proved an outstanding asset to our Federal and the New York State judicial system, holding the unique distinction of appointments to the bench by a mayor, a Governor, and a President.

Bernard Newman's contributions to academic, political, and community affairs are sundry and include: Chairman of the New York County Republican Committee; president and governor of the N.Y.U. Law Review Alumni Association; and director of the Anti-Defamation League and two synagogues.

Finally, Judge Newman is a gentleman of profound wisdom, integrity, and generosity, and a man of great compassion. He is an awardee of numerous alumni, professional and civic honors, including the Judge Edward Weinfeld Award and the International Trade Service Medal.

Kate Newman, also an honor graduate of the N.Y.U. college and law school and editor of the Law Review, was her husband's law partner until he was appointed to the Federal bench in 1968. Kathryn maintains an active law practice in the areas of corporate, real estate, trust and estate matters, and serves by appointment as an administrative law judge.

Kate's parents, Dr. and Mrs. Philip L. Bereano, were prominent Zionists in Israel's pre-independence days; her uncle, Abraham Goldberg, was world renowned as an author and lecturer.

Mrs. Newman's professional and civic service include: Judicial appointments as special guardian and guardian ad litem; New York

Women's Bar Association; Mayor Lindsay's committee to "Save the Old Metropolitan Opera House"; member of Local School Board No. 4, Manhattan; Special Assistant Attorney General for Elections; and N.Y.U. Law Review Alumni Association Board of Governors.

The Newmans are annual donors of a scholarship at N.Y.U. and a Silver Bowl Award for the runner-up finalist team in the National Moot Court Competition. They are extremely proud of their two daughters, Helene and Phyllis, and their five grandsons.

I request my colleagues to join with me in extending best wishes to the Newmans on the special occasion of their birthdays and wish them continued health and happiness in their life together.

COMMENDATION TO THE PILOT CLUB OF BAYTOWN, TX

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. FIELDS. Mr. Speaker, earlier this year a women's service organization in my congressional district, the Pilot Club of Baytown, undertook a new project for which they have received recognition.

In June 1986, the club's education leader, Lois Snead, saw a television show about a Latchkey Children Self Care Training Program. She contacted Jeri Neeley, a volunteer Texas crime prevention specialist from Pasadena, TX, for assistance in starting the program in Baytown. The Pilot Club of Baytown approved the idea as a joint safety-education project.

Subsequently, the Service League of Baytown joined the Pilot Club in the joint effort. The Latchkey Children Self Care Training Program then was presented to Dr. Bill Kennedy, superintendent of the Goose Creek Consolidated Independent School District, who enthusiastically approved the program and volunteered the support of the school district.

The Latchkey Children Self Care Training Program is a model program of the Texas Crime Prevention Association for students from kindergarten through fifth grade. Children are trained in four areas: door safety, telephone safety, fire safety, and personal safety.

Pilot Club member and elementary school principal Sandra Northcutt was responsible for recruiting school district teachers, including a bilingual teacher, for the 1-day training session to be held on January 31, 1987. The Texas Crime Prevention Association assisted by providing manuals for planning purposes. Sandra Northcutt's enthusiasm for and dedication to the project attracted 28 teachers who shared her spirit.

General Telephone Co. was responsible for the presentation on telephone safety. Under the direction of the company's local general manager, the children were taught how to use various types of pay telephones and how to deal with unwanted telephone calls in the home.

The Baytown Fire Department presented information on fire safety. Included was information about exit drills in the home and demonstrations of the "stop, drop and roll" technique to avoid fire, and the "get low and go" technique to avoid smoke.

A Baytown Police Department instructor assisted Jeri Neeley in instruction for the parents as well.

The Goose Creek School District reproduced the materials, distributed the registration forms, encouraged their teachers to participate, and provided the training site.

The Pilot Club members scheduled the classes, obtained the teachers, prepared the teaching materials and planned a teacher training session. The local newspaper and radio station provided advance publicity. Posters were distributed throughout the community and flyers were sent home with the schoolchildren.

The mayor of Baytown even issued a proclamation recognizing the value of the Latchkey Children Self Care Training Program.

More than 350 children attended the four-class session. Approximately 350 parents attended the parents' training sessions. The program evaluations were overwhelmingly positive. The consensus was: do it again and soon.

The parents felt that the program filled a great need in the Baytown community. One of the greatest strengths of the program was that both parents and children received the training so that parents may reinforce what their children were taught.

The Latchkey Children Self Care Training Program project initiated by the Pilot Club of Baytown is a fine example of community organizations working together for a common cause. The club's efforts were duly recognized during the 66th annual Pilot International Convention held July 25–28, 1987, where the Baytown club received a first place safety certificate award. The project was recognized further by the Allstate Foundation/Allstate Insurance Companies which presented to the club a check for $500. Club president Dorothy Nell Ammons and president-elect Maryon Babin represented the club during the award presentation.

Mr. Speaker, now I want to offer my commendation to the Pilot Club of Baytown for their meritorious community service. Thank you, Pilot Club of Baytown.

H.R. 2497

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. BRUCE. Mr. Speaker, I would like to bring to the attention of my colleagues testimony I presented yesterday to the Committee on Ways and Means. This is vital legislation for our Nations' energy industry as well as my congressional district and I appreciate the opportunity to present my remarks in the RECORD.

Thank you, Mr. Chairman, for the opportunity to appear before you and the members of the House Ways and Means Committee. The focus of today's hearing, H.R. 2497, is of great consequence to my district and to the Midwest. Therefore, I am especially pleased to be able to offer my comments on this legislation. My concerns are with the fairness of the approach taken in this legislation and with promoting the process by which the House can expect to ultimately act on air pollution control legislation.

Mr. Chairman, as you may know, the Energy and Commerce Committee members began informal discussion of revisions to the Clean Air Act before the August recess. I believe that forum offers the best chance of reaching an agreement on the unresolved scientific, environmental and regional issues which currently stymie emissions control legislation. To single out one region, or one or two pollutants for control, undermines the coalition building necessary for the effort to reach a compromise which is acceptable to all the participants in the debate on air borne pollutants.

This year, discussion of changes to the Clean Air Act take on special importance. On January 1, 1988 over seventy cities are expected to be out of compliance with the ozone standards set by the Act—the EPA has threatened many of these cities with sanctions for failure to comply. In addition, the debate over acid rain is not yet resolved and there are new initiatives on air toxics and ozone-depleting chlorofluorocarbons.

The goals of H.R. 2497 are laudable, sulfur dioxide and nitrogen oxide are two pollutants that contribute to several environmental problems. We must, and will, find a practical way to reduce emissions of these pollutants. The legislation before us would tax two types of emissions that are present nationwide and therefore the bill aims to reduce these emissions. However, I must note that there is nothing in this bill that guarantees any reductions in any pollutants—or even any precursors of pollutants. In fact, H.R. 2497 can only hope to succeed by delivering repeated body blows to regions like the one I represent. And eventually such measures would be the knockout punch to our rural economy which is already reeling from years and years of persistent economic recession. As H.R. 2497 now stands, other areas would not contribute an equitable share to reducing what is clearly a national pollution problem. One region should not bear the brunt of the cost of cleaning up what is a national problem.

The specific costs of H.R. 2497 to my region are estimated by a National Coal Assoication study which revealed that the annual emissions tax which would be owed by utilities serving my district to be as follows: Illinois power—$7 million; Central Illinois Public Service—$17 million; and Central Illinois Light Company—$13 million. Illinois Power estimates that the cost of investing in the pollution control equipment, the increased operation and maintenance costs, and emissions taxes would require an increase to the ratepayers of approximately 20 percent. These additional costs, in some cases will come on top of rates which already reflect the costs of recently constructed scrubbers on high-sulfur coal burning plants.

I understand that the staff of the Joint Tax Committee has raised several points of concern regarding the HR 2497. Since the bill would raise utility rates we could expect an increase in domestic manufacturing costs. In addition, the bill requires costly monitoring of emissions in order to calculate the emissions tax owed. Finally, the bill would discourage the use of high sulfur coal. This final point is of great concern to my region. The mining economy is already on the ropes have lost tens of thousands of jobs in the last few years. It will be difficult

for my region to support legislation that offers little or no protection to our coal mining industry unless all the Clean Air Act issues are on the table.

The Office of Technology Assessment has estimated that this approach would bring sulfur dioxide emission reductions in the range of 6 million to 10 million tons. However, it is quite possible that many utilities would find it more economic to pay the tax than pay the cost of cleanup. If this is indeed the case then my region would face a big jump in utility rates without any attendant benefits to the environment through sulfur dioxide emissions.

Of greater certainty is the liklihood that many utilities will have no choice but to pay the tax on nitrogen oxide at many facilities. While there are technical and operational problems associated with reducing sulfur dioxide emissions, reducing nitrogen oxide emissions is even more difficult. Utilities in my area could go ahead with "low NO_x burners" at some of the plants in my district. The cost of Illinois Power for building "low NO_x burners" at four plants by 1991 would be about $10 million. All of which will, in one way or another, be passed on to the individual ratepayer.

However, utilities which operate cyclone boilers would face an even greater problem in reducing nitrogen oxide to escape the emissions tax. Cyclone boilers cannot be retrofitted with low NO_x burners to reduce NO_x emissions. Selective Catalytic Reduction (SCR) is the only technology which has the potential to reduce nitrogen oxide emissions from cyclone boilers. Unfortunately, SCR has only been demonstrated on boilers rated below 250 Megawatts which burn either low sulfur coal or oil. The cyclone boiler retrofit problem will affect utilities in my district and around the country where there are currently 68 cyclone burners in operation. These utilities will have no choice but to pay the nitrogen oxide tax until the utility is retired. So, in at least these instances, the result of this bill would be only to increase taxes in my area and there would be no reduction in nitrogen oxide.

With this legislation, I understand that the gentleman from New Hampshire has gone to considerable effort to address some of the usual—and well founded—objections to regulatory approaches to controlling sulfur dioxide and nitrogen oxide. I am not sure that it is possible to fine tune H.S. 2497 to a point where it would be acceptable to my region and recognizable by the author. However, I strongly urge to this Committee the importance of continuing the effort to reduce all air borne pollutants as a part of comprehensive revisions to the Clean Air Act rather than by a piecemeal approach.

By singling out two pollutants, nitrogen oxide and sulfur dioxide, this legislation ignores the major role played by hydrocarbons in the damage often associated with acid rain, as well as the formation of ozone. While nitrogen oxide plays a role in ozone formation and forest damage, hydrocarbons are a key ingredient. The Congressional Research Service, in discussing alternative emissions control strategies, states that, "unless the NO_x provisions were strong or hydrocarbons included in the program, crops or forests would probably benefit little." Given the likelihood that utilities would, in many cases, find it more economic to pay the nitrogen oxide tax rather than reduce emissions, and given the absence of hydrocarbon controls in H.R. 2497, I am concerned that we would see little progress in crop and forest damage with this approach.

The advantage of pursuing a comprehensive revision of the Clean Air Act would be new measures to combat nitrogen oxide and sulfur dioxide as well as hydrocarbons. In addition, the Clean Air Act is the proper forum to discuss the question of air toxics and Chlorofluorocarbons (CFCs). Our best chance at making progress with each of these pollutants with emissions control legislation is when all of them are on the table at once. That is when regions, industries, and lawmakers can strike a bargain. When a region or industry is singled out, compromise is difficult or impossible.

Mr. Chairman, I represent a part of Illinois which is still looking for the economic recovery we've heard so much about. Of the eighteen counties which I represent almost all of them have double digit unemployment. This is not news in my district. We've had this level of unemployment dating back to the start of the recession in 1980. The average unemployment rate in my district is about 15%—at times it has been as high as 20%—this has been the case for seven years.

In addition, the population in my district is relatively old. In some of our counties up to 20% of my constituents are over 60—in one country the figure is 27%.

My region has already suffered the collapse of the farm economy. We have seen plant closings in shoes, textiles and heavy industry. Many of our products and crops are aimed abroad—with each trade deficit figure worse than the one before it my district faces shrinking markets for its goods.

My district in downstate Illinois is an energy producing region with significant oil and gas production in addition to eight coal mines. The low tide in the energy industry hurts us, too.

We already face some of the highest utility rates in the country. And our many ratepayers are old and on fixed income, or unemployed.

To further increase these rates with legislation such as H.R. 2497 would hit my constituents hard and further damage our declining industries. To increase these rates without asssurance of significant pollution control is absolutely unacceptable to us.

These concerns are really about fairness and the process of emissions control legislation, and until these concerns are address I am reluctant to bring my constituents another round of bad news on the economic front. Thank you Mr. Chairman.

HONORING OUR CONSTITUTION

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. MOORHEAD. Mr. Speaker, I would like to bring to the attention of my colleagues in the House of Representatives a significant number of events, which will occur within the 22nd Congressional District of California during Constitution Week, September 17 to 23, as part of the national celebration of the signing of the Constitution of the United States.

These celebrations will honor our Constitution, which the Founding Fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish for the United States of America. A sign of its uniqueness and greatness is that the Constitution has endured to this day as one of the most significant documents ever created by mankind. Our Constitution has served as a model charter for freedom-loving peoples around the Earth, who share our sentiments for responsible government and guaranteed liberty.

Constitution Week is also meant to call our attention to this great document because it is important that all citizens fully understand the provisions and principles which have guided our country for 200 years and will continue to lead us into our third century. The bicentennial celebration of the signing of the Constitution provides the opportunity for all Americans to learn about and recall the achievements of our Founding Fathers, and to reflect on the rights and privileges and responsibilities of citizenship.

Throughout the 22nd Congressional District of California a number of celebrations will take place to honor the signing of our Constitution and to give thanks for the freedom and liberty it has given to each of us.

Mr. Speaker, it is a privilege for me to congratulate those persons who have given of their time and energies to make Constitution Week, and all it represents, a memorable event.

LORETTA P. CHMURA HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. KANJORSKI. Mr. Speaker, I rise to bring to the attention of my colleagues an exceptional citizen from my hometown of Nanticoke, PA, who will be honored in a ceremony this Sunday. I am proud to join my friends and neighbors in honoring Mrs. Loretta P. Chmura for her outstanding contributions to our community.

A native of Newport Township, Loretta has devoted her entire life to serving the people of the Wyoming Valley in a wide variety of capacities. As the director of recreation and volunteers at St. Stanislaus Medical Care Center for the past 13 years, Loretta has gone far beyond the expected duties of her job. She founded the "80's Club," which has raised over $90,000 for the center, and has organized many of the club's dinners and bazaars. Loretta currently serves as second vice president and publicity chairman.

For the past 20 years Loretta Chmura has been a leader in the drive for charities by the United Way of Wyoming Valley. She has served as solicitor, general chairperson of all metropolitan divisions, and south metropolitan division chairperson. The American Red Cross, the General Pulaski Committee of Luzerne County, and the American Legion Auxiliary have all benefited from Loretta's leadership abilities and endless energy.

It is a cliche that when you want something done, you call on the busiest person you know. Loretta Chmura has been answering that call for more than 20 years now, and I am glad that we have this opportunity to thank her for her devotion to making our community in northeastern Pennsylvania a better place to live. Mr. Speaker, I am proud to stand before

the House of Representatives today to honor one of Wyoming Valley's finest citizens, Mrs. Loretta Chmura.

TRIBUTE TO JACKIE JOYNER-KERSEE

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. PRICE of Illinois. Mr. Speaker, at this time, I would like to pay tribute to Jackie Joyner-Kersee of East St. Louis, IL.

She is truly a superwoman and a super athlete.

Recently, Ms. Joyner-Kersee won the heptathlon and long jump at the World Track and Field Championships.

Jackie Joyner-Kersee first won the heptathlon by a staggering 564 points. She rang up the highest first day total (4,256 points) in history, with a 12.91-second clocking in the 100 hurdles, a 6 feet 2¾ inch high jump, a 52 feet 6 inch shotput, and a time 22.59 in the 200. A tremendous accomplishment for a tremendous athlete.

Her years of difficult training and perseverance have richly paid off. Her phenomenal athletic achievements are truly inspirational.

Jackie Joyner-Kersee, I salute your spirit and dedication. I salute your skill and determination. I salute you.

A TRIBUTE TO BRIAN WILLSON

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Ms. PELOSI. Mr. Speaker, let me bring to your attention today the story of Brian Willson and his struggle for peace. Brian Willson is one of those extraordinary individuals who gives us hope and courage as we seek an harmonious world.

On September 1, Brian suffered the loss of his legs under the impact of a munitions train while participating in a peaceful demonstration at Concord Naval Weapons Station in California. I ask you now, how could a man who risked his life in Vietnam, who survived a 40-day fast for life, and who marched for peace across Nicaragua, come so close to losing his life in a peaceful demonstration in his own country?

In order to foster democracy around the world we must first set an example at home. A peaceful demonstration in support of any issue in a democracy is a right of our people. No one working for peace should ever face this kind of violence.

Brian's commitment to fairness, justice, and good will unifies us all. The tragic irony of a nonviolent demonstration ending in a near loss of human life, tells us that our mission, Brian's mission, is not over.

I have joined with Representative MILLER, Representative DELLUMS, and Representative BOXER from the bay area in calling for an investigation by the House Armed Services Committee.

I pray for Brian's recovery and for peace in the world.

HONORING EUGENE F. FLAHERTY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. CONTE. Mr. Speaker, each of the small communities in the First Congressional District of Massachusetts has its own identity and is populated with people who shape it, nurture it, and prepare it for the future. Key to maintaining that identity are partnerships between the towns, their businesses, their governments, and the people. Quite often, the mantle of responsibility falls upon certain individuals who care enough about their town to serve as facilitators, spokesmen, and leaders on efforts that improve the quality of life for all.

Easthampton, a small manufacturing town in the Connecticut River Valley, has been fortunate for many years to have been the passionate cause of Eugene F. Flaherty. A retired businessman, Gene Flaherty has served as the president of the town's Chamber of Commerce, as chairman of the Board of Public Works, and in numerous other civic and town organizations.

On July 26, Gene's many friends and admirers gathered to dedicate the Eugene Flaherty Municipal Parking Lot. The dedication of the lot was the culmination of many years of work by Gene, local and State officials, and my office to secure community development block grant and other funds necessary to complete the project. The new $400,000 parking facility is expected spur business development and expansion in the industrial section of Easthampton and provide relief for the many workers who earn their livings in the town's manufacturing sector.

Eugene Flaherty has been an inspirational leader in his hometown—a successful businessman, a tireless advocate, and a warm, caring example of civic responsibility. I salute him and his lovely wife Reggie on their many achievements, and I appreciate this opportunity to inform my colleagues of his success.

NORTHERN COLORADO WATER CONSERVANCY DISTRICT: A GOLDEN ANNIVERSARY

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. BROWN of Colorado. Mr. Speaker, the golden anniversary of the Northern Colorado Water Conservancy District today is a cause for celebration. It represents 50 years of human effort and technological advancement in water development and management. It also is a day to celebrate the vision of Colorado's earliest settlers in improving our environment and providing water for future generations.

The second half of the 19th century brought many to Colorado in search of gold and a better way of life. While the yellow metal brought fortune to only a few, farming and livestock provided a livelihood to many. Communities such as Greeley, Fort Collins and Loveland rose from the dry prairie, and irrigation became a necessity. In Colorado's arid climate, it became apparent that water, not gold, would be the State's most precious resource. Meeting this challenge, Colorado's pioneers developed the water storage and irrigation methods that permitted our State to prosper and grow.

When the Northern Colorado Water Conservancy District was formed in 1937, the cornerstone of water development and conservation had been laid. Its task, however, was to provide for the future. With increased agricultural production and rapid economic development along the Front Range, more water was essential.

Colorado's leaders in the 1930's—people such as Colorado House Speaker Moses E. Smith of Ault, Greeley Tribune Editor Charles Hansen, Colorado A&M President Charles Lory and State Senator Alva B. Adams of Pueblo—worked together to assure northern Colorado of a stable water supply. Their efforts culminated in the Colorado-Big Thompson project, which was completed in 1956.

Today the Colorado-Big Thompson adds an average 240,000 acre-feet of water to the South Platte River Basin. The recently completed Windy Gap project adds another 50,000 acre-feet annually.

The Northern Colorado Water Conservancy District not only has lead the way to developing new water resources, it has been at the forefront in conserving our water resources. Recently, working closely with environmental groups, the district played a key role in making the Cache La Poudre Colorado's first federally designated wild and scenic river. The compromise that was reached between the water and environmental communities advanced the interests of both groups and was in the best interest of the people of northern Colorado and the Nation. All Coloradans should be proud of this achievement, which should serve as a model for resolving other difficult environmental issues. The key was working for a common cause—protecting our heritage and preparing for the future.

As we celebrate the past, we must continue to look to what lies ahead. The successful management of our water resources will require a spirit of cooperation among all of us in Colorado.

My hope is that this anniversary will remind us of the foresight of our past and inspire us with a similar vision for our future. Working together we can continue to maintain Colorado's natural beauty and ensure having the water to sustain future generations.

CONGRATULATIONS TO ROBYN, KEVIN, AND THE TWINS

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. CLARKE. Mr. Speaker, there is no greater blessing that God can bestow on a

married couple than the birth of a daughter or son. Of course, awaiting the first child is always nerve-wracking and tense, experiencing such a marvelous wonder for the initial time. Imagine though the feeling for the couple that has twins! The joy and excitement of such a moment is hard to describe. Mrs. Clarke and I know this feeling since we were fortunate to have twin boys.

Late last year, Kevin and Robyn O'Connor had the good fortune to be parents for the first time and second time, as well. They became the proud parents of two beautiful boys, Ryan Patrick and Kyle Thomas. Even more interesting is that the two boys were born on different days: Ryan at 11:58 p.m. November 9, 1986, and Kyle at 12:02 a.m. November 10, 1986. It turns out, however, that the delivery was too much for the new father—he collapsed and had to be attended too by the team of specialists helping deliver his newborn sons.

I have had the pleasure of knowing Kevin and Robyn since first coming to Congress in 1983. Kevin currently works on the staff of the Architect of the Capitol, and Robyn is a former employee with the Senate Sergeant at Arms' Office. Since meeting them almost 5 years ago, we have developed a warm friendship. We were even fortunate enough to attend their wedding in November 1985.

Mr. Speaker, as Robyn and Kevin bring up this new family there will undoubtedly be many challenges. But I have great confidence in both of them as people and as new parents. We wish to extend to them and their 10-month-old sons a happy and fulfilling life together and we look forward to continuing our close relationship with them.

NATIONAL POW/MIA RECOGNITION DAY

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Ms. SLAUGHTER of New York. Mr. Speaker, Public Law 100-102 designates September 18, 1987, as National POW/MIA Recognition Day. I am proud to have cosponsored this legislation and urge all Americans to take time on that day to remember and honor those who have been prisoners of war or who are listed as missing in action.

Prisoners of war have endured unique hardships and sacrifices while serving our Nation. I am honored as a U.S. Representative to have a part in expressing gratitude for this extraordinary service. We recognize our debt, not only to those who actually suffered internment, but also to their families. The stress of separation and anxiety over the well-being of their loved ones exact a very real and terrible emotional price from both prisoners and their families.

On this day of recognition, we must also remember the special tragedy of the families of those listed as missing in action. The anguish of years of uncertainty takes an enormous toll on families, friends, and relatives. Their heroism and sacrifice must be acknowledged.

While, as in all wars, a complete accounting of those listed as missing is not possible, I join concerned Americans across the country in reaffirming our Nation's commitment to obtaining the fullest possible accounting of those missing in Southeast Asia. Despite the excruciatingly slow progress in completing this accounting, the recent agreements between the United States and Vietnam and Laos do give hope of renewed progress.

Our Nation and each of us as citizens owe a debt to all those men and women who have served to defend our freedom and who have been captured as prisoners of war or have been listed as missing in action. I urge all Americans to join me in recognizing and remembering this service on September 18—National POW/MIA Recognition Day.

THE 40TH ANNIVERSARY OF WJDA

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 10, 1987

Mr. DONNELLY. Mr. Speaker, I would like to share with my colleagues news of the anniversary of a valued friend and service to our community. WJDA, the South Shore radio station based in Quincy, MA, celebrates its 40th anniversary on September 13. Over the last 40 years, since its foundation by the late James D. Asher, the station has provided a unique service; unique in that it combines commercial popularity with a level of public dedication that is no longer often found in the world of broadcasting.

WJDA is a small-scale radio station by today's standards. Its broadcast strength is only that of 1,000 watts, its broadcasting day only 12 hours long. Yet the station consistently remains one of the top 20 in Boston. This success, unusual for a suburban radio station, is built on a mix of programming where quality is the keystone. The station has won several United Press International and Press Association awards for its public affairs documentaries and sports coverage. It has been the recipient of almost two dozen awards and commendations from community and civic bodies, such as the American Legion, the American Red Cross and Rotary International, to name but a few, for its contribution to local affairs. A major part of this service is the care the station takes to broadcast as many of the public service announcements it receives as is possible during its broadcast day.

Typical of the kind of radio station that it is and the people that make up the WJDA team, several of whom such as Herb Fontaine, Joe Kenny, and Win Bettinson, have over 30 years' experience on the radio, was its response to the blizzard of 1978. Despite the difficulties of travel in the storm, the staff turned up to ensure the station went on air on schedule. Their service broke down later that day when the abnormal tide reached the insulator of the radio station's antenna in Germantown. However, before they knew that the tide had dropped, risking the apparatus of the radio station, they went back on the air, giving the South Shore comprehensive emergency coverage. The station operated an open telephone line so that public officials could get straight on the air with vital information. It stayed on the air after its allotted time, dropping advertising to remain within FCC rules.

WJDA embodies the best in old-style radio, with its balance of programming, while it remains a viable commercial entity. It is with pleasure that I salute WJDA on its 40th anniversary, and wish it many pleasurable and useful years of broadcasting.