United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, FIRST SESSION

SENATE—*Tuesday, October 13, 1987*

The Senate met at 9 a.m., and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

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

Let us pray:

"God is our refuge and strength, a very present help in trouble. Therefore will not we fear * * *."

In the words of the Navy hymn we pray for all personnel in the Persian Gulf and elsewhere, and their families:

"Eternal Father, strong to save, Whose arm hath bound the restless wave, Who bids the mighty ocean deeps its own appointed limits keep. O hear us when we cry to Thee for those in peril on the sea.

"O Christ, the Lord of hill and plain, O'er which our traffic runs a-main. By mountains pass or valley low: Wherever Lord, our brethren go, Protect them by Thy guardian hand From every peril on the land.

"O Spirit Whom the Father sent to spread abroad the firmament: O Wind of heaven, by Thy might Save all who dare the eagle's flight, And keep them by Thy watchful care; From every peril in the air. Amen."

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 13, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

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.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for his prayer. It is a good way to start off the week and the day.

Someone wrote it into a poem titled "The Secret:"

I met God in the morning
When my day was at its best,
And His presence came like sunrise,
With a glory in my breast.

All day long the Presence lingered,
All day long He stayed with me,
And we sailed in perfect calmness
O'er a very troubled sea.

Other ships were blown and battered,
Other ships were sore distressed,
But the winds that seemed to drive them
Brought to us both peace and rest.

Then I thought of other mornings,
With a keen remorse of mind,
When I too had loosed the moorings,
With the Presence left behind.

So I think I know the secret,
Learned from many a troubled way:
You must seek Him in the morning
If you want Him through the day!

THE PASSING OF GOVERNOR ALF LANDON

Mr. BYRD. Mr. President, yesterday, America lost one of its most highly regarded citizens, Gov. Alfred Moss Landon, who passed away at the age of 100. Alf Landon, as he preferred to be called, was the father of our esteemed colleague, Senator NANCY KASSEBAUM, and the Republican nominee for President in 1936.

It was his landslide loss to President Franklin Roosevelt in 1936 for which Governor Landon was, perhaps, best known. But this single defeat should never be allowed to overshadow a lifetime of victories.

Before entering politics, Mr. Landon had been a successful businessman, including, among many business adventures, helping to develop the Nation's western oil fields.

In 1932, in the height of the Great Depression and a nationwide Democratic electoral sweep, he was the only Republican gubernatorial candidate west of the Mississippi River to be elected.

In 1934, in the midst of another Democratic electoral avalanche, he was reelected Governor—the only Republican gubernatorial candidate in the country to be elected that year.

Following his 1936 loss to President Roosevelt, Governor Landon never again sought public office. Instead, in the words of the New York Times, "he became a genial, unassuming pillar of the business community in Topeka."

He also became an admired symbol of his political party and a respected statesman whose opinions of contemporary political events were often sought and highly regarded.

In 1978 came what he called "The thrill of a lifetime." His daughter Nancy was elected to the U.S. Senate.

My wife Erma and I now join Senator KASSEBAUM in mourning the death of her father and we extend our condolences to his wife of 57 years, Theo, and their children and grandchildren.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the Republican leader be reserved during the day.

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

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 5 minutes.

Mr. PROXMIRE. Mr. President, this has been a doubleheader day. We had two fine prayers this morning, one by the Chaplain and one by the majority leader. They are both a great inspiration. I am glad I was on the floor to hear both of them.

THE MERGER MANIA HITS WISCONSIN AND THE NATION HARD

Mr. PROXMIRE. Mr. President, any Senator who believes that the so-called merger mania is just rhetoric should consider what has happened to the firms in his State. My State of Wisconsin is, in many ways, typical. With 50 States in the Union, the average State has about 2 percent of the population. Wisconsin has just that: about 2 percent of the population. Per capita income in Wisconsin is very close to the national average. Our State is slightly stronger in both manufacturing and agriculture than the typical American State and slightly less strong in services. But the difference is only slight. Unemployment and inflation in Wisconsin have been consistently close to the national median. Wisconsin does have fewer of the very rich and fewer of the very poor than would be its average share. For that reason it has more of the economic middle class.

The year 1987 has been like no other year in our State's economic history in one major respect. We have lost ownership of more of our largest and most profitable and efficient firms to out-of-country and out-of-State buyouts than ever before. Four of Wisconsin's twelve biggest firms, measured by sales were taken over, all by out-of-State groups in the first 9 months of 1987. The third and fourth biggest firms in Wisconsin were bought out by foreign firms. Were these firms taken over because they were lazy, incompetently run, unprofitable firms that were not rewarding their stockholders with an adequate return on their investment? No way. Three of the four firms reported extraordinary returns on their equity in 1986. The returns for the fourth were not publicly available.

Consider: the State's third biggest firm and the largest firm that was bought out was the Heileman Brewing Co. of La Crosse, WI. Was it profitable? Heileman enjoyed a return on equity of 15.2 percent, an excellent return under any circumstances and at anytime. The second largest firm taken over was Manpower, Inc. Was Manpower, Inc. of Glendale, WI, an unprofitable business? Mr. President, in 1986 Manpower earned a sensational return on equity of 30.4 percent. It was one of the real stars of the New York Stock Exchange. Each of these companies enjoyed sales of more than a billion dollars in 1986. Now who bought these two extraordinarily profitable and efficiently managed Wisconsin firms? Both were bought by takeover specialists from foreign countries. Heileman was bought by an Australian corporation: Bond Corp. Holdings. Manpower was bought by a United Kingdom firm, England's Blue Arrow. Both of these large and highly successful Wisconsin firms were taken over after a bitter struggle. In the Heileman case, the Wisconsin State Legislature was able to pass defensive legislation which enabled Heileman to negotiate a settlement that both rewarded the Heileman stockholders and saved the jobs, the excellent Heileman management and a big part of the economic base of the Wisconsin community where Heileman is located.

The third largest Wisconsin firm hit by a takeover raid, Rexnord of Brookfield, WI, did not issue publicly available statistics on growth and profits. But this Senator remembers a much more human element of that fine company. Beginning in 1952, 36 years ago, when I started running for Governor of Wisconsin, I used to stand at the Nordberg factors gates shaking hands with workers and managers as they went to work beginning at about 6:30 a.m. and right on until 7:30 a.m. There was a fine management-worker relationship at that firm and great pride by its workers in Milwaukee and Wisconsin.

The fourth largest Wisconsin firm taken over last year was the Godfrey Co. of Waukesha, WI. How about Godfrey's competence and efficiency? Was this firm that had $664 million in sales in 1986 inefficient, unprofitable, a poorly run operation? Take a look at the record. In 1986 Godfrey's return to its stockholders was a sensational 22.5 percent on equity. And this was a pattern that Godfrey had established over the years. Between 1981 and 1986 Godfrey averaged an astonishing 24.7 percent return. Was Godfrey growing? Between 1985 and 1986 its profits grew by more than 52 percent.

Mr. President, the takeover of this country's most highly efficient and profitable firms represents a serious threat to our economic competitiveness. Time and time again these takeovers are paid for by massive increases in corporation debt that forces cash flow into paying interest on that debt and away from research and development, manpower training and buying more efficient equipment. Takeovers, especially hostile takeovers pour millions of dollars into the pockets of a few investment bankers, lawyers, and stock manipulators. But they are bad economic news for our State and for our country.

This is why a bill that would deal with this situation reported out by the Senate Banking Committee on September 30 by a 14 to 6 vote and now on the calendar is so critical for our country's economic future.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR REID

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nevada is recognized for not to exceed 15 minutes.

Mr. REID. Thank you, Mr. President.

CORPORATE TAKEOVERS

Mr. REID. We have heard a statement by the Senator from Wisconsin about his pleasure of being here this morning. I feel the same. The prayer of the Chaplain and of course the recitation by the majority leader were moving. But I state to the Senator from Wisconsin I am happy to be here to hear his statement and to tell him how much I appreciate the work he has done in this very vital area.

As the Senator from Wisconsin knows, I spent a great deal of time on the floor 2 weeks ago relating to a problem in Nevada. It is interesting in this country today; companies that are sound and fiscally doing well are punished by corporate takeovers. So I commend and applaud the Senator for the work his committee has done and the leadership that the Senator from Wisconsin has shown in this very vital area to this country. Over 80,000 jobs have been lost as a result of corporate takeovers, jobs in States like Wisconsin, Nevada, and North Carolina. So the Senate and the country, I am sure, join me in applauding the leadership of the Senator from Wisconsin.

NOMINATION OF JUDGE ROBERT BORK

Mr. REID. Mr. President, over the past weeks, this body has faced one of its most important duties. We must

review the qualifications of a man nominated by the President for the highest Court in the land. As the process began, I set out to build a logical basis for voting to confirm Judge Robert Bork, the President's nominee.

It seemed an easy task, because it was my solemn belief that if the President nominated someone who was qualified for the job then that person should be confirmed. We all have our own personal agenda, issues which mean a great deal to us based on our own moral commitments such as the right of the unborn, freedom of religion, equal protection and privacy. I did not, however, feel that those questions of particular votes in particular cases should be applied in confirming a justice, and accordingly though I preferred a judge who interpreted the law, not a judge who legislated the law—a practitioner of judicial restraint, I believed the Senate's role to be quite limited.

The Constitution, after all, does not provide that we nominate, instead we advise and consent. Accordingly, I accepted the common wisdom of the past decade that the Senate reviewed a nominee for honesty, intellect, and morality, and ignored his judicial philosophy. Whether a nominee was a liberal or conservative, an activist or a believer in judicial restraint, was it seemed to me a question for the President.

As with all decisions of magnitude where there is time for study, I began my analysis of the Bork nomination with a review of history. That reading was enlightening to say the least. It led me to the conclusion that the phrase "advice and consent" was intended by the Founding Fathers, and certainly demonstrated by American history to include much more than passive review of a President's nominee.

Having reached the conclusion that a Supreme Court nomination merited more than just a determination that a nominee met minimal qualifications, I began with my staff an indepth review of Judge Bork. His writing, his decisions, his testimony, and the testimony and analysis of others were closely scrutinized. Staff attorneys were assigned to debate his qualifications, and analyze the meaning and impact of Judge Bork's positions.

I must admit I entered the process with a bias. I wanted a conservative Justice to fill that vacant seat. It has long been my belief that in some areas the Court has gone much too far in its judicial activism, and I hoped to see a restraining brake applied. Try as I might, however, I could not conclude that Robert Bork is qualified to sit on the Supreme Court of the United States. Raw intellect alone is not enough; there are other compelling considerations.

For me, it was in the final analysis the question of Judge Bork's lack of consistency which led me to the decision that he is simply not qualified.

Our system of law is based upon a central foundation; every action we take which affects another should cause a result predictable by application of established principles of law. The importance of that concept to the efficient ordering of our society cannot be overstated.

At other times or in other places than this, the law has been a mystery to those whose lives it governed. The actions which would lead one man to the executioner's block would have no effect on another. The only difference between them was often an accident of birth.

It was against that unpredictability that our forefathers revolted in 1776. They recognized that the law must be a code of conduct which applied one standard to all.

As a former prosecutor and defense attorney, I have often stressed the need for certainty in the criminal law. It is not as important that punishment be severe, as that it be swift, sure and certain.

As a practicing attorney and small businessman, I came to recognize that the need for certainty in day-to-day affairs was equally necessary. Everyone needs to know that their actions will have certain legal effects, and that they can presume that they have rights which are created based on a code of law which remains constant from day to day.

It is because of that need for certainty that I have repeatedly expressed my desire for the appointment to the Supreme Court of conservative justices who believe in judicial restraint. Certainly, the law is a living thing, and certain it is that the Court has reinterpreted the Constitution to recognize the changes which must occur when a set of fixed principles is applied to an ever evolving society.

I believe, however, that the Founding Fathers in their divinely inspired wisdom designed the Court to act as a brake on the whims of that society, just as this body was designed to cool the passions of the House of Representatives. A judge who sprints to the forefront of novel concepts may not be wicked or unintelligent, but he is certainly someone who should not sit on the judicial body which interprets the highest law of our land.

It is upon that need for certainty that I have based my decision on Judge Robert Bork, because the only consistent thing about his life has been his continuing pattern of inconsistency. As others have pointed out on this floor, his wild swings in philosophy—from flirtation with the fanatical, even to socialism, to libertarianism, to conservatism, to his most recent swerve back to the middle of the road, smacks of intellectual extremism.

His most recent change in philosophy, the so-called "confirmation conversion," coming as it did on the heels of his nomination, and apparently based on a White House decision to portray him as a moderate, has also given me considerable pause. I am not alone in that scepticism.

Bruce Fine of the very conservative and respected Heritage Foundation said he thought it was a shame that Judge Bork was "bending his views to improve his confirmation chances." Mr. Fine concluded that Judge Bork's "ambition perhaps exceeds his intellectual devotion."

Similarly, Senator SANFORD, whose academic credentials include being the president of Duke University, reached his conclusion that Judge Bork lacked academic and intellectual honesty and true scholarship because of his wide swings from one opposing position to another.

We have heard repeatedly from some during these hearings that consistency is the hobgoblin of little minds. In this day of accuracy in quotations, I would remind my friends that what Emerson actually said is that "a foolish consistency is the hobgoblin of little minds."

There is as I have pointed out a great deal to be said for a wise, and conscious, and reasoned consistency in the application of the law to the affairs of men. It is that lack of consistency in Judge Bork's writings, opinions, and statements that sorely troubles me.

Robert Bork has endorsed the right of States to impose poll taxes and literacy tests. Anyone who would endorse that concept in the abstract without recognizing the fact that such laws were designed to prevent average people with common sense from voting because of their race or social condition, is disconnected from reality.

The fact is, that if the law was what Bork said it was, my mother and father, and many, many other Americans below the poverty level or without an education could have been disqualified from voting.

Robert Bork has opposed the concept of one man one vote, saying he cannot find it in the Constitution. Anyone who takes that position in the abstract without recognizing the fact that millions of Americans had been disenfranchised under prior gerrymandered systems, is out of touch with reality.

The fact is, that if the law was what Judge Bork said it was, Barbara Jordan would have never begun a political career, and this Nation would have been denied her eloquent and forceful voice for equality. There are those who serve in the U.S. Senate, both Democrats and Republicans, who

got their start in the House of Representatives based on one man one vote, reapportionment.

Robert Bork has written that laws which prevent hotels and motels from discriminating against customers because of their race were based on "a principle of unsurpassed ugliness." Anyone who would endorse that concept in the abstract without recognizing the fact that it denies many, many Americans the right to travel freely in interstate commerce is disconnected from reality.

The fact is that if the law was what Judge Bork said it was many could not travel in our Nation where and when they chose for no reason other than their race.

The respected National Catholic Register is dubious about Robert Bork's view of the rights of the unborn. This publication reminds us that Judge Bork testified against the Helms human life bill. He said it would infringe upon the Courts role to enunciate fetal personhood.

Even this publication is concerned that he could be far more dedicated to limiting peoples' rights than he would be in promoting the unborn's right to enter this world alive.

John Wilke, president of the National Right to Life Committee says "we're not sure Bork is against abortion. In our circles there is substantial doubt that he is."

Bork's preconfirmation stance was clearly in disagreement with Roe versus Wade. During confirmation he changed and said there may be some basis for the decision.

I have a 100-percent prolife voting record. I find it difficult to comprehend that any of Judge Bork's support comes from the prolife community. There simply is no logical basis for predicting his decisions in this vital area.

The fact is that if the law was what Judge Bork said it is or was it would be even more uncertain than it now is.

Although he told the Judiciary Committee that he believes in judicial restraint, Robert Bork has stated that Congress is institutionally incapable of fashioning antitrust policy. Anyone who believes that in the abstract without recognizing the fact that the legislature has a role in the national government is out of touch with the reality of any concept of congressional intent.

The fact is, that if the law was what Judge Bork said it was, the octopus of the trusts would still grip this Nation in its tentacles as it did in the era of the robber barons. It was Congress which fashioned the policy which broke that grip.

Robert Bork has supported the right of individuals to enter into restrictive covenants to prevent someone from buying a house because of their race or religion. Anyone who would endorse that concept in the abstract without recognizing the fact that it is a pernicious contradiction to what America means is disconnected from reality.

The fact is, that if the law was what Judge Bork said it was, my wife, and many, many other Americans of Jewish birth could not live where they chose.

Robert Bork has espoused a philosophy of Madisonian majoritarianism which could allow a majority of Americans to deny to a minority the free exercise of their religion. Anyone who endorses that concept without recognizing the fact that it could deny to Jews, Mormons, Mennonites, and many others the fundamental rights of religious freedom is disconnected from reality.

The fact is, if the law was what Judge Bork said it was, our Nation could lose the most important guarantee of our Constitution—the guarantee that my family and your family, and everyone else's family may worship God in the way that we choose without fear of interference.

Judge Bork says his views have changed. I do not believe him. His statements, his testimony, his writings are those of an activist, and as Senator HEFLIN, formerly of the Alabama Supreme Court, has pointed out an activist from the right is just as bad as one from the left.

It is that lack of conviction, that inconsistency, those wild swings in philosophy, which doom the Bork nomination. He will not lose the upcoming vote because of partisanship, or some flexing of congressional muscle in a contest with the President. Rather, Robert Bork does not possess the qualifications to be a Supreme Court Justice. He simply lacks the intellectual and moral foundation of a John Marshall, an Oliver Wendell Holmes, a Felix Frankfurter, a Hugo Black, a Byron White, or an Antonin Scalia. That lack of calm and reasoned temperament was further demonstrated by his recent pronouncements on his determination to keep vacant a seat on the Court as long as possible, without regard to the needs of the Nation or his duty to a system of law which has conferred upon him so many benefits.

I believe that our Constitution was divinely inspired. It was created only because of the faith and prayer of our Founding Fathers. It was not a perfect document, but it was the best there could be, and it represented a great compromise and a magnificent beginning. That Constitution mandates the separation of powers and provides the obligation of this body to participate as a coequal partner with the Executive in the selection of members of the third branch, the Supreme Court.

Based on that responsibility. I will without hesitation vote no on the Bork nomination. My affirmative vote will be reserved for the future for a truly qualified, conservative nominee who believes in judicial restraint.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, for not to exceed 5 minutes, with Senators permitted to speak therein for 1 minute each.

ALF LANDON—1887-1987: A CENTURY OF ACHIEVEMENT—OCTOBER 13, 1987

Mr. DOLE. Mr. President, one of the giants of American politics—Alf Landon—passed away yesterday in Topeka—and today Kansas is mourning.

I am proud to say that Alf Landon was a friend of mine. He was also a mentor. When it came to running for office in my State, Alf Landon was the role model. He earned the respect of Kansans and the rest of America—Republicans, Democrats, and independents—with a career whose hallmark was integrity: He taught generations of politicians what common sense and leadership were all about.

A CENTURY OF ACHIEVEMENT

He was called the "grand old man of the Grand Old Party," but it was not just because he lived to be 100 years old—it was because his life was a solid century of achievement.

Alf Landon was an outstanding two-term Governor, a visionary Presidential candidate, and a wellspring of wisdom for politicians who recognized that the "sage of Topeka" was always way ahead of his times.

THE LANDON LEGACY LIVES ON

Mr. President, we are honored to have the proud legacy of Alf Landon continue on in this Chamber in the person of our exceptional colleague, Senator NANCY LANDON KASSEBAUM. It is a personal honor for me to represent Kansas with her in the U.S. Senate. I know my colleagues join me today in extending our sympathies and prayers to Senator KASSEBAUM and the rest of the Landon family.

It was only a few weeks ago that President and Mrs. Reagan traveled to Topeka to help the Governor celebrate his 100th birthday. Today I choose to remember that happy occasion, a celebration of a man whose remarkable life guarantees him a place in the history of this great land.

Mr. President, I ask unanimous consent to have printed in the RECORD a New York Times and a Washington Times article on Alf Landon.

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

[From the New York Times, Oct. 12, 1987]

ALF LANDON, G.O.P. STANDARD-BEARER, DIES AT 100

TOPEKA, KAN., Oct. 12.—Alf Landon, the former Kansas Governor who was a landslide loser to Franklin D. Roosevelt in the 1936 Presidential election, died today. He observed his 100th birthday Sept. 9.

Mr. Landon, the father of Senator Nancy Landon Kassebaum, Republican of Kansas, was hospitalized Sept. 28 at Stormont-Vail Regional Medical Center after complaining of pain. He was treated for a gallstone and a mild case of bronchitis before returning home Oct. 10.

Mr. Landon received President Reagan and his wife, Nancy, at his home Sept. 6 in honor of his 100th birthday.

LIVING DOWN LANDSLIDE

In his landslide loss to President Roosevelt in 1936, Mr. Landon carried only two states, Maine and Vermont. He later said of the defeat, "As Maine goes, so goes Vermont."

He displayed the same sense of humor a month after the election, when, as the outgoing Governor of Kansas, he addressed the Gridiron Club, an organization of Washington newspapermen.

"If there is one state that prepares a man for anything, it is Kansas," he said. "The Kansas tornado is an old story. But let me tell you of one. It swept first the barn, then the outbuildings. Then it picked up the dwelling and scattered it all over the landscape.

"As the funnel-shape cloud went twisting its way out of sight, leaving nothing but splinters behind, the wife came to, to find her husband laughing.

"She angrily asked him, 'What are you laughing at, you darned old fool?'

"And the husband replied, 'At the completeness of it.' "

523 ELECTORAL VOTES TO 8

Roosevelt, running for his second term, won 27,747,636 votes to 16,679,543 for his Republican rival. Mr. Landon received 8 electoral votes to Roosevelt's 523.

The plurality of 11,068,093 in the popular vote stood as a record until 1964, when with 30 million more voters President Johnson defeated Barry Goldwater by 15,948,746 votes. Even so, the Arizona Republican carried six states with 52 electoral votes.

The plurality mark was broken again in 1972 when President Nixon won reelection by 17,998,388 more votes than George McGovern. The South Dakota Democrat carried only Massachusetts and the District of Columbia, for 17 electoral votes.l

But Mr. Landon's 36.5 percent of the popular vote remained below Mr. Goldwater's 38.5 percent and Mr. McGovern's 37.5 percent in tallies gathered by Congressional Quarterly.

DID NOT FEAR ROOSEVELT

Mr. Landon could bear his defeat with equanimity partly because he had had no real hope of winning and partly because he did not fear for the future of the nation, as did many of his fellow Republicans, if Roosevelt was reelected.

Throughout his life Mr. Landon was a member of his party's liberal wing. As Governor of Kansas he endorsed many of the most controversial aspects of the New Deal. He respected and admired Roosevelt.

Despite all this, Mr. Landon came to be thought of in later years as the prototype of Middle Western provincialism and conservatism.

After his 1936 defeat, Mr. Landon did not seek public office again. He became a genial, unassuming pillar of the business community in Topeka, which was the headquarters of the oil-well business that had made him a millionaire by the late 1920's.

But he was often asked his opinion, and he did not hesitate to take strong stands. In the 1930's he disagreed with Republicans who supported the Neutrality Act; he feared it would mislead Nazi Germany into thinking the United States was unwilling to fight. World War II he argued against lend-leasing military equipment, urging instead that Britain be given $5 billion outright.

BACKED MARSHALL PLAN

He supported President Truman on aid to Greece and Turkey against Communist threats and backed his Marshall Plan for reconstruction of Europe even while opposing high domestic spending and a "welfare state."

He argued that the United States should join Europe's Common Market in 1961, when President Kennedy urged only cooperation. In President Johnson's Administration, Mr. Landon supported Medicare and other Great Society programs.

In November 1962, when he was asked to describe his political philosophy, Mr. Landon said: "I would say practical progressive, which means that the Republican Party or any political party has got to recognize the problems of a growing and complex industrial civilization. And I don't think the Republican Party is really wide awake to that."

Mr. Landon never renounced his party allegiance, and in the 1964 Presidential campaign heeded the pleas of party leaders to remain silent on his choice between President Johnson and Senator Goldwater.

FATHER AN OIL PROSPECTOR

Alfred Mossman Landon, who preferred to be known as Alf, was born Sept. 9, 1887, in his maternal grandfather's Methodist parsonage in West Middlesex, Pa. His father, John Manuel Landon, was an oil prospector and promoter in the Pennsylvania fields.

The family lived for a time in Marietta, Ohio. In 1904, when Alf Landon was 17, the Landons followed the search for oil westward to the fields of southwestern Kansas.

From his home in Independence, Kan., Mr. Landon went to the University of Kansas. At his father's insistence, Mr. Landon attended the university's law school, but after his graduation in 1908 he went to work for an Independence bank as a bookkeeper. On a salary that ranged from $75 to $90 a month, he saved money and invested in oil ventures. Four years later he formed his own oil business.

MET PROGRESSIVE REPUBLICANS

In the same year, 1912, he attended the Bull Moose convention in Chicago that nominated Theodore Roosevelt for the Presidency. The elder Mr. Landon was a delegate. The younger Mr. Landon met the leaders of progressive Republicanism, including William Allen White, editor of The Emporia Gazette in his home state, and the experience shaped his political thinking for the rest of his life.

The young businessman enlisted in the Army in World War I. He received a commission in the chemical warfare corps but was still in training at Lakewood, N.J., when the Armistice was signed.

Mr. Landon became head of the Republican state organization in 1928 and delivered the largest percentage of any state in the nation for Herbert Hoover's election victory.

In 1932 Mr. Landon ran for Governor himself. Wearing his oilfield work-clothes, laced boots, a leather jacket and the battered brown fedora that was to become a trademark, he campaigned in crossroads villages across the state.

He defeated the Democratic incumbent, Harry H. Woodring, who was later appointed Secretary of War by President Roosevelt, by 5,637 votes. With the Depression on, he was the only Republican gubernatorial candidate west of the Mississippi to survive the New Deal avalanche.

In 1934, Mr. Landon increased his margin of victory to 60,000 votes. That year, he was the only Republican gubernatorial candidate in the country to be elected.

Republican national leaders, desperate for a candidate to oppose Roosevelt in 1936, began turning up in Topeka to confer with Mr. Landon, even though the New Deal echoes in his two inaugural addresses might have given them pause.

"Our problems," he had asserted in 1932, "have been intensified by the great industrial plutocracy we have built since the last depression of 1893."

He went on to express doubt that "the Jeffersonian theory that the best government is the one that governs the least can be applied today—I think that as civilization becomes more complex, government power must be increased."

While the Governor criticized Roosevelt's "slapdash, jazzy methods," he endorsed the goals of the Roosevelt Administration and most of its new laws.

But the Republican leaders preferred to note that Mr. Landon had reduced his state's operating expenses, including his own salary, and had balanced the budget. And, they noted, he had been elected twice.

Under the guidance of his campaign manager, John D.M. Hamilton, the Governor declined to enter any Presidential primaries, or even to stir off his front porch, to seek the nomination, but he was chosen by acclamation on the first ballot when the Republicans convened in Cleveland.

The pictures of Mr. Landon that began to appear on billboards and in newspapers showed a smiling, round-faced man with thinning, sandy hair whose gray eyes viewed the world shrewdly through rimless glasses. Millions of sunflowers, his state's flower, blossomed in bottons and posters.

The Governor's theme was, at the start, that a Republican administration could carry out the necessary reforms in the country's social and economic structure more efficiently and honestly than the New Deal.

COINED "NEW FRONTIER"

"America at the Crossroads," a slim volume published in 1936, outlined his "program for American government." The first chapter was titled "The New Frontier," a phrase that President Kennedy was to make a good deal better known.

When the President began his campaign, it soon became apparent that the election would be no contest. Roosevelt seldom mentioned Mr. Landon, or for that matter the Republicans. He cited the country's recovery from the 1932 depths of the Depression and asserted that the forces of reaction were seeking to undo these gains.

As the trend toward the President became unmistakable, Mr. Landon's campaign lost coherence. At the urging of his advisers, he

moved to the right on some issues and contradicted himself on others.

Mr. Landon was married to Theo Cobb in 1930. His first wife, Margaret Fleming, whom he had wed in 1915, had died. He had three children—Margaret Anne by the first marriage and Nancy and John by the second.

[From the Washington Times, Oct. 13, 1987]

Alf Landon, Grand Old Man of GOP, Dies at Home at 100

TOPEKA, KAN.—Alf Landon, the former Kansas governor whose presidential hopes were swamped in Franklin Roosevelt's 1936 landslide but who became the grand old man of the Grand Old Party, died yesterday at his home at the age of 100.

Mr. Landon, the father of Sen. Nancy Kassebaum, Kansas Republican, wryly described himself "a lawyer who never had a case, an oilman who never made a million and a presidential candidate who carried only Maine and Vermont."

He refused to be nettled about his epic loss, and in later years gave his grandchildren ponies named for the two states he won.

"They might have forgotten me if it had been close," he once said.

Mr. Landon was hospitalized Sept. 28 at Stormont-Vail Regional Medical Center after complaining of internal pain. He was treated for a gallstone and a mild case of bronchitis before returning home Saturday.

As the decades put the 1936 drubbing further and further behind him, Mr. Landon became a beloved symbol of his party. He received President Reagan at his home last month on the occasion of his 100th birthday.

Mr. Reagan, in a statement, called him "a true elder statesman, whose expertise and views were sought and valued by many of us in public life." He "exemplified the very best in public service," the president said. "He deeply loved his country and he was motivated by a genuine desire to help his fellow man."

Dubbed "the Kansas Coolidge," his campaign was symbolized by the sunflower, his battered felt hat and the slogan "Life, Liberty and Landon." He condemned New Deal policies as "dangerous and cockeyed."

Mr. Landon, who emerged as the GOP's bright hope by being the only Republican governor to win reelection in 1934, received eight electoral vots. Walter Mondale received 13 electoral votes in 1984, the second-lowest number in modern political history.

Mr. Landon never sought office again.

Alfred Mossman Landon was born Sept. 9, 1887, in West Middlesex, Pa., the son of an oil explorer who began drilling in Kansas near the turn of the century.

Young Alf spent his college summers working with the oil field wildcatters, doing menial chores. He graduated from the University of Kansas with a degree in law in 1908, then went back to the oil fields, this time on his own.

Mr. Landon met and married Margaret Fleming of Oil City, Pa., in January 1915 when he was 28 and on his way to affluence in the oil business.

She died 3½ years later, leaving him with a year-old daughter, Margaret Anne. Heartbroken, Mr. Landon joined the Army as a lieutenant and after leaving the service in 1919 went to Independence, Kan., to make a home.

A decade later, he married Theo Cobb, a Topeka socialite who was fascinated by his politics. They had two children, Nancy, born in 1932, and John Cobb, born a year later. He had 10 grandchildren and nine great-grandchildren.

Mr. Landon's activity in Republican politics—and his reputation as a maverick—dated to 1912, when he worked in the Bull Moose campaign.

His father was one of the delegates to the GOP National Convention who joined Theodore Roosevelt's Bull Moose revolt, which split the party and helped Democrat Woodrow Wilson oust Republican William Howard Taft from the White House. Twelve years later, the Landons supported the anti-Klan independent gubernatoral candidacy of editor William Allen White, a party split that gave the Democrats the Statehouse.

In 1928, Mr. Landon was campaign manager for Clyde M. Reed, who was elected governor, then became Mr. Reed's state GOP chairman. He won the governorship himself in 1932 and was elected to a second two-year term by 10 times the margin of his first race.

At the 1972 GOP National Convention in Miami Beach, he was honored as one of the party's "distinguished senior citizens." Four years later, when the convention was in Kansas City, he got a standing ovation.

In his mid-80s, he would call party leaders and let them know what he felt should be done. They didn't always do it, but they listened to the "voice from the heartland," as Richard Nixon once described Mr. Landon's letters.

His eyesight began to fail and his hearing grew so weak he found it difficult to follow conversations, but he continued to show great interest in the events of the day.

Mrs. Kassebaum's U.S. Senate victory in 1978, when Mr. Landon was 91, was "the thrill of a lifetime," he said.

He helped her all he could and appeared at a Kassebaum rally in a Topeka park, his first appearance on behalf of a candidate in 20 years.

"My whole record shows I was something of a maverick," he once told an interviewer. "I've always been free to act as I wanted. It was my own personal decision, and I've never regretted it. I've rather relished my role."

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

CALL OF THE ROLL

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

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

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 29]

Byrd	Daschle
Cohen	Hecht

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia [Mr. BYRD] to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have previously been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from North Dakota [Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Mississippi [Mr. COCHRAN], the Senator from Missouri [Mr. DANFORTH], the Senator from Utah [Mr. GARN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Indiana [Mr. LUGAR], the Senator from Oklahoma [Mr. NICKLES], the Senator from Delaware [Mr. ROTH], the Senator from Vermont [Mr. STAFFORD], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

I also announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 12, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—67

Adams	Gramm	Moynihan
Baucus	Grassley	Nunn
Bentsen	Harkin	Packwood
Bingaman	Hatch	Pressler
Boren	Hatfield	Proxmire
Boschwitz	Heflin	Pryor
Bradley	Hollings	Reid
Breaux	Humphrey	Riegle
Bumpers	Inouye	Rockefeller
Byrd	Johnston	Rudman
Cohen	Karnes	Sanford
Cranston	Kerry	Sarbanes
D'Amato	Lautenberg	Sasser
Daschle	Leahy	Shelby
DeConcini	Levin	Simpson
Dixon	Matsunaga	Specter
Dole	McCain	Stennis
Domenici	McClure	Thurmond
Durenberger	McConnell	Trible
Exon	Melcher	Warner
Ford	Metzenbaum	Wilson
Fowler	Mikulski	
Graham	Mitchell	

NAYS—12

Bond	Hecht	Quayle
Chafee	Helms	Symms
Conrad	Kasten	Wallop
Evans	Murkowski	Weicker

NOT VOTING—21

Armstrong	Cochran	Glenn
Biden	Danforth	Gore
Burdick	Dodd	Heinz
Chiles	Garn	Kassebaum

Kennedy	Pell	Stafford
Lugar	Roth	Stevens
Nickles	Simon	Wirth

So the motion was agreed to.

The PRESIDING OFFICER. With the additional Members voting who did not answer the quorum, a quorum is present.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MEDICARE CATASTROPHIC ILLNESS COVERAGE ACT

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

The assistant legislative clerk read as follows:

A bill (S. 1127) to provide for Medicare catastrophic illness coverage, and for other purposes.

The Senate resumed consideration of the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Catastrophic Loss Prevention Act of 1987".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.
Sec. 2. Scope of benefits under part A.
Sec. 3. Deductibles and coinsurance under part A.
Sec. 4. Limitation on cost-sharing.
Sec. 5. Increase in part B premium.
Sec. 6. Supplemental premium for catastrophic illness coverage.
Sec. 7. Medicare coverage of home health services on a daily basis.
Sec. 8. Clarification of requirement that individual be confined to home to be eligible for home health services.
Sec. 9. Annual notice to medicare beneficiaries.
Sec. 10. Adjustment of AAPCC's and contracts for risk-based eligible organizations.
Sec. 11. Study of treatment of prescription drugs.
Sec. 12. Hospice care.
Sec. 13. Voluntary certification of medicare supplemental health insurance policies.
Sec. 14. Determination of medicaid savings; State plan requirement.
Sec. 15. Studies of long-term care.
Sec. 16. Case management demonstration projects.
Sec. 17. Repeal of authority to administer proficiency examinations.
Sec. 18. Trustee comments on actuarial soundness of basic and supplemental catastrophic benefit premiums.
Sec. 19. Technical amendment relating to waivers for home and community-based services.
Sec. 20. Technical amendments relating to New Jersey respite care pilot project.
Sec. 21. Effective dates.

SEC. 2. SCOPE OF BENEFITS UNDER PART A.

(a) FOR INDIVIDUALS COVERED UNDER PARTS A AND B.—Section 1812 (42 U.S.C. 1395d) is amended to read as follows:

"SCOPE OF BENEFITS FOR INDIVIDUALS COVERED UNDER PARTS A AND B

"SEC. 1812. (a) The benefits provided by the insurance program under this part to an individual who is covered by such program and by the insurance program under part B shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1814(d)(2) to him (subject to the provisions of this part) for—

"(1) inpatient hospital services;

"(2) extended care services for up to 150 days during any calendar year;

"(3) home health services; and

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and one subsequent period of 30 days with respect to which the individual makes an election under subsection (c)(1).

"(b) Payment under this part for services furnished to an individual who is covered by the insurance programs established under this part and part B may not be made for—

"(1) extended care services furnished to him during a calendar year after such services have been furnished to him for 150 days during that year; or

"(2) inpatient psychiatric hospital services furnished to him after such services have been furnished to him for a total of 190 days during his lifetime.

"(c)(1) Payment under this part may be made for hospice care provided with respect to an individual only during two periods of 90 days each and one subsequent period of 30 days during the individual's lifetime and only, with respect to each such period, if the individual makes an election under this paragraph to receive hospice care under this part provided by, or under arrangements made by, a particular hospice program instead of certain other benefits under this title.

"(2)(A) Except as provided in subparagraphs (B) and (C) and except in such exceptional and unusual circumstances as the Secretary may provide, if an individual makes such an election for a period with respect to a particular hospice program, the individual shall be deemed to have waived all rights to have payment made under this title with respect to—

"(i) hospice care provided by another hospice program (other than under arrangements made by the particular hospice program) during the period, and

"(ii) services furnished during the period that are determined (in accordance with guidelines of the Secretary) to be—

"(I) related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made, or

"(II) equivalent to (or duplicative of) hospice care;

except that clause (ii) shall not apply to physicians' services furnished by the individual's attending physician (if not an employee of the hospice program) or to services provided by (or under arrangements made by) the hospice program.

"(B) After an individual makes such an election with respect to a 90- or 30-day period, the individual may revoke the election during the period, in which case—

"(i) the revocation shall act as a waiver of the right to have payment made under this part for any hospice care benefits for the remaining time in such period and (for purposes of subparagraph (A), subsection (a)(4), and section 1812A(a)(4)) the individual shall be deemed to have been provided such benefits during such entire period, and

"(ii) the individual may at any time after the revocation execute a new election for a subsequent period, if the individual otherwise is entitled to hospice care benefits with respect to such a period.

"(C) An individual may, once in each such period, change the hospice program with respect to which election is made and such change shall not be considered a revocation of an election under subparagraph (B).

"(D) For purposes of this title, an individual's election with respect to a hospice program shall no longer be considered to be in effect with respect to that hospice program after the date the individual's revocation or change of election with respect to that election takes effect.

"(d) For purposes of subsection (b), inpatient psychiatric hospital services and extended care services shall be taken into account only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1814(a), made with respect to such services under this part.".

(b) FOR INDIVIDUALS COVERED UNDER PART A ONLY.—Part A of title XVIII is amended by inserting after section 1812 the following:

"SCOPE OF BENEFITS FOR INDIVIDUALS COVERED UNDER PART A ONLY

"SEC. 1812A. (a) The benefits provided by the insurance program under this part to an individual who is covered by such program but not by the insurance program under part B shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1814(d)(2) to him (subject to the provisions of this part) for—

"(1) inpatient hospital services for up to 150 days during any spell of illness minus 1 day for each day of inpatient hospital services in excess of 90 days received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless the individual specifies in accordance with regulations of the Secretary that the individual does not desire to have such payment made);

"(2)(A) post-hospital extended care services for up to 100 days during any spell of illness, and (B) to the extent provided in subsection (f), extended care services that are not post-hospital extended care services;

"(3) home health services; and

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and one subsequent period of 30 days with respect to which the individual makes an election under section 1812(c)(1).

"(b) Payment under this part for services furnished during a spell of illness to an individual who is covered by the insurance program under this part but not by the insur-

ance program under part B may not (subject to subsection (c)) be made for—

"(1) inpatient hospital services furnished to the individual during such spell after such services have been furnished to the individual for 150 days during such spell minus 1 day for each day of inpatient hospital services in excess of 90 days received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

"(2) post-hospital extended care services furnished to the individual during such spell after such services have been furnished to the individual for 100 days during such spell; or

"(3) inpatient psychiatric hospital services furnished to the individual after such services have been furnished to the individual for a total of 190 days during the lifetime of the individual.

"(c) If an individual is an inpatient of a psychiatric hospital on the first day of the first month for which he is entitled to benefits under this part, the days on which he was an inpatient of such a hospital in the 150-day period immediately before such first day shall be included in determining the number of days limit under subsection (b)(1) insofar as such limit applies to (1) inpatient psychiatric hospital services, or (2) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness (but shall not be included in determining such number of days limit insofar as it applies to other inpatient hospital services or in determining the 190-day limit under subsection (b)(3)).

"(d) The provisions of section 1812(c) shall apply to individuals who are covered by the insurance program under this part but not by the insurance program under part B in the same manner and to the same extent as those provisions apply to individuals who are covered under both such programs.

"(e) For purposes of subsections (b) and (c), inpatient hospital services, inpatient psychiatric hospital services, and post-hospital extended care services shall be taken into account only if payment is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1814(a), made with respect to such services under this part.

"(f)(1) The Secretary shall provide for coverage, under subsection (a)(2)(B), of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, and under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this title and will not alter the acute care nature of the benefit described is subsection (a)(2).

"(2) The Secretary may provide—

"(A) for such limitations on the scope and extent of services described in subsection (a)(2)(B) and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886, for such restrictions and alternatives on the amounts and methods of payment for services described in such subsection,

as may be necessary to carry out paragraph (1).".

(c) CONFORMING CHANGES.—

(1)(A) Section 1814(e) (42 U.S.C. 1395f(e)) is amended by inserting "or section 1812A" after "section 1812".

(B) Section 1861(dd)(2)(A)(iii) (42 U.S.C. 1395x(dd)(2)(A)(iii)) is amended by striking "section 1812(d)" and inserting in lieu thereof "section 1812(c)".

(C) Section 1903(g)(1) (42 U.S.C. 1396a(g)(1)) is amended by inserting "or section 1812A" after "1812".

(2)(A) Section 1811 (42 U.S.C. 1395c) is amended by striking "related post-hospital" and inserting in lieu thereof "extended care services".

(B) Section 1814(a)(2)(B) is amended—

(i) by inserting "(i)" after "(B)",

(ii) by striking the semicolon at the end thereof and inserting in lieu thereof ", and", and

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

"(ii) in the case of extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitative services, which as a practical matter can only be provided in a skilled nursing facility;".

(C) Section 1814(a)(6) (42 U.S.C. 1395f(a)(6)) is amended—

(i) by inserting ", extended care services," after "inpatient hospital services" the first place it appears, and

(ii) by inserting ", further extended care services," after "inpatient hospital services" the second place it appears.

(D) Section 1861(v)(1)(G)(i) (42 U.S.C. 1395x(v)(1)(G)(i)) is amended—

(i) by striking "post-hospital extended care services" each place it appears and inserting in lieu thereof "extended care services or post-hospital extended care services", and

(ii) by striking "and such extended care services" and inserting in lieu thereof "and such services".

(E) Paragraphs (2) and (3) of section 1861(v) (42 U.S.C. 1395x(v)) are each amended by inserting ", extended care services," after "psychiatric hospital services)".

(F) For related conforming amendments to paragraphs (2) and (3) of section 1861(y) (42 U.S.C. 1395x(y)), see section 3(c)(3) of this Act.

(G) Section 1866 (42 U.S.C. 1395cc) is amended—

(i) in subsection (b)(3), by inserting ", extended care services," after "psychiatric hospital services)", and

(ii) in subsection (d), by inserting "extended care services or" after "or for".

(H) Subsections (d) and (f) of section 1883 (42 U.S.C. 1395tt) are amended by striking "post-hospital extended care services" each place it appears and inserting in lieu thereof "extended care services or post-hospital extended care services".

SEC. 3. DEDUCTIBLES AND COINSURANCE UNDER PART A.

(a) FOR INDIVIDUALS COVERED UNDER PARTS A AND B.—Section 1813 (42 U.S.C. 1395e) is amended to read as follows:

"DEDUCTIBLES AND COINSURANCE FOR INDIVIDUALS COVERED UNDER PARTS A AND B

"SEC. 1813. (a)(1)(A) Subject to subparagraph (C), the amount payable for inpatient hospital services furnished to an individual who is covered by the insurance programs under this part and part B during the individual's first period of hospitalization to begin during a calendar year shall be reduced by a deduction equal to the inpatient hospital deductible for that year or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed.

"(B) For purposes of subparagraph (A), the term 'period of hospitalization' means, with respect to an individual, the period beginning on the first day the individual is furnished inpatient hospital services and ending on the individual's date of discharge (as established by the Secretary for purposes of section 1886) from the hospital (or, in the case of a transfer, hospitals) involved.

"(C) In the case of an individual with respect to whom—

"(i) a period of hospitalization begins during December of any calendar year,

"(ii) an inpatient hospital deductible is imposed with respect to such period of hospitalization, and

"(iii) a period of hospitalization begins during January of the following calendar year,

no inpatient hospital deductible shall be imposed with respect to a period of hospitalization beginning in January of such following year (and such period of hospitalization shall not be taken into account in determining the application of an inpatient hospital deductible to any period of hospitalization beginning for such individual after January 31 of such following year).

"(2) The amount payable to any provider of services under this part for services furnished during any calendar year to an individual who is covered by the programs established under this part and part B shall be further reduced by a deduction equal to the cost of the first 3 pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to him as part of such services during that year.

"(3)(A) The amount payable for extended care services furnished in any calendar year to an individual who is covered by the insurance programs established under this part and part B shall be reduced by the coinsurance amount (promulgated under subparagraph (C) for that year) for each of the first 10 days on which he is furnished such services during any stay in a skilled nursing facility, but in no event shall a coinsurance amount be imposed under this paragraph with respect to an individual for more than 10 days in any calendar year.

"(B) Before September 1 of each year (beginning with 1987), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for extended care services that will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1987), promulgate the coinsurance amount that shall apply to extended care services furnished in the succeeding year. Such amount shall be equal to 15 percent of the national average per diem cost estimated under subparagraph (B) for that year. If the coinsurance amount determined under the preceding sentence is not a multiple of $1, it shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).

"(4)(A) The amount payable for hospice care shall be reduced—

"(i) in the case of drugs and biologicals provided on an outpatient basis by (or under arrangements made by) the hospice program, by a coinsurance amount equal to

an amount (not to exceed $5 per prescription) determined in accordance with a drug copayment schedule (established by the hospice program) which is related to, and approximates 5 percent of, the cost of the drug or biological to the program, and

"(ii) in the case of respite care provided by (or under arrangements made by) the hospice program, by a coinsurance amount equal to 5 percent of the amount estimated by the hospice program (in accordance with regulations of the Secretary) to be equal to the amount of payment under section 1814(i) to that program for respite care;

except that the total of the coinsurance required under clause (ii) for an individual may not exceed for a hospice coinsurance period the inpatient hospital deductible applicable for the year in which the period began. For purposes of this subparagraph, the term 'hospice coinsurance period' means, for an individual, a period of consecutive days beginning with the first day for which an election under section 1812(c) is in effect for the individual and ending with the close of the first period of 14 consecutive days on each of which such an election is not in effect for the individual.

"(B) During the period of an election by an individual under section 1812(c)(1), no copayments or deductibles other than those under subparagraph (A) shall apply with respect to services furnished to such individual which constitute hospice care, regardless of the setting in which such services are furnished.

"(b)(1) The inpatient hospital deductible for 1987 shall be $520. The inpatient hospital deductible for any succeeding year shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, changed by the applicable percentage increase (as defined in section 1886(b)(3)(B)) which is applied under section 1886(d)(3)(A) for discharges in the fiscal year that begins on October 1 of such preceding calendar year, and adjusted to reflect changes in real case mix (determined on the basis of the most recent case mix data available). Any amount determined under the preceding sentence which is not a multiple of $4 shall be rounded to the nearest multiple of $4 (or, if it is midway between two multiples of $4, the next higher multiple of $4).

"(2) The Secretary shall promulgate the inpatient hospital deductible and all coinsurance amounts under this section between September 1 and September 15 of the year preceding the year to which they will apply.".

(b) FOR INDIVIDUALS COVERED UNDER PART A ONLY.—Part A of title XVIII is amended by inserting after section 1813 the following:

"DEDUCTIBLES AND COINSURANCE AMOUNTS FOR INDIVIDUALS COVERED UNDER PART A ONLY

"SEC. 1813A. (a)(1) The amount payable for inpatient hospital services furnished during any spell of illness to an individual who is covered by the insurance program under this part but not by the insurance program under part B shall be reduced by a deduction equal to the inpatient hospital deductible or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed. Such amount shall be further reduced by a coinsurance amount equal to—

"(A) one-fourth of the inpatient hospital deductible for each day (before the 91st day) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 60 days during such spell; and

"(B) one-half of the inpatient hospital deductible for each day (before the day following the last day for which such individual is entitled under section 1812A(a)(1) to have payment made on his behalf for inpatient hospital services during such spell of illness) on which such individual is furnished such services during such spell of illness after such services have been furnished to him for 90 days during such spell;

except that the reduction under this sentence for any day shall not exceed the charges imposed for that day with respect to such individual for such services (and for this purpose, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed).

"(2) The amount payable to any provider of services under this part for services furnished during any spell of illness to an individual who is covered by the insurance program under this part but not by the insurance program under part B shall be further reduced by a deduction equal to the cost of the first 3 pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to him as part of such services during such spell of illness.

"(3) The amount payable for post-hospital extended care services furnished during any spell of illness to an individual who is covered by the insurance program under this part but not by the insurance program under part B shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which the individual is furnished such services after such services have been furnished to the individual for 20 days during such spell.

"(b) The provisions of section 1813(a)(4) shall apply to individuals who are covered by the insurance program under this part but not by the insurance program under part B in the same manner and to the same extent as those provisions apply to individuals covered under both such programs.

"(c)(1) For purposes of this section, the 'inpatient hospital deductible' for a year is the inpatient hospital deductible promulgated under section 1813 for that year.

"(2) The inpatient hospital deductible for a year shall apply to—

"(A) the deduction under the first sentence of subsection (a)(1) for the year in which the first day of inpatient hospital services occurs in a spell of illness, and

"(B) to the coinsurance amounts under subsection (a) for inpatient hospital services and post-hospital extended care services furnished in that year.".

(c) CONFORMING CHANGES.—

(1) Section 1814 (42 U.S.C. 1395f) is amended—

(A) in subsection (b) by striking "sections 1813 and 1886" in the matter preceding paragraph (1) and inserting in lieu thereof "sections 1813, 1813A, and 1886", and

(B) in subsections (d) and (f) by striking "section 1813" each place it appears and inserting in lieu thereof "sections 1813 and 1813A".

(2) Section 1833(d) (42 U.S.C. 1395l(d)) is amended by inserting "or section 1813A" after "section 1813".

(3) Section 1861(y) (42 1395x(y)) is amended by striking paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2)(A) Notwithstanding any other provision of this title, payment may not be made under part A for services furnished to an individual who is covered by the insurance programs under such part and part B in a skilled nursing facility to which paragraph (1) applies unless such individual elects, in accordance with regulations, for a calendar year to have such services treated as extended care services for purposes of such part; and payment under part A may not be made for extended care services—

"(i) furnished to an individual during such year in a skilled nursing facility to which paragraph (1) applies after—

"(I) such services have been furnished to him in such a facility for 30 days during such year, or

"(II) such services have been furnished to him during such year in a skilled nursing facility to which such paragraph does not apply; or

"(ii) furnished to an individual during such year in a skilled nursing facility to which paragraph (1) does not apply after such services have been furnished to him during such year in a skilled nursing facility to which such paragraph applies.

"(B) In the case of an individual who is covered by the insurance program under part A but not by the insurance program under part B, the provisions of subparagraph (A) shall be applied by substituting 'spell of illness' for 'calendar year', by substituting 'spell' for 'year' each place it appears, and by substituting 'post-hospital extended care services' for 'extended care services' each place it appears.

"(3)(A) The amount payable under part A for extended care services furnished during any calendar year in a skilled nursing facility to which paragraph (1) applies to an individual who is covered by the insurance programs established under such part and part B shall be reduced by a coinsurance amount equal to the coinsurance amount established under section 1813(a)(3)(C) for each day before the 10th day.

"(B)(i) The amount payable under part A for post-hospital extended care services furnished during any calendar year to an individual who is covered by the insurance program established under such part but not by the insurance program established under part B in a skilled nursing facility to which paragraph (1) applies shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day before the 31st day on which the individual is furnished such services in a facility during such spell (and the reduction under this paragraph shall be in lieu of any reduction under section 1813A(a)(3).

"(ii) For purposes of this subparagraph—

"(I) the 'inpatient hospital deductible' for a year is the inpatient hospital deductible promulgated under section 1813 for that year, and

"(II) the inpatient hospital deductible for a year shall apply to the coinsurance amounts under clause (i) for post-hospital extended care services furnished in that year.".

(4) Section 1866(a)(2) (42 U.S.C. 1395cc(a)(2)) is amended—

(A) in subparagraph (A) by striking "section 1813(a)(1), (a)(3), or (a)(4)," and inserting in lieu thereof "paragraph (1), (3), or (4) of section 1813, paragraph (1) or (3) of section 1813A,", and

(B) in subparagraph (C) by inserting "or section 1813A(a)(2)" after "section 1813(a)(2)".

(5) Section 1886 (42 U.S.C. 1395ww) is amended by striking "section 1813" each place it appears in subsections (b)(1) and

(d)(1)(A) and inserting in lieu thereof "sections 1813 and 1813A".

SEC. 4. LIMITATION ON COST-SHARING.

(a) SCOPE OF BENEFITS.—Section 1832(a) (42 U.S.C. 1395k(a)) is amended—

(1) by striking "and" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

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

"(3) entitlement to have payment made to him or on his behalf (subject to the provisions of this title) for any catastrophic medical expenses (as defined in section 1861(ff)(1)) for a calendar year.".

(b) PAYMENT OF BENEFITS.—

(1) Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting in lieu thereof "; and", and

(C) by adding at the end the following:

"(5) in the case of catastrophic medical expenses described in section 1832(a)(3), 100 percent of such expenses.".

(2) The first sentence of section 1833(b) is amended—

(A) by striking "and" at the end of clause (3), and

(B) by inserting before the period the following: ", and (5) such deductible shall not apply with respect to the benefits described in section 1832(a)(3)".

(3) Section 1833(d) (42 U.S.C. 1395l(d)) is amended by inserting "(except as provided by subsection (a)(5))" before the period.

(4) Section 1833 (42 U.S.C. 1395l) is amended by inserting after subsection (e) the following new subsection:

"(f) In applying subsection (a)(5) in the case of an organization receiving payment under clause (A) of subsection (a)(1) or under a reasonable cost reimbursement contract under section 1876 or in the case of a renal dialysis facility—

"(1) the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect, in the aggregate, the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract or with respect to individuals furnished services through the facility if payments were to be made on an individual-by-individual basis, and

"(2) the organization or facility shall provide assurances satisfactory to the Secretary that the organization or facility will not undertake to charge an individual during a year for any catastrophic medical expenses (as defined in section 1861(ff)(1)) incurred for that year.".

(c) ESTABLISHMENT OF CEILING.—

(1) Section 1833 (42 U.S.C. 1395l) is further amended by adding at the end the following:

"(m)(1) Not later than November 15 of each year (beginning with 1987), the Secretary shall promulgate the medicare catastrophic limit under this subsection for the succeeding year.

"(2) The medicare catastrophic limit for 1988 is $1,700. The medicare catastrophic limit for any succeeding year shall be an amount equal to the medicare catastrophic limit for the preceding year increased by the applicable increase percentage determined under section 215(i) in the previous year. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).".

(2) Section 1861 (42 U.S.C. 1395x) is amended by adding at the end thereof the following:

"(ff)(1) The term 'catastrophic medical expenses' means, with respect to an individual for a calendar year (beginning with 1988), any beneficiary cost sharing amounts (as defined in paragraph (2)) incurred by an individual in the year after the individual has incurred out-of-pocket medical expenses (as defined in paragraph (3)) in the year in an amount equal to the medicare catastrophic limit established under section 1833(m) for the year.

"(2) The term 'beneficiary cost sharing amounts' means the amounts of expenses that an individual who is covered by the insurance program established under part B incurs that are attributable to—

"(A) the deductions and coinsurance amounts established under section 1813(a) and under subsection (y)(3),

"(B) the deductions established under section 1833(b), or

"(C) the difference between the payment amount provided under part B and the payment amount that would be provided if '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in section 1833(a), in section 1833(i)(2), in section 1835(b)(2), and in subsections (b)(2) and (b)(3) of section 1881.

"(3) The term 'out-of-pocket medical expenses' means the amounts expended by an individual who is covered under the insurance program established under part B that are—

"(A) beneficiary cost sharing amounts,

"(B) amounts expended by an individual described in subsection (s)(2)(J) for immunosuppressive drugs furnished after the 1-year period specified in such subsection (in amounts not to exceed the reasonable charges for such drugs), and

"(C) amounts expended for qualified examinations for the early detection of cancer (in amounts not to exceed the reasonable charges for such examinations).

"(4) An examination that is performed with respect to an individual covered by the insurance program under part B shall be treated as a 'qualified examination for the early detection of cancer' if the examination is—

"(A) a routine mammogram for the purpose of the diagnosis of breast cancer that is performed with respect to an individual who—

"(i) has attained age 55, and

"(ii) has not had a mammogram on a routine basis during the preceding 36 months; or

"(B) a routine colorectal examination for the purpose of the diagnosis of colorectal cancer that is performed with respect to an individual who—

"(i) has attained age 65, and

"(ii) has not had a colorectal examination on a routine basis during the preceding 12 months.".

(3) Subsections (c) and (g) of section 1833 (42 U.S.C. 1395l) are each amended by striking "(a) and (b)" and inserting in lieu thereof "(a), (b), and (f)".

(b) LIMITATION ON CHARGES WHERE MEDICARE CATASTROPHIC LIMIT IS REACHED.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)), as amended by section 3(c)(4) of this Act, is further amended by adding at the end the following new sentence: "A provider of services may not impose a charge under the first sentence of this subparagraph for services for which payment is made to the provider pursuant to section 1833(a)(5) (relating to catastrophic medical expenses).".

SEC. 5. INCREASE IN PART B PREMIUM.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended—

(1) in paragraph (1) of subsection (a), by striking all after "(a)(1)" and inserting in lieu thereof the following: "(A) The Secretary shall, during September of 1987 and of each year thereafter, determine the monthly actuarial basic rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year. The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs that the Secretary estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding catastrophic coverage benefits and related administrative costs). In calculating the monthly actuarial basic rate, the Secretary shall include an appropriate amount for a contingency margin.

"(B) For purposes of this paragraph, the term 'catastrophic coverage benefits' has the meaning given to such term in subsection (g)(2)(C)(i).";

(2) in paragraph (3) of subsection (a) by striking "subsection (e)" and inserting in lieu thereof "subsections (e) and (g)";

(3) by striking paragraph (4) of subsection (a) and inserting in lieu thereof the following:

"(4)(A) The Secretary shall also, during September of 1987 and of each year thereafter, determine the monthly actuarial basic rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year. The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding catastrophic coverage benefits and related administrative costs) In calculating the monthly actuarial basic rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

"(B) For purposes of this paragraph, the term 'catastrophic coverage benefits' has the meaning given to such term in subsection (g)(2)(C)(i).";

(4) in paragraph (1) of subsection (e) by striking "monthly actuarial rate" and inserting in lieu thereof "monthly actuarial basic rate"; and

(5) by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding any other provision of this section, except as provided in paragraph (3), the monthly premium otherwise determined under this section for an individual for each month in calendar year

1988 after March, and for every month in any succeeding calendar year, shall be increased by an amount equal to the applicable monthly catastrophic coverage premium amount for that year.

"(2)(A)(i) The monthly catastrophic coverage premium amount for 1988 for individuals who are covered by the insurance programs under part A and this part shall be $4. The monthly catastrophic coverage premium amount for such individuals for any succeeding calendar year shall be the monthly catastrophic coverage premium amount determined under this subparagraph for the preceding calendar year, increased (or decreased) by the percentage increase (or decrease) in the per enrollee actuarial comprehensive catastrophic benefit amount for the year for which the determination is made over the per enrollee actuarial comprehensive catastrophic benefit amount for such preceding year. For purposes the preceding sentence, in determining the percentage increase (or decrease) in the per enrollee actuarial comprehensive catastrophic benefit amount for calendar year 1989 over the per enrollee actuarial comprehensive catastrophic benefit amount for calendar year 1988, the total of the catastrophic coverage benefits (and related administrative costs) payable with respect to enrollees under this part in calendar year 1988 shall be computed as if the medicare catastrophic limit under section 1833(m) applied to out-of-pocket medical expenses incurred for the entire calendar year. For any calendar year beginning after 1992, the Secretary shall adjust the monthly catastrophic coverage premium amount by the percentage determined under section 1839A(b)(2)(B)(ii)(IV).

"(ii) The monthly catastrophic coverage premium amount for any calendar year for individuals who are covered by the insurance program under this part but not by the insurance program under part A shall be an amount that bears the same ratio to the monthly catastrophic coverage premium amount determined under clause (i) for such year as the actuarial part B catastrophic benefit amount for such year bears to the actuarial comprehensive catastrophic benefit amount for such year.

"(B) If any monthly premium amount determined under subparagraph (A) is not a multiple of 10 cents, such premium amount shall be rounded to the nearest multiple of 10 cents.

"(C) For purposes of this paragraph—

"(i) the term 'catastrophic coverage benefits' means benefits payable under this title by reason of the enactment of the amendments made by sections 2(a), 3(a), 4, and 7(b) of the Medicare Catastrophic Loss Prevention Act of 1987,

"(ii) the term 'per enrollee actuarial comprehensive catastrophic benefit amount' means, with respect to a year, an amount equal to the actuarial comprehensive catastrophic benefit amount for the year divided by the total number of individuals that the Secretary estimates will be enrolled under this part for the year,

"(iii) the term 'actuarial comprehensive catastrophic benefit amount' means, with respect to a calendar year, the amount that the Secretary estimates will equal the total of the catastrophic coverage benefits (and related administrative costs) that will be payable from the Federal Supplementary Medical Insurance Trust Fund and from the Federal Hospital Insurance Trust Fund in such calendar year with respect to enrollees under this part, and

"(iv) the term 'actuarial part B catastrophic benefit amount' means, with respect to a calendar year, the amount the Secretary estimates will equal the total of the catastrophic coverage benefits (and related administrative costs) that will be payable from the Federal Supplementary Medical Insurance Trust Fund in such calendar year with respect to enrollees (excluding any amounts transferred pursuant to section 1841(j)).

"(3) For any calendar year after 1988, if an individual is entitled to monthly benefits under section 202 or 223 for November and December of the preceding year, and if the monthly premium of the individual under this section for December and for January is deducted from those benefits under section 1840(a)(1), the monthly premium otherwise determined under this section for an individual for that year shall not be increased, pursuant to paragraph (1), to the extent that such increase would reduce the amount of benefits payable to that individual for that January below the amount of benefits payable to that individual for that December (after the deduction of the premium under this section).".

(b) TRANSFERS TO HI TRUST FUND.—Section 1841 is amended by adding at the end the following:

"(j) There shall be transferred from time to time from the Trust Fund to the Federal Hospital Insurance Trust Fund amounts from the premiums under this part that are attributable to the changes (under sections 2(a), 3(a), and 7(b) of the Medicare Catastrophic Loss Prevention Act of 1987) in services performed and related administrative costs incurred in such calendar year with respect to individuals who are covered under the insurance program established by part A.".

SEC. 6. SUPPLEMENTAL PREMIUM FOR CATASTROPHIC ILLNESS COVERAGE.

(a) IN GENERAL.—Part B of title XVIII is amended by inserting after section 1839 the following:

"SUPPLEMENTAL PREMIUM FOR INDIVIDUALS COVERED BY PART B

"SEC. 1839A. (a)(1) Any individual described in paragraph (2) shall pay the applicable supplemental premium in the manner provided in subsection (c).

"(2) An individual is described in this paragraph if such individual—

"(A) is covered by the insurance program established under this part for any portion of any taxable year occurring after December 31, 1987, and

"(B) has Federal income tax liability for such taxable year in an amount not less than $150.

"(b) For purposes of this section—

"(1) The term 'applicable supplemental premium' means an amount equal to the product of—

"(A) the number of months in the taxable year during which the individual was covered by the insurance program established under this part, multiplied by

"(B) the supplemental premium.

"(2)(A) The term 'supplemental premium' means an amount equal to the product of—

"(i) the premium rate for the taxable year, multiplied by

"(ii) the amount determined by dividing—

"(I) the individual's Federal income tax liability for such taxable year, by

"(II) $150.

If any amount determined under clause (ii) is not a whole number, such amount shall be rounded to the next lowest whole number.

"(B)(i) The premium rate for any taxable year beginning before 1989 is $1.02. The premium rate for any taxable year beginning in a calendar year after 1988 is the premium rate determined under this clause for taxable years beginning in the preceding calendar year, increased or decreased by the premium rate adjustment under clause (ii) for taxable years beginning in the calendar year for which the determination is made.

"(ii)(I) For purposes of clause (i), the premium rate adjustment for taxable years beginning in a calendar year after 1988 is the percentage increase or decrease in the per enrollee actuarial comprehensive catastrophic benefit amount (within the meaning of section 1839(g)(2)(C)(ii)) for such calendar year over such amount for the preceding calendar year.

"(II) The Secretary shall adjust the premium rate for any calendar year beginning after 1992 (without regard to this subclause and subclause (IV)) to appropriately reflect any percentage increase or decrease in the estimated average Federal income tax liability of individuals described in subsection (a)(2) for such calendar year over such average for the preceding calendar year.

"(III) In determining the percentage increase (or decrease) under subclause (I) for calendar year 1989, the total of the catastrophic coverage benefits (within the meaning of section 1839(g)(2)(C)(i)) (and related administrative costs) payable with respect to enrollees under this part in calendar year 1988 shall be computed as if the medicare catastrophic limit under section 1833(m) applied to out-of-pocket medical expenses incurred for the entire calendar year.

"(IV) If the Secretary determines for any calendar year beginning after 1992 that the estimated total catastrophic coverage benefits (within the meaning of section 1839(g)(2)(C)(i)) and related administrative costs for such calendar year will exceed the estimated total revenues collectable with respect to such calendar year from the premiums under this section and the monthly catastrophic coverage premiums (within the meaning of section 1839(g)(2)(A)), the Secretary shall increase the premium rate under this section and the monthly catastrophic coverage premium for such calendar year by the percentage necessary to increase the estimated total revenues for such calendar year by the amount of such excess.

"(3)(A)(i) In the case of a taxable year beginning in a calendar year after 1987 and before 1993, the applicable supplemental premium for any individual shall not exceed the amount which bears the same ratio to the amount determined under the table in clause (ii) as—

"(I) the number of months determined under paragraph (1)(A), bears to

"(II) 12.

"(ii) For purposes of clause (i)—

"If the taxable year begins in:	The amount is:
1988	$ 800
1989	850
1990	900
1991	950
1992	1,000.

"(B) In the case of a taxable year beginning in a calendar year after 1992, the applicable supplemental premium for any individual shall not exceed an amount equal to 65 percent of the product of—

"(i) the number of months determined under paragraph (1)(A), multiplied by

"(ii) the excess of—

"(I) the sum of 200 percent of the monthly actuarial basic rate for enrollees age 65 or over (as determined under section 1839), and the monthly per enrollee actuarial com-

prehensive catastrophic benefit amount for such calendar year, over

"(II) the sum of the basic and catastrophic monthly premiums for such year (as determined under section 1839 without regard to subsections (f)(2) and (g)(3) thereof).

"(4)(A) Except as provided in this paragraph, in the case of married individuals (within the meaning of section 7703 of the Internal Revenue Code of 1986)—

"(i) who file a joint return under section 6013 of such Code, and

"(ii) 1 or both of whom are described in subsection (a)(2) with respect to such taxable year,

the applicable supplemental premiums shall be determined by treating such individuals as 1 individual.

"(B) If subparagraph (A) applies, the number of months taken into account under paragraph (1)(A) (other than for purposes of paragraph (3)) shall be determined by reference to the spouse who was covered by the insurance program established under this part for the longer period during the taxable year (or if covered for the same period, either spouse).

"(C) If subparagraph (A) applies and both spouses are covered during the taxable year by the insurance program established under this part, the limitation under paragraph (3) shall be equal to the sum of the limitations computed separately under paragraph (3) for each of the spouses.

"(c)(1) Except as provided in paragraph (2), for purposes of the Internal Revenue Code of 1986 (other than section 15 of such Code), any applicable supplemental premium required to be paid under subsection (a)(1) shall be treated as an addition to the tax imposed by chapter 1 of such Code for the taxable year to which such premium relates.

"(2) Any applicable supplemental premium required to be paid under subsection (a)(1) shall not be treated as an addition to the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for purposes of determining—

"(A) the amount of any credit allowable under such chapter, or

"(B) the amount of the minimum tax imposed by section 55 of such Code.

"(d)(1) For purposes of this section, the term 'Federal income tax liability' means—

"(A) the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (without regard to this section), reduced by

"(B) the amount of the credits allowed under part IV of subchapter A of such chapter (other than sections 31, 33, and 34).

"(2) For purposes of section 213(d)(1)(C) of the Internal Revenue Code of 1986, the applicable supplemental premium under subsection (a)(1) shall be treated as a premium paid under this part in the taxable year following the taxable year to which such premium relates.

"(e) The Secretary of the Treasury shall, from time to time, transfer from the general fund of the Treasury to the Federal Supplementary Medical Insurance Trust Fund amounts equal to the sum of—

"(1) the aggregate monthly supplemental premiums paid pursuant to this section, plus

"(2) the amount which the Secretary estimates Federal outlays are reduced under title XIX of this Act by reason of the amendments made by sections 2(a), 3(a), 4, and 7(b) of the Medicare Catastrophic Loss Prevention Act of 1987 (after taking into account the provisions of section 14 of such Act).

Such transfer shall be appropriately adjusted to the extent that prior transfers were in excess of or less than the amounts required to be transferred.".

(c) INFORMATION REPORTING.—

(1) Section 6050F(a)(1) of the Internal Revenue Code of 1986 (relating to returns relating to Social Security benefits) is amended—

(A) by striking out "and" at the end of subparagraph (B), and

(B) by inserting after subparagraph (C) the following:

"(D) the number of months any individual is covered by the insurance program established under part B of title XVIII of the Social Security Act for such calendar year, and".

(2) Section 6050F(b) of such Code is amended—

(A) by inserting "or determining the months of coverage" after "payments" in paragraph (1), and

(B) by inserting "and the number of months of coverage," after "reductions," in paragraph (2).

(3) Section 6050F(c)(1)(A) of such Code is amended by inserting "and months of coverage described in subsection (a)(1)(D)" after "section 86(d)(1)(A)".

(d) CONFORMING AMENDMENT.—Subsection (a)(1) of section 1840 (42 U.S.C. 1395s) is amended by striking out "(except as provided in subsections (b)(1) and (c))" and inserting in lieu thereof "(except as provided in section 1839A(a)(2) and subsections (b)(1) and (c) of this section)".

SEC. 7. MEDICARE COVERAGE OF HOME HEALTH SERVICES ON A DAILY BASIS.

(a) IN GENERAL.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "For purposes of paragraphs (1) and (4), nursing care and home health aide services may be provided under such paragraphs seven days a week (with one or more visits per day) for a period of up to 21 days with a physician's certification of the need for such care and services on such a basis.".

(b) ADDITIONAL DAYS FOR CERTAIN INDIVIDUALS.—Section 1861(m) (42 U.S.C. 1395x(m)), as amended by subsection (a), is further amended by adding at the end the following: "In the case of an individual who is covered under the insurance program established under part B, and who is furnished nursing care and home health aide services within 30 days after being discharged from a hospital or a skilled nursing facility, the preceding sentence shall be applied by substituting '45 days' for '21 days'.".

SEC. 8. CLARIFICATION OF REQUIREMENT THAT INDIVIDUAL BE CONFINED TO HOME TO BE ELIGIBLE FOR HOME HEALTH SERVICES.

(a) PART A.—Section 1814(a) (42 U.S.C. 1395f(a)) is amended by adding at the end thereof the following: "For purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker) or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration.".

(b) PART B.—Section 1835(a) (42 U.S.C. 1395n(a)) is amended by adding at the end thereof the following: "For purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker) or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 9. ANNUAL NOTICE TO MEDICARE BENEFICIARIES.

(a) NOTICE REQUIRED.—The Secretary of Health and Human Services (in this section referred to as the Secretary) shall notify each individual who is entitled to benefits under title XVIII of the Social Security Act of—

(1) the benefits that are available under the insurance programs established under such title (and the major categories of health care that are not covered under those programs),

(2) the limitations on payment (including deductibles and coinsurance amounts) that are imposed under such programs, and

(3) the ways in which such limitations differ for individuals who are covered under the program established under part B and individuals who are not covered under such program.

(b) TIMING.—The Secretary shall provide the notice described in subsection (a)—

(1) when an individual applies for benefits under part A or enrolls under part B on or after January 1, 1988, and

(2) in November of 1987 and annually thereafter.

(c) CONSULTATION REQUIRED.—The notice required by subsection (a) shall be prepared in consultation with groups representing the elderly and with health insurers.

SEC. 10. ADJUSTMENT OF AAPCC'S AND CONTRACTS FOR RISK-BASED ELIGIBLE ORGANIZATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(1) modify any adjusted average per capita cost determined under section 1876(a) of the Social Security Act for an eligible organization with a risk-sharing contract to take into account the amendments made by sections 2(a), 3(a), 4, and 7(b) of this Act,

(2) modify each such contract, for portions of contract years occurring after December 31, 1987, to reflect the modifications made pursuant to paragraph (1), and

(3) require each such organization to make appropriate adjustments in the terms of its agreements with medicare beneficiaries to take into account such amendments.

(b) EFFECTIVE DATE.—Subsection (a) shall become effective on the date of enactment of this Act.

SEC. 11. STUDY OF TREATMENT OF PRESCRIPTION DRUGS.

(a) STUDY REQUIRED.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall request the National Academy of Sciences, acting through the Institute of Medicine (in this section referred to as the "Academy" and the "Institute", respectively), to enter into a contract under which the Institute, in consultation with representatives of appropriate research and health-care organizations, will conduct a study to identify additional drugs, available by prescription only, the expenditures for which might appropriately be covered under title XVIII of the Social Security Act or be treated as out-of-pocket medical expenses (as defined in section 1861(ff)(3) of the Social Security Act) for purposes of making the determination described in section 1861(ff)(1) of such Act. The study shall include analyses and recommendations with respect to appropriate limitations on the amounts to be recognized as reasonable for such purposes.

(b) STUDY EXPENSES.—The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study required by subsection (a).

(c) REPORTS.—

(1) Not later than six months after the date of the enactment of this Act, the Institute shall submit to the Secretary, to the Committee on Finance of the Senate, and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, an interim report with respect to the study required by subsection (a). The report shall describe the manner in which the study is being conducted and may include tentative findings and recommendations based upon the study.

(2) Not later than twelve months after the date of the enactment of this Act, the Institute shall submit to the Secretary, to the Committee on Finance of the Senate, and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a final report with respect to the study required by subsection (a). The report shall include specific findings and recommendations based upon the study.

SEC. 12. HOSPICE CARE.

(a) EXTENSION OF COVERAGE PERIOD.—

(1) Section 1812 (42 U.S.C. 1395d) is amended—

(A) in subsection (a)(4), by striking "and one subsequent period of 30 days" and inserting in lieu thereof ", a subsequent period of 30 days, and a subsequent extension period";

(B) in subsection (d)(1), by striking "and one subsequent period of 30 days" and inserting in lieu thereof ", a subsequent period of 30 days, and a subsequent extension period"; and

(C) in subsection (d)(2)(B), by inserting "or a subsequent extension period" after "30-day period".

(2) Section 1812A(a)(4), as added by section 2(b) of this Act, is amended by striking "and one subsequent period of 30 days" and inserting in lieu thereof ", a subsequent period of 30 days, and a subsequent extension period".

(b) CONTINUED CERTIFICATION OF TERMINAL ILLNESS FOR EXTENDED BENEFITS.—Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the semicolon at the end of clause (ii) and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services provided on or after the date of enactment of this Act.

SEC. 13. VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES.

(a) FREE-LOOK PERIOD.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1), by striking subparagraph (B) and inserting in lieu thereof the following:

"(B) includes requirements equal to or more stringent than the requirements described in paragraphs (2) and (3) of subsection (c); and", and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

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

"(3) may, during a period of not less than 30 days after the policy is issued, be returned for a full refund of any premiums paid (without regard to the manner in which the purchase of the policy was solicited).".

(b) REPORTING OF INFORMATION RELATING TO LOSS RATIOS.—Section 1882(b)(1), as amended by subsection (a), is further amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by redesignating subparagraph (C) as subparagraph (D),

(3) by inserting after subparagraph (B) the following:

"(C) provides that—

"(i) information with respect to the actual ratio of benefits provided to premiums collected under such policies will be reported to the State on forms conforming to those developed by the National Association of Insurance Commissioners for such purpose, or

"(ii) such ratios will be monitored under the program in an alternative manner approved by the Secretary; and", and

(4) in subparagraph (D), as redesignated by paragraph (2), by striking "(A) and (B)" and inserting in lieu thereof "(A), (B), and (C)".

(c) CONSUMER INFORMATION.—Section 1882(e) is amended—

(1) by inserting "(1)" after "(e)", and

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

"(2) The Secretary shall—

"(A) inform all individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) of—

"(i) the actions and practices that are subject to sanctions under subsection (d), and

"(ii) the manner in which they may report any such action or practice to an appropriate official of the Department of Health and Human Services, and

"(B) establish a toll-free telephone number for individuals to report suspected violations of the provisions of such subsection.

"(3) The Secretary shall provide individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) with a listing of the addresses and telephone numbers of State and Federal agencies and offices that provide information and assistance to individuals with respect to the selection of medicare supplemental policies.".

(d) REVISION OF MODEL STANDARDS.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (a) by striking "Such certification" and inserting in lieu thereof "Subject to subsection (k)(3), such certification",

(2) in subsection (b) by striking "(for so long as" and inserting in lieu thereof "(subject to subsection (k)(3), for so long as", and

(3) by adding at the end thereof the following new subsection:

"(k)(1)(A) If, within the period specified in subparagraph (B), the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') amends the NAIC Model Regulation adopted on June 6, 1979 (as it relates to medicare supplemental policies) to reflect the changes in law made by the Medicare Catastrophic Loss Prevention Act of 1987, subsection (g)(2)(A) shall be applied, effective on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the Model Regulation as amended by the Association in accordance with this paragraph (in this subsection referred to as the 'amended NAIC Model Regulation').

"(B) The period specified in this subparagraph is the period beginning on the date of the enactment of the Medicare Catastrophic Loss Prevention Act of 1987 and ending on the ninetieth day after such date.

"(C) The date specified in this subparagraph is the date that is 365 days after the date (within the period specified in subparagraph (B)) on which the National Association of Insurance Commissioners announces the adoption of the amendments referred to in subparagraph (A).

"(2)(A) If the Association does not amend the NAIC Model Regulation referred to in subsection (g)(2)(A) during the period specified in paragraph (1)(B), the Secretary shall issue Federal model standards (in this subsection referred to as 'Federal model standards') for medicare supplemental policies not later than 90 days after the last day of such period. Federal model standards issued by the Secretary pursuant to this subparagraph shall reflect the changes in law made by the Medicare Catastrophic Loss Prevention Act of 1987.

"(B) Effective on and after the date that is 365 days after the date on which the Secretary issues Federal model standards pursuant to subparagraph (A), this section shall be applied as if any reference to NAIC Model Standards were a reference to the Federal model standards.

"(3) Notwithstanding any other provision of this section, on and after the date specified in paragraph (1)(C) or the date specified in paragraph (2)(B) (as the case may be)—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(B) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the stand-

ards set forth in the amended NAIC Model Regulation or the Federal model standards (as the case may be).".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall become effective on the date on which the amended NAIC Model Standards (or Federal model standards) become effective under section 1882 of the Social Security Act (in accordance with subsection (k) of such section).

(2) The amendments made by subsection (c) shall become effective on the date of the enactment of this Act.

(3) The amendment made by subsection (d) shall be effective as provided in such amendment.

SEC. 14. DETERMINATION OF MEDICAID SAVINGS; STATE PLAN REQUIREMENT.

(a) DETERMINATION OF SAVINGS; NOTICE TO STATES.—Before the beginning of each fiscal year (or portion thereof) for which this section applies to a State, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall—

(1) estimate and determine, with respect to each State with a State plan approved under title XIX of the Social Security Act, the total amount that would have been expended from State funds under such plan for such fiscal year (or portion thereof) but for the amendments made by sections 2(a), 3(a), 4, and 7(b) of this Act, and

(2) notify each such State of such amount.

(b) STATE PLAN REQUIREMENT.—

(1) Each State plan shall provide, as a condition of approval under section 1902(a) of the Social Security Act, that—

(A) an amount equal to the amount of savings that are estimated by the Secretary pursuant to subsection (a) to accrue to the State for such fiscal year (or portion thereof) by reason of the amendments made sections 2(a), 3(a), 4, and 7(b) of this Act, will be expended from State funds for such fiscal year for one or more of the purposes specified in paragraph (2), and

(B) the amounts expended pursuant to subparagraph (A) will be in addition to any amounts that would have been expended from State funds for such purposes for such fiscal year (or portion thereof) under the State plan (as in effect on the day before the date of the enactment of this Act).

(2) The purposes specified in this paragraph are—

(A) to provide coverage under the State plan, pursuant to section 1902(a)(10)(E) of the Social Security Act, for individuals described in section 1905(p)(1) of such Act, and

(B) to increase the maintenance needs monthly income levels applicable under the plan for the community spouses of institutionalized individuals.

(3) A State may provide coverage pursuant to paragraph (2)(A) without regard to section 1902(m)(3) of the Social Security Act.

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), this section shall apply to the calendar quarter beginning on January 1, 1988, and 11 consecutive calendar quarters thereafter.

(2)(A) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(B) In the case of a State plan with respect to which the requirement imposed by subsection (b) first becomes effective, pursuant to subparagraph (A), for a calendar quarter beginning after January 1, 1988, this section shall apply to such calendar quarter and 11 consecutive calendar quarters thereafter.

SEC. 15. STUDIES OF LONG-TERM CARE.

(a) INSTITUTE OF MEDICINE STUDY.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall request the National Academy of Sciences, acting through the Institute of Medicine (in this subsection referred to as the "Academy" and the "Institute", respectively), to enter into a contract under which the Institute will conduct a study to—

(A) explore the options for the private funding of a portion of long-term care (including methods by which changes in Federal laws, including tax laws, could facilitate the development of such funding),

(B) analyze the effect that the provision of various types of private funding of long-term care would have on public funding of such care,

(C) review various options for public sector long-term care coverage, both means-tested and universal, with respect to their effects on both current and future State and Federal spending for health care,

(D) review the effectiveness and the cost implications of community-based long-term care services, including the types of limits necessary to prevent the overutilization of such services, and

(E) analyze, for each approach to the provision of long-term care, the relative payments derived from users of long-term care, non-utilizing elderly, and employed persons (including both pre-funding and pay-as-you-go payments).

(2) In conducting the study under paragraph (1), the Institute shall take into account—

(A) the effect that impending demographic changes (both near-term and long-term) will have on the various approaches to service utilization and funding, and

(B) the effect that membership in different socioeconomic groups has on the need, and ability to pay, for long-term care.

(3) The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study required by paragraph (1).

(4) Not later than October 1, 1989, the Institute shall submit to the Secretary, to the Committee on Finance of the Senate, and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report that—

(A) describes the study conducted under this subsection,

(B) includes a statement of the data obtained under the study, and

(C) specifies administrative actions and changes in law that the Institute considers to be appropriate to implement the findings of the study.

(b) STUDY OF TAX INCENTIVES FOR PURCHASE OF COVERAGE FOR LONG-TERM CARE.—

(1) The Secretary of the Treasury (in this subsection referred to as the "Secretary") shall conduct a study of Federal tax policies to promote the private financing of long-term care. The study shall identify alternative methods of creating incentives, through the tax system, to encourage individuals to purchase insurance coverage for long-term care.

(2) The Secretary shall conduct the study required by paragraph (1) in consultation with representatives of the insurance industry and providers of long-term care.

(3) The Secretary shall report the results of the study required by paragraph (1) to the Congress not later than April 1, 1988, together with the Secretary's recommendations for any changes in Federal law that the Secretary determines to be appropriate to promote the private financing of long-term care.

(4) For purposes of this subsection, the term "long-term care" includes care and services provided by nursing homes, home health agencies, and other mechanisms for the delivery of long-term care services.

SEC. 16. CASE MANAGEMENT DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish not less than six demonstration projects under which a utilization and quality control peer review organization with a contract with the Secretary under part B of title XI of the Social Security Act (in this section referred to as a "PRO") agrees to provide case management services to medicare beneficiaries with selected catastrophic illnesses.

(b) PURPOSE OF PROJECTS.—It is the purpose of the demonstration projects established under this section to provide the Secretary and the Congress with the information necessary—

(1) to evaluate the appropriateness of providing case management services under the medicare program for individuals with catastrophic illnesses, and

(2) to determine the most effective approach to implementing a case management system under the program for such individuals.

(c) AGREEMENT.—The agreement entered into under subsection (a) shall specify—

(1) the catastrophic illnesses with respect to which case management services will be provided under the project,

(2) the payments to be made to the PRO for carrying out the project, and

(3) such other terms and conditions as the Secretary and the PRO may agree to.

(d) WAIVERS.—The Secretary shall waive any provisions of part B of title XI of the Social Security Act and title XVIII of such Act that the Secretary determines would prevent the establishment of a demonstration project under this section.

(e) DURATION.—

(1) Except as provided in paragraph (2), a demonstration project under this section shall be conducted for a one-year period.

(2) The Secretary may terminate a demonstration project before the end of the one-year period specified in paragraph (1) if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into under subsection (a).

(f) INFORMATION AND REPORTS.—

(1) A PRO with an agreement under subsection (a) shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the PRO.

(2)(A) The Secretary shall submit to the Congress an interim report on the projects conducted under this section based upon information that is derived from the first six months of project operations and shall set forth any interim findings, recommendations, and conclusions that the Secretary determines to be appropriate.

(B) The Secretary shall submit to the Congress a final report on the demonstration projects conducted under this section based upon data derived from the 12 months in which the projects were in operation and shall update the findings, recommendations, and conclusions set forth in the interim report submitted under paragraph (1).

(g) AUTHORIZATION TO USE CERTAIN FUNDS.—

(1) The Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund amounts not to exceed a total of $2,000,000 for the purpose of carrying out the demonstration projects under this section. Amounts shall be transferred under this paragraph without regard to amounts appropriated in advance in Appropriation Acts.

(2) Subject to paragraph (1), payments shall be made from each of the trust funds specified in paragraph (1) in such amounts as the Secretary determines to be fair and equitable.

SEC. 17. REPEAL OF AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.

(a) REPEAL.—Effective October 1, 1987, section 1123 (42 U.S.C. 1320a-2) is repealed.

(b) EFFECT OF REPEAL.—Nothing in the amendment made by subsection (a) shall be construed as affecting—

(1) the authority of the Secretary of Health and Human Services to conduct the program established under section 1123 of the Social Security Act prior to October 1, 1987, or

(2) the qualification of any individual, who has been determined under such program to be qualified to perform the duties and functions of a health care specialty, to perform such duties and functions.

SEC. 18. TRUSTEE COMMENTS ON ACTUARIAL SOUNDNESS OF BASIC AND SUPPLEMENTAL CATASTROPHIC BENEFIT PREMIUMS.

(a) HI TRUST FUND.—Section 1817(b) (42 U.S.C. 1395i(b)) is amended by inserting "an evaluation of the extent to which the premiums collected under sections 1839(g) and section 1839A are sufficient to pay for catastrophic coverage benefits (as defined in section 1839(g)(2)(C)(i)) and related administrative expenses payable from the Trust Fund and" after "also include".

(b) SMI TRUST FUND.—Section 1841(b) (42 U.S.C. 1395t(b)) is amended by inserting "an evaluation of the extent to which the premiums collected under sections 1839(g) and section 1839A are sufficient to pay for catastrophic coverage benefits (as defined in section 1839(g)(2)(C)(i)) and related administrative expenses payable from the Trust Fund and" after "also include".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reports submitted for fiscal year 1988 and each fiscal year thereafter.

SEC. 19. TECHNICAL AMENDMENT RELATING TO WAIVERS FOR HOME AND COMMUNITY-BASED SERVICES.

(a) WAIVERS FOR HOME AND COMMUNITY-BASED SERVICES.—Section 1915(c)(3) (42 U.S.C. 42 U.S.C. 1396n(c)(3)) is amended by striking "and section 1902(a)(10)(B) (relating to comparability)" and inserting in lieu thereof ", section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to single standard for income and resource eligibility)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 20. TECHNICAL AMENDMENTS RELATING TO NEW JERSEY RESPITE CARE PILOT PROJECT.

(a) CONDITIONS OF AGREEMENT.—Section 9414(b) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively,

(2) by inserting after paragraph (1) the following new paragraph:

"(2) provide that the State may submit a detailed proposal describing the project (in lieu of a formal request for the waiver of applicable provisions of title XIX of the Social Security Act) and that submission of such a description by the State will be treated as such a request for purposes of subsection (g),", and

(3) in paragraph (3), as redesignated by paragraph (1) of this subsection, by striking "if the project" and all that follows through "Act" the second place it appears and inserting in lieu thereof "the State shall utilize a post-eligibility cost-sharing formula based on the available income of participants with income in excess of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981)".

(b) DEFINITIONS.—

(1) Section 9414(a) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "elderly and disabled individuals" and inserting in lieu thereof "eligible individuals".

(2) Section 9414(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows:

"(c) Definitions.—For purposes of this section—

"(1) the term 'eligible individual' means an individual—

"(A) who is elderly or disabled,

"(B)(i) whose income (not including the income of the spouse or family of the individual) does not exceed 300 percent of the amount in effect under section 1611(a)(1)(A) of the Social Security Act (as increased pursuant to section 1617 of such Act), or

"(ii) in the case of an individual and spouse who are both dependent on a caregiver, whose combined incomes do not exceed such amount,

"(C) at the option of the State, who meets a resource standard established by the State,

"(D) who is at risk of institutionalization unless the individual's caregiver is provided with respite care, and

"(E) who has been determined to meet the requirements of subparagraphs (A) through (D) in accordance with an application process designed by the State; and

"(2) the term 'respite care services' shall include—

"(A) short-term and intermittent—

"(i) companion or sitter services (paid as well as volunteer),

"(ii) homemaker and personal care-services,

"(iii) adult day care, and

"(iv) inpatient care in a hospital, a skilled nursing facility, or an intermediate care facility (not to exceed a total of 14 days for any individual), and

"(B) peer support and training for family caregivers (using informal support groups and organized counseling).".

(c) PROVISIONS SUBJECT TO WAIVER.—Section 9414(g) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "section 1902(a)(10)(C)(i)(III)," after "section 1902(a)(10)(B),".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 21. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall apply to items and services furnished after, and premiums for months beginning after, December 31, 1987.

(b) EXCEPTIONS.—

(1) Notwithstanding section 1813(a)(1) of the Social Security Act, as amended by section 3(a)(2) of this Act, in the case of an individual with respect to whom—

(A) a spell of illness (as defined in section 1861(a) of the Social Security Act) begins before January 1, 1988, and

(B) a period of hospitalization (as defined in section 1813(a)(1) of the Social Security Act), which is included within that spell of illness, begins on or after January 1, 1988, and before February 1, 1988,

no inpatient hospital deductible shall be imposed with respect to such period of hospitalization (and such period of hospitalization shall not be taken into account in determining the application of such deductible to any subsequent period of hospitalization beginning for such individual on or before December 31, 1988).

(2) Notwithstanding sections 1812(a)(2)(A), 1812(b)(2), and 1813(a)(3) of the Social Security Act, as amended by sections 2(a)(2)(C), 2(a)(3)(B), and 3(a)(4) of this Act, respectively, in the case of an individual with respect to whom post-hospital extended care services (as defined in section 1861(i) of the Social Security Act) are furnished on December 31, 1987, the provisions of such sections (as they applied to post-hospital extended care services furnished on December 31, 1987) shall continue to apply to such individual until the end of the spell of illness during which such services were furnished.

(3) Notwithstanding section 1861(ff)(1) of the Social Security Act, as added by section 4(c)(2) of this Act, in determining when an individual has incurred out-of-pocket medical expenses (as defined in section 1861(ff)(3) of such Act) for calendar year 1988 that are equal to the medicare catastrophic limit established under section 1833(m) of such Act for that year, only expenses incurred on or after July 1, 1988, shall be taken into account.

(4) The monthly catastrophic coverage premium required by section 1839(g) of the Social Security Act (as added by section 5 of this Act) shall apply to months after March, 1988.

(5) The amendments made by section 6 shall apply to taxable years ending after December 31, 1987.

(6) Sections 8 through 20 shall be effective as provided in such sections.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the Senate is now on the catastrophic illness legislation, and the managers are here. We can begin.

In the meantime, I wonder if I may address a question to the Republican leader.

Would it be possible, in the event cloture is invoked in the Verity nomination today, to wind up the vote on that nomination at a reasonably early hour after the vote? There is no problem on this side of the aisle.

Mr. DOLE. If the majority leader will yield, I will be happy to check on this side. There was some rumor around that maybe we would not have to vote a cloture vote, but that has not been relayed to me directly. We might be able to reach some agreement to avoid the cloture vote. I will be happy to check and get back to the majority leader.

Mr. BYRD. My next question is with respect to the Bork nomination. The distinguished Republican leader was on national TV Sunday and indicated, I believe, that he would prefer an early vote. The report at the time the committee voted on the nomination was not to be filed, I believe, until Friday. We can take that nomination up by unanimous consent prior to the filing of the report or if we have to wait until the report is filed the 2-day rule would be in effect.

If there were no report filed, of course, the 2-day rule does not apply.

I take it that the report will be filed, in which case we will have to run the 2-day rule, except by unanimous consent.

Mr. DOLE. If the majority leader will yield, I am advised that the so-called minority views have gone to the printer. I am not certain about the committee majority views. Perhaps if we could check during our luncheons, we might be able to see if we might be able to waive the requirement. I have not discussed this privately with the majority leader, but I think I can say on this side there is the feeling that we would like to bring up that matter and have a reasonable time for debate and have a vote. I do not think that interferes with anything on the majority leader's schedule this week. Sooner or later, we will have to do it.

Mr. BYRD. It will conflict with other matters on the schedule, but the Bork nomination was on the schedule. Personally, I would like to see us bring up that nomination and debate it for a reasonable length of time. I do not consider a reasonable length of time being days and days. It would seem to me that most Senators probably have made up their minds. Some have stated what their positions are; some have not. Mr. Bork wants a vote on the nomination and I think he is entitled to it. But I do not think we ought to spend a lot of time debating that nomination.

I would hope the debate would not be divisive or contentious, but I am afraid it will be. I am going to do everything I can to make it otherwise. It seems to me it does not help Mr. Bork and it does not help the country if we are going to spend several days in a contentious and very divisive floor debate on a nomination that is not going anywhere.

I will be happy to schedule that vote, as far as I am concerned. I want to talk to my conference also. But I would like to schedule it, if we could, for an early moment and agree to a vote after a day or so of debate.

Mr. DOLE. If the majority leader will yield, I will be pleased to also check with our side and convey to you what I have found out after our policy luncheon.

Mr. BYRD. Very well.

Mr. President, there will not be any rollcall votes today after 4:30. It may be that debate could go forward on the catastrophic illness legislation or on other matters at that time, and any rollcall votes that would be ordered after 4:30 would be put over until tomorrow.

Mr. DOLE. If the majority leader will yield at that point, I appreciate his accommodating our schedule. We have had a meeting that has been on tap for some time. It is my understanding that about 35 Senators on this side will be attending. I will find out who the 11 are. They are Senators who might be interested in catastrophic or continuing to debate so we would not lose that couple of hours.

Mr. BYRD. Yes. I certainly thank the distinguished Republican leader for whatever accommodations may be worked out. We also on this side want to accommodate the other side in this matter.

Mr. President, I think our manager, Mr. BENTSEN, is here. I yield the floor.

Mr. BENTSEN. Mr. President, today the Senate will consider the Medicare Catastrophic Loss Prevention Act of 1987 (S. 1127)—the largest single reform of the Medicare Program since its inception in 1965. Twenty members of the Senate Committee on Finance voted unanimously to bring an added measure of security to the 31 million elderly and disabled Americans who rely on Medicare to help protect them against financial ruin from an acute care illness.

We owe a debt of gratitude to President Reagan and his Secretary of Health and Human Services, Dr. Otis Bowen, for bringing to the Nation's attention the gaps that remain in Medicare coverage and for proposing recommendations to close those gaps. S. 1127 builds on the President's approach, and offers the most vulnerable citizens needed additional protection.

I wish to express particular appreciation to my colleagues the minority leader, Senator DOLE, Senator MITCHELL, Senator DURENBERGER, and Senator BRADLEY for their special contributions to the development of the legislation we have before us today.

While Medicare was always designed to offer only an acute care benefit, it currently leaves unprotected precisely the most vulnerable beneficiaries—those with catastrophic illnesses who incur the largest bills for covered services. For example, in 1989, the average Medicare beneficiary will face out-of-pocket costs of $524, but those who are hospitalized more than once will pay $1,250. Under S. 1127, not only will the average expenditure fall to $409, but beneficiaries who must enter the hospital would pay considerably less than under current law. Just as important to me, S. 1127 will simplify a program that has become unduly complex and confusing to beneficiaries and their families.

Importantly, S. 1127 will not increase the deficit, according to the estimates of the Congressional Budget Office and the Joint Committee on Taxation. I believe that members of the Committee on Finance are to be commended for their collective insistence on keeping the cost of the new catastrophic benefit reasonable, and for approving a new and innovative mechanism for financing the costs associated with these benefit changes. In testimony before the Committee on Finance, Medicare beneficiaries told us they themselves are more than willing to bear the expense of catastrophic insurance because added peace of mind is well worth the cost of added premiums. We want to help them have that peace of mind. S. 1127 incorporates a financing mechanism which asks each beneficiary to pay at least something for catastrophic insurance through an additional monthly premium, but which asks those who can best afford it to finance proportionally more of the cost of these new benefits.

Let me turn for a moment to some of the criticisms that have been leveled against this and other catastrophic health insurance proposals under consideration here in this Congress. There are those who say we have not gone far enough, that the bill does nothing to help with the devastating costs of nursing home or other long-term care, which can run $22,000 annually. S. 1127 does offer a measure of added protection against the costs of immunosuppressive drugs, but otherwise does not alter Medicare policy with respect to drugs. Others point to the fact that 37 million Americans under the age of 65—11 million of them children—have no health insurance at all. To these critics, I respond by saying: I agree. I regret that budget constraints prevent us from adding many justifiable benefits, and I share your hope that continued improvements in Medicare and other private and public health programs will soon address these needs. To act responsibly in these areas, however, we need better information. S. 1127 provides

for studies of options for financing long-term care and prescription drugs, and I hope that the studies' results will allow us to take further steps in the future. Moreover, I have asked GAO to provide the committee with a comprehensive review of the barriers facing those who cannot obtain needed private or public insurance coverage. So we are addressing those issues in a realistic, responsible manner.

In our desire to reform Medicare's benefits, the committee has improved upon the legislation proposed by President Reagan. Among other things, we lowered the out-of-pocket cap from $2,000 to $1,700. Let us not now take actions whereby we fashion a bill which the President finds unacceptable, or which overburden the elderly through excessive premium costs. The great tragedy would be to risk the loss of a major piece of legislation on the theory that this bill does not achieve perfection.

There are others who argue that S. 1127 will go too far, that it will add more than $6 billion to Medicare spending by fiscal year 1992 and that the new premium mechanism is a radical departure for Medicare that will financially burden the elderly and disabled. To these critics, I would point out that many older Americans now cannot afford supplementary "Medi-Gap" insurance policies, whose costs reflect an added administrative load of 30 percent on average. While the program offered by S. 1127 will be voluntary, I have heard over and over again from older Americans that they are willing to pay the costs of this added protection against catastrophic expenses, and in this spirit, S. 1127 will not cost the Federal Government one additional penny. I ask my colleagues, is a spending increase of $6.7 billion in fiscal year 1992—an estimated Medicare increase of 4.7 percent—too much to pay for 8.1 percent of enrollees who will no longer face an untenable choice between foregoing needed health care and impoverishment?

Let me turn now to describing the basic benefits and financing of S. 1127. Under S. 1127, any Medicare beneficiary enrolled in part B of the program, which is voluntary, will receive catastrophic insurance protection. In 1988, beneficiaries' liability for out-of-pocket costs for Medicare covered services would be limited to no more than $1,700. This amount would be increased each year based on the increase in the Social Security cost-of-living adjustment, the same index applied to increases in Social Security benefits.

Under S. 1127, there are several significant improvements in hospital and post-acute care benefits. The elderly and disabled would be required to pay no more than one hospital deductible annually, and would be eligible for 365 days of hospital care annually. As in the President's proposal, Medicare hospital coinsurance, which currently is imposed on patients with the longest stays, would be eliminated.

Unlike the administration's catastrophic insurance proposal, S. 1127 includes significant improvements in Medicare's skilled nursing facility [SNF] and home health benefits, which are a critical component of the transition to recovery after an acute illness. The bill eliminates the 3-day prior hospitalization requirement for SNF care. Beneficiaries would be entitled to 150 days of SNF care per year, and, more consistent with private insurance practice, would pay for up to 10 days of coinsurance at the beginning of an SNF stay. Currently, Medicare benefits are limited to 100 days per spell of illness and patients who stay more than 20 days must pay coinsurance. SNF coinsurance under S. 1127 would be set at 15 percent of the national average cost of an SNF day. Under the current coinsurance of one-eighth of the hospital deductible, daily coinsurance can exceed the total cost of a patient's care.

S. 1127 clarifies the current law requirement that a patient be "homebound" to receive the home health benefit and that Medicare covers 3 weeks of daily home health care, which I hope will bring some national consistency to this important post-acute care benefit. Under the bill, patients discharged from a hospital or SNF would be entitled to 45 days of daily home health care, more than twice the number of days permitted under current law.

Under S. 1127, the current limit of 210 days of hospice care would be eliminated altogether.

The bill abolishes the "spell-of-illness" concept for beneficiaries enrolled in part B. This concept is unique to the Medicare Program. Its application is administratively complex and confusing to beneficiaries and their families.

S. 1127 makes several improvements in part B benefits as well. Beneficiaries receiving immunosuppressive drugs after an organ transplant would be allowed to count the cost of these drugs—which Medicare does not reimburse after the first year—toward the $1,700 cap. In an effort to encourage preventive health care and early intervention when the potential for catastrophic illness is discovered, beneficiaries would also be able to count the costs of routine cancer detection—mammography and colorectal examinations—toward the cap.

The Committee on Finance recognized the important role that private MediGap insurance plays for the 65 percent of the elderly. S. 1127 strengthens this private sector role while making Medicare benefits, and the benefits of supplementary insurance, less confusing for beneficiaries. I am grateful to my colleague Senator BAUCUS for his continued leadership in adapting the Federal standards for these policies to the new benefit package under the bill. Under S. 1127, beneficiaries would be notified annually of Medicare coverage rules, which I hope will help the elderly and disabled become better informed consumers as they purchase private MediGap insurance. The HHS Secretary would be required to work with private insurers and representatives of the elderly to develop these notices.

As I indicated earlier, S. 1127 requires a study of alternatives, including private-sector options for the financing of long-term care, and a study of prescription drug coverage under Medicare.

The Committee on Finance discussed at length changes in Medicaid as part of S. 1127. Because expansion of Medicare benefits under the bill will permit States that "buy in" to Medicare for the low-income elderly to achieve some savings, the committee agreed that these savings ought to be reinvested in health care protection for the elderly and disabled who will bear the full cost of the new "catastrophic" benefits policy. Under S. 1127, the Secretary of HHS is required to estimate the savings to each State, and States would then use these savings to expand coverage of the elderly and disabled or to address spousal impoverishment by protecting a portion of joint income and assets of spouses of those individuals who must be institutionalized. The committee determined that these Medicaid changes are the best way to maintain the bill's premise of improving financial protection against catastrophic illness without imposing an excessive fiscal burden on the States.

Mr. President, the second part of S. 1127 deals with financing the new catastrophic benefits. Just as we have a responsibility to the elderly and disabled, we also have a responsibility to all Americans to ensure that the new benefits do not expand the Federal deficit.

In crafting a financing package, the members of the Committee on Finance felt very strongly that the new catastrophic benefit program should be self-financing, both for the short term and the long term. This Nation badly needs the benefits which will be provided by the new program, but it also needs a fiscally responsible way of financing those benefit improvements.

Because the budget deficit precludes us from simply increasing expenditures from the general fund, we were faced with two fundamental alternatives: Taxes could be raised for the population as a whole, or the program could be financed with a premium payable from those who benefit.

The Finance Committee decided on the latter approach. Only those who voluntarily choose to participate in the program will pay the premiums which finance the program.

To achieve the goal, it was decided that the additional premiums would be treated as an increase in the current part B premium. As such, they would be optional. If an eligible individual does not desire to receive part B coverage, he or she can elect not to participate in the program and thus avoid all premiums.

In designing the premium structure to finance the program, we followed two other priniciples—that all who benefit from the new program should pay something for the coverage, and that those with higher income should pay progressively more than those with lower income. In other words, the bill reflects the view that the financing mechanism for the new catastrophic benefits should be based, in part, on the ability to pay. Any other approach would place an unacceptable burden on low and moderate income elderly.

Under current law, eligible individuals are allowed to elect part B coverage if they elect to pay the part B premium. The part B premium for 1987 is $17.90 per month or $215 per year. S. 1127 finances the new catastrophic benefits with a two-pronged increase in the current part B premium. The first element of our proposal would be a flat increase of $4 per month, $48 per year, in the basic part B premium. The second element would be an additional increase in the part B premium of $1.02 per month for each $150 of income tax liability. We call this second element the "supplemental premium."

As with the current part B premium, the additional $4 increase in the monthly premium and the supplemental premium would be prorated based on the number of months during the year that the individual is enrolled in part B.

The supplemental premium would be capped to insure that no individual pays more for the benefits than the benefits are worth. In fact, every enrollee would continue to receive a sizable Federal subsidy.

The cap would be set at $800 per part B enrollee for 1988 and would increase by $50 per year through 1992. Thereafter the cap would be adjustable annually so that no individual would pay more than 65 percent of the value of the total benefits provided under part B plus benefits provided under part A which are added as a part of the catastrophic package. The cap would also be prorated based on the number of months during the applicable year that the individual is enrolled in part B.

Since the program is optional, the cap was set at a level which would not drive people out of the program. The Federal subsidy for the entire package for someone paying premiums at the cap will remain at a level between 20 and 35 percent of total costs. It would cost significantly more to acquire an equivalent benefit package from the private sector.

In addition, only a small percentage of beneficiaries will be paying at the cap. The Joint Committee on Taxation estimates that only 3 percent of beneficiaries will be paying the maximum premium. In order for a married couple who are both covered under part B to reach the cap, their actual income—before deductions, exemptions and credits—would have to be approximately $100,000 or more. A single individual would not reach the cap unless he or she had actual income well in excess of $50,000.

The premiums paid under S. 1127 are deductible on the enrollee's Federal income tax return in the same way that other payments for medical insurance, including the current part B premium, are deductible. In other words, the premiums are treated as a medical expense and may be deducted under Internal Revenue Code section 213 to the extent the threshold in that section is reached.

With enactment of S. 1127, the increase in the part B premium would be collected in two parts. The $4 per month increase in the basic part B premium would be collected at the same time and in the same manner as the current part B premium—that is, it would be deducted monthly from the Social Security, Railroad Retirement, or Civil Service check of the beneficiary. The supplemental premium would be collected at the same time and in the same manner as the enrollee's income tax.

Mr. President, I believe that this proposal equitably distributes the burden of financing the catastrophic benefits. All part B enrollees must pay something more, but not so much more than the premium will take an excessive portion of their income. According to the Joint Committee on Taxation, for those with income under $50,000, the percentage reduction in after-tax income would be about one-half of 1 percent.

The Joint Committee on Taxation has prepared a table showing the distributional effects of S. 1127. I ask unanimous consent that the table be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. BENTSEN. Mr. President, in addition, I ask unanimous consent that a set of tables comparing the additional premiums paid at various income levels under the committee bill be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BENTSEN. Mr. President, the package we are proposing is intended to be revenue neutral over the next 5 years, as estimated by the Congressional Budget Office and the Joint Committee on Taxation. In other words, the proposal collects enough in additional premiums to pay for the benefits provided.

Moreover, both the basic premium increase and the supplemental premium would be indexed directly to increase in the cost of the catastrophic benefits provided under the proposal. As a result, the financing mechanism will be linked to the cost of the benefits in the future. The overall package will not result in increased Federal deficits in the years beyond the 5-year revenue estimating window used by the Congressional Budget Office and the Joint Committee on Taxation.

Mr. President, in summary, the committee financing package is based on several underlying premises. First, that the program should be self-financing in both the short term and the long term. Second, that the costs of the program should be borne by those who derive the benefit from the program. Third, that all who benefit from the proposal should pay something for those additional benefits, but that premiums should be based, at least in part, on the ability to pay.

I believe that the committee bill achieves each of those objectives. By indexing the premiums directly to increases in the cost of the program, the bill ensures that the Catastrophic Benefit Program will remain self-financing. By combining a small increase in the basic part B premium with an innovative income-based premium, the bill raises the required revenue to finance the program in a fair and equitable manner. Finally, by tying the new premiums to the current part B premium, the bill imposes additional expense only on those who receive the catastrophic coverage; as with the current part B premium, a participant can voluntarily decide not to pay the additional premium by electing not to take part B coverage.

Mr. President, I ask my colleagues to support this bill.

It is a good bill.

It is a fiscally responsible bill.

It is a bipartisan bill.

And, most important, it is a bill that provides badly needed protection for the elderly and disabled Americans.

EXHIBIT 1

DISTRIBUTIONAL EFFECT OF S. 1127: MEDICARE CATASTROPHIC LOSS PROTECTION ACT OF 1987

[1989 law at 1989 income levels]

Income class (thousands of 1987 dollars)	Number returns [1] (1,000's)	Average change in premium per enrollee	Change in premium as percent of after-tax income [2]	Distribution of premium increase	
				Dollars in billions	Percent
0 to $10	8,000.5	$40	−0.6	0.3	7.9
$10 to $20	7,838.0	58	−0.4	0.5	12.6
$20 to $30	4,770.6	97	−0.3	0.6	14.7
$30 to $40	2,591.6	151	−0.7	0.6	14.0
$40 to $50	1,187.4	275	−0.9	0.5	10.9
$50 to $75	1,083.5	460	−1.2	0.7	16.4
75 to $100	406.1	736	−1.4	0.4	9.4
$100 to $200	342.0	836	−1.1	0.4	0.7
$200 and over	148.6	880	−0.3	0.2	4.4
Total	26,373.0	131	−0.7	4.3	100.0

[1] Number of returns includes elderly and disabled tax units that have no tax liability.

[2] Income concept does not include value of Medicare coverage or benefits.

Note.—Estimates take into account deductibility of premium as an itemized medical expense (under sec. 213 of the Code).

Source: Joint Committee on Taxation, July 30, 1987.

EXHIBIT 2

HYPOTHETICAL EXAMPLES OF SUPPLEMENTAL PREMIUM FOR ELDERLY TAXPAYERS UNDER FINANCE COMMITTEE BILL, 1988

Income [1]	Adjusted gross income	Tax liability [2]	Combined premiums—Finance Committee
Single returns.—One individual entitled to Medicare parts A and B (Income includes $5,000 of Social Security benefits):			
$11,700	6,700	150.00	60.24
$19,166	14,166	1,269.90	145.92
$42,202	39,702	7,200.00	635.52
$51,770	49,270	9,900.10	848.00
Joint returns.—Two individuals entitled to Medicare parts A and B (Income includes $7,500 of Social Security benefits):			
$18,600	11,100	150.00	$108.24
$34,555	28,332	2,734.80	316.32
$79,091	75,341	14,400.00	1,271.04
$96,010	92,260	19,650.30	1,696.00

[1] Income is defined as adjusted gross income plus untaxed social security benefits. Taxpayers are assumed not be have tax exempt interest or foreign-source income.

[2] Taxpayers are assumed to use the standard deduction, not to be blind, not to contribute to an individual retirement account, and not to be subject to alternative minimum tax.

Source: Joint Committee on Taxation, July 28, 1987.

Mr. BENTSEN. Mr. President, I send to the desk a modification of the committee amendment.

The PRESIDING OFFICER. Without objection, the committee amendment is so modified.

The committee amendment, as modified, is as follows:

Committee modification: replace pages 85, 102, 115, and 127.

Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding catastrophic coverage benefits and related administrative costs). In calculating the monthly actuarial basic rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

"(B) For purposes of this paragraph, the term 'catastrophic coverage benefits' has the meaning given to such term in subsection (g)(2)(C)(i).";

(4) in paragraph (1) of subsection (e) by striking "monthly actuarial rate" and inserting in lieu thereof "monthly actuarial basic rate"; and

(5) by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding any other provision of this section, except as provided in paragraph (3), the monthly premium otherwise determined under this section for an individual for each month in calendar year 1988 after January, and for every month in any succeeding calendar year, shall be increased by an amount equal to the applicable monthly catastrophic coverage premium amount for that year.

"(2)(A)(i) The monthly catastrophic coverage premium amount for 1988 for individuals who are covered by the insurance program under part A and this part shall be $4.

SEC. 11. STUDY OF TREATMENT OF PRESCRIPTION DRUGS.

(a) STUDY REQUIRED.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall request the National Academy of Sciences, acting through the Institute of Medicine (in this section referred to as the "Academy" and the "Institute", respectively), to enter into a contract under which the Institute, in consultation with representatives of appropriate research and health-care organizations, will conduct a study to identify additional drugs, available by prescription only, the expenditures for which might appropriately be covered under title XVIII of the Social Security Act or be treated as out-of-pocket medical expenses (as defined in section 1861(ff)(3) of the Social Security Act) for purposes of making the determination described in section 1861(ff)(1) of such Act. The study shall include analyses and recommendations with respect to appropriate limitations on the amounts to be recognized as reasonable for such purposes.

(b) STUDY EXPENSES.—The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study required by subsection (a).

The Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund amounts necessary for funding such study.

(c) REPORTS.—

(1) Not later than six months after the date of the enactment of this Act, the Institute shall submit to the

(A) (the effect that impending demographic changes (both near-term and long-term) will have on the various approaches to service utilization and funding, and

(B) the effect that membership in different socioeconomic groups has on the need, and ability to pay, for long-term care.

(3) The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study required by paragraph (1).

The Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund amounts necessary for funding such study.

(4) Not later than October 1, 1989, the Institute shall submit to the Secretary, to the Committee on Finance of the Senate, and to the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report that—

(A) describes the study conducted under this subsection,

(B) includes a statement of the data obtained under the study, and

(C) specifies administrative actions and changes in law that the Institute considers to be appropriate to implement the findings of the study. (as added by section 5 of this Act) shall apply to months after January, 1988.

(5) The amendments made by section 6 shall apply to taxable years ending after December 31, 1987.

(6) Sections 8 through 20 shall be effective as provided in such sections.

Mr. PRESSLER. Mr. President, I commend the Senator from Texas on his remarks.

I ask unanimous consent that my name be added as a cosponsor of the amendment.

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

Mr. BENTSEN. We are glad to have the distinguished Senator as a cosponsor of this piece of legislation. It will be of considerable help.

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. BENTSEN. 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. SASSER. Mr. President, I rise today to offer an amendment that is directly related to the field of catastrophic health. My amendment would promote the field of geriatrics, that is, specialized medicine for the elderly. This amendment, which is similar to my bill, S. 1112, would establish centers of excellence for geriatric training at 10 medical schools throughout the country. However, I understand that the distinguished chairman of the Finance Committee would like to keep this bill free of extraneous amendments.

Mr. BENTSEN. Mr. President, the Senator from Tennessee is correct. I wonder if the Senator's concerns could be accommodated on a more appropriate vehicle for his amendment. For example, the Public Health Service Act will be considered in the Committee on Labor and Human Resources and would seem an attractive vehicle for such an amendment. Does the chairman of that committee wish to speak to this possibility?

Mr. KENNEDY. Yes, Mr. President, I support Senator SASSER's efforts to improve the quality of health care for our Nation's elderly and I would be pleased for him to attach this amendment to legislation reauthorizing the Public Health Service Act. The Senator has my assurances that this reauthorization bill will be before the

Senate early in 1988. Furthermore, I would indicate to the Senator from Tennessee that I will support his amendment at that time.

Mr. SASSER. I am very grateful to the Senator from Massachusetts. Based on his assurances, I will withhold my amendment at this time. I will offer the amendment when the Senate considers the reauthorization of the Public Health Service Act early next year.

Mr. MATSUNAGA. Mr. President, I rise in support of S. 1127. At the outset I would like to commend the chairman of the Finance Committee, Senator BENTSEN, for his leadership in bringing S. 1127, the Medicare Catastrophic Prevention Act of 1987, to the floor of the Senate. While Congress has been making changes in the Medicare Program over time, the legislation we are considering today, represents the first major reexamination of coverage in the 22 years since the inception of Medicare.

Many individual beneficiaries and organizations representing elderly individuals have observed that S. 1127 and the House version, H.R. 2470, only go part of the way in providing protection against high out-of-pocket health care expenses. I agree. Nevertheless, S. 1127, of which I am an original cosponsor, is an important step in the right direction.

S. 1127 establishes an annual limit of $1,700 on out-of-pocket expenses incurred under part A and part B for Medicare-covered services. This catastrophic cap is indexed to the annual Social Security cost-of-living adjustment.

The bill provides protection for those needing repeated or extended hospitalization by eliminating all hospital coinsurance and the current limit on the number of hospital days. Only one hospital deductible would be required. The 3-day prior hospitalization requirement for Medicare-covered skilled nursing facility care, or SNF care, is also eliminated. Beneficiaries may receive up to 45 days of daily home health care it they have been in a hospital or skilled nursing facility. S. 1127 also eliminates the current 210-day limit on hospice coverage for all beneficiaries.

In addition, this legislation counts costs for immunosuppressive drugs, mammography, and colorectal examinations toward the catastrophic cap. It also improves standards for private insurance Medicare supplemental policies and requires the Secretary of Health and Human Services to notify annually each Medicare beneficiary of the benefits available and categories of health care not covered under Medicare and Medicare payment limitations.

The catastrophic benefits are financed through a combination of a basic $4 monthly premium and an income-related supplemental premium. After 1988, the basic premium increase would not exceed the beneficiary's Social Security cost-of-living increase. The supplemental premium is capped and would be collected by the Internal Revenue Service.

The method of financing the additional benefits is based on the following principles: First, catastrophic coverage should be voluntary like current part B Medicare covered; second, the funding method should cover the costs of the additional coverage; and third, and those benefiting from the additional coverage should pay something for it, but the burden should be based partly on the ability to pay.

Mr. President, I remain concerned, along with members of the Finance Committee over the current inadequacies of the Medicare outpatient mental health benefit, which remains unchanged since the beginning of the Medicare program. Earlier this year I introduced S. 718 to remove the current $250 a year limit on outpatient psychiatric treatment. This maximum, in constant dollars, buys only about $57 worth of care today. The benefit cap would have to be raised to $1,100 a year in order to give beneficiaries equivalent purchasing power. During the Finance Committee markup of S. 1127, I was prepared to offer an amendment to expand the outpatient mental health benefit. I held off; as did several of my colleagues interested in improving this benefit, in order to hold hearings and to develop a more comprehensive proposal to reform the Medicare mental health benefits.

There are certainly other areas of the Medicare Program that need to be improved. There are many uncovered services which add up to high out-of-pocket expenses for beneficiaries including prescription drugs, eyeglasses, dentures, hearing aids, dentures, and balance billing charges. The area of greatest concern is that of long-term care services. With nursing home costs estimated to average $29,000 per year in 1987, such expenses are a disasterous financial drain for most individuals and families.

S. 1127 does make some improvements with regard to long-term care. For example, the bill eliminates the 3-day prior hospitalization requirement for SNF care and expands covered days for home health care and SNF care. In addition, S. 1127 requires an institute of medicine study of public and private options for long-term care financing and service delivery. The Secretary of the Treasury also is required to study tax incentives for long-term care insurance.

During the June 12, 1987, Health Subcommittee hearing of the Senate Finance Committee on the financing of long-term care, the witnesses agreed that the solution to the problem of financing long-term care must come from both the public and private sectors. No single source of funding, whether it be private insurance, or public programs such as Medicaid, can meet the long-term care needs of everyone who will require such services. Mr. President, I would like to take this opportunity to commend the Senator from Maine [Mr. MITCHELL], chairman of the Finance Committee's Health Subcommittee for his active leadership in examining this most complex and pressing problem.

Mr. President, I believe S. 1127 makes significant progress in filling some of Medicare's gaps with savings in administrative costs for providing the additional coverage as compared with MediGap policies. I urge my colleagues to approve this progressive legislation.

Mr. CHILES. Mr. President, I support the Medicare Catastrophic Loss Prevention Act. I do so with the expectation that we will make some changes here on the Senate floor to make it a stronger bill.

I cosponsored the original bill when it was introduced by the chairman of the Finance Committee, Senator BENTSEN. I said then, and it is still the case, that this bill is a vitally important first step toward protecting the elderly from catastrophic health care costs.

The bill makes important and long overdue Medicare improvements. It puts an annual cap on the total amount of out-of-pocket costs borne by all Medicare beneficiaries. On average, beneficiary liability would be reduced by 22 percent. For the first time it authorizes payment for long hospital stays which now represent a catastrophic expense for beneficiaries—for some, thousands of dollars. It expands coverage for home health visits, skilled nursing home stays, and hospice care. And it provides for additional Medicaid payment for out-of-pocket health care expenses of the low-income elderly.

The bill before us represents the largest expansion of Medicare benefits since the program began. It is a truly historic step.

Even so, we all recognized that the original bill did not take care of all the catastrophic health care costs for the elderly. We recognized that the costs of nursing home care, constituting the single largest catastrophic health expense for many elderly, were not included.

We recognized that coverage for prescription drugs, another truly catastrophic expense for many elderly with chronic conditions, was not included.

SUPPORT FOR COVERAGE OF PRESCRIPTION DRUGS

Since the time we originally introduced the bill, a number of my colleagues have been spending a great

deal of time wrestling with these issues, particularly with the issue of coverage for prescription drugs. I think we will have an opportunity to add important drug coverage to the original committee-reported bill here on the Senate floor, and I anticipate supporting that amendment.

LONG TERM CARE—THE NEXT STEP

On the vital issue of long-term care, I intend to offer an amendment to establish a congressional, Bipartisan National Commission on Comprehensive Health Care. The Commission would make detailed recommendations to Congress for legislative initiatives to assure access for the elderly and disabled to comprehensive long-term care services.

Mr. President, I would like to think we could now make this bill a truly comprehensive one by adding financing for long-term care. But we are not yet ready to do that. There will be a tremendous cost involved. The Medicare Program cannot sustain that cost. The budget can't absorb that cost.

Nonetheless, we cannot put off this issue much longer. The bill we have before us now is a huge first step in plugging the gaps. But we all know that there is yet another, even larger, step which must soon be taken. We can no longer ask the elderly to sustain the entire cost of long-term care. We have to make plans to bite the bullet and formulate a national policy on long-term care in the very near future. That is what I expect the Commission to set in motion.

PREMIUMS MUST BE KEPT AS LOW AS POSSIBLE

Mr. President, there is another issue in this bill which has to be squarely addressed.

I know I speak not only for myself when I say that many of us have had some rather sobering experiences recently talking with elderly constituents who have concerns about the costs of this bill—and how much they will have to pay through additional premiums. That has been a concern to many even without the addition of a new benefit, such as drug coverage. There are many elderly who fear that the premiums charged to pay for these new benefits will escalate rapidly beyond their own ability to pay.

Certainly we have had that experience with Medicare before. It is very difficult to predict accurate future costs for Medicare benefits. I think it is safe to say that when we have made a mistake—and that has happened many times—our mistake was always on the side of being too conservative in our cost estimate.

We are paying for our errors now—tightening up on reimbursement to hospitals and doctors to save the basic program. We've done a lot of unpopular things over the last few years, and we're not finished yet. There'll be more. And we'll continue hearing from providers.

But we also hear from the elderly, who are affected more than anyone else. As the costs rise in the part B side of the program, their premiums rise. We've just had an announcement of the largest single premium increase in the history of the program—an increase necessary under current law because part B costs per Medicare enrollee went up by 22 percent during the first 6 months of this year.

And now we are about to pass a bill in which the elderly themselves will assume the full costs of new catastrophic benefits through part B premiums.

It would be disastrous if we were to embark on this without doing everything we could to make sure that we have the tightest cost controls possible. One of the most important things we can do with this bill is to be as cautious as we possibly can to make sure that the premium amounts are kept well within affordable ranges.

I know that members of the Finance Committee are sensitive to this issue also. The bill crafted by the committee pays careful attention to the impact of the additional premiums on middle-income elderly, and it is much fairer than the premium structure in the House bill. There is a cap on the amount of supplemental premiums which would be paid in any one year in both bills. In the Senate bill, that premium cap would not be hit by an individual until income levels are about $60,000. In the House bill, however, the cap would be reached at an income level of about $20,000.

Mr. President, we have what seems to be a dilemma here when we talk about our concern for premiums, and yet we want to increase the costs of the program by adding benefits. But I am convinced that most of the elderly who will be paying for these new benefits are going to be more willing to do so if drug coverage is included. Many more people will benefit from drug coverage than from the basic protection against catastrophic acute care costs.

And I applaud the action of the bill sponsors to hold the line on prescription drug costs. Several steps have been taken to keep bill costs and premiums down. I hope by the time we get into conference with the House on this bill, we might be able to find even more ways to contain costs.

Mr. President, this issue of keeping premiums affordable is so important to the success of the new catastrophic program that I intend to offer an amendment instructing the conferees to make this their No. 1 priority as they make final decisions on items in this bill.

I think we will see the Senate pass a good solid bill—one with affordable premiums, one which includes valuable prescription drug coverage, and one which makes every effort to see that future costs are contained. We need to make sure we preserve that balance in the final product.

Mr. BENTSEN. 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. PRESSLER. 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. PRESSLER. Mr. President, I ask unanimous consent to speak on another subject.

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

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I rise to speak on the Sioux Nation Black Hills land claim, the so-called Bradley bill. This bill would give to certain Indian tribes in South Dakota the public lands in western South Dakota.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. PRESSLER. Yes.

Mr. BYRD. Is this a matter that is germane to the pending business?

Mr. PRESSLER. No; it is not.

The PRESIDING OFFICER. No; but the Senator received consent to speak on another matter.

Mr. BYRD. He did. For what length of time, may I ask?

The PRESIDING OFFICER. No time.

Mr. BYRD. Would the Senator give us an idea of how much time he would need?

Mr. PRESSLER. Five minutes.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

BLACK HILLS LAND CLAIM

Mr. PRESSLER. Mr. President, I rise to speak on the Sioux Nation Black Hills Act, S. 705, a bill that would give much of the Federal lands in western South Dakota to certain Indian tribes.

This matter has been a point of contention in our State for many years. Recently a number of editorials were run in South Dakota newspapers expressing adamant opposition to the Sioux Nation Act. These editorials echo the position of the entire South Dakota congressional delegation which opposes this piece of legislation.

In 1980, the Supreme Court upheld an earlier Court of Claims ruling granting monetary compensation to the Indian tribes for the land in question. I felt very involved in the Supreme Court ruling since I supported

efforts, while serving in the House of Representatives, to waive res adjudicata and bring the matter before the Supreme Court.

The Supreme Court ruled that the Indian tribes were entitled to over 100 million dollars' worth of compensation. This judgment award has now grown to nearly $200 million because the tribes have refused to accept the money.

Now, the tribes are attempting to receive legislatively what they failed to be awarded through the judicial branch of Government.

Mr. President, I know that there are many sides to this debate, but a vast majority of the citizens of our State have opposed this legislation very strongly. In fact, many Indians are opposed to it because they believe that the compensation should be distributed among the Indian people. The Indians realize that the possibility of getting these lands is very slim. Even if the tribes received the lands, they may not be any better off financially.

The issue of returning the Black Hills to the Sioux Nation has been largely romanticized by Members of the Senate and the House, many from east coast States, who have cosponsored this legislation. I understand the House companion bill, H.R. 1506, now has about 17 cosponsors, and 3 Senators have added their names to S. 705.

Mr. President, I shall be submitting as an attachment to this speech an historical article surrounding this subject. I also will be speaking on the Senate floor from time to time, as I have done previously, to provide the Senate with additional facts on this matter.

Furthermore, I have asked the author of that legislation for a potential series of debates in the public arena on the Sioux Nation Act legislation because the actual historical and legal facts surrounding the issue are quite different from the public's perception of this issue.

Mr. President, also let me say that the existence of this bill has heightened racial tensions in our State, which greatly concerns me. I have worked very hard to be close to the Indian people of our State during my time in public service. I was one of the original authors of the Tribally Controlled Community College Act and have cosponsored reauthorization of this act several times. I have been honored by Sinte Gleska College, a tribal college in my State and I continue to work closely with all of the Sioux tribal leaders. Indeed, a large portion of my time is spent on working on Indian matters. I am personally acquainted with many of the Indian leaders and tribal leaders in our State.

Over the years, I have had senior citizen advisers who are from the Indian community and I have spent a great deal of time on our reservations.

So I come to this subject as one who has done his homework, so to speak, but I am very concerned about the very existence of this bill and the reasons behind its introduction.

Recently, the author struck language from the bill which gave the Sioux additional portions of Federal land in Wyoming. I felt that this was a political move to narrow the congressional delegation opposition down to one State. However, our neighbors in Wyoming should be aware that if this bill is passed, I am sure there will be legislation introduced to take in Wyoming based on precedent.

Mr. President, this is not Indian lands question, it is a public lands question.

The lands in question are now open to the public, Indian and non-Indian alike. I feel that is fair to all who enjoy the beauty and majesty of the Black Hills.

Mr. President, my time has expired. I have additional historical material I would like to add to this and so I ask unanimous consent that an article written by Watson Parker, professor emeritus in the Department of History at the University of Wisconsin—Oshkosh, appear in the RECORD after my remarks. Watson Parker delivered his article on the Black Hills controversy at a 1984 history conference in South Dakota, and I believe his research sheds an important light on this subject. I thank the Chair and thank the leader for the opportunity to speak.

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

THE BLACK HILLS CONTROVERSY

(By Watson Parker)

The problems of the Sioux Indians and the Black Hills have over many years developed into a highly emotional and increasingly misunderstood tangle of sympathies, treaties, laws, Acts of Congress, and the decisions of many courts. The more there is to know about this controversy over the Black Hills the less those who talk and write about it seem to know about its details, and the more deeply their emotions seem to become involved in what they have to say. A hundred and ten or twenty years ago fervent statements excoriating the Indians and in favor of the government position, as well as expressions of heartfelt sympathy for the Indians were heard, although nowadays such fervency seems to be more exclusively pro-Indian. Some thirty years ago I myself wrote about this controversy in a way in which, if it contained no gross inaccuracies, was at least highly flavored by my own sympathies and emotions. And a few years ago I met a young journalist who had prepared a vigorous account of the Treaty of Fort Laramie of 1868, without ever having read that document. All of these things, and of course many more examples of similar writings and orations, set me to thinking about this whole issue of the Sioux and the Black Hills, and I decided to look into the matter in as much detail as I could assemble, and to share with you this evening what it seemed that I had found.

To begin with, it seems to be almost an article of faith with anybody who mentions the matters nowadays that the Sioux Indians had lived in the Black Hills from the time immemorial, and there in the heart of those high and rugged mountains they worshipped the Great Spirit, and that they were somehow immorally and illegally driven out of the area by the evil machinations of the white man and the federal government. This is the way that most people think about the matter, and it is apparently the way they like to think about it, and I am somewhat loath to disturb so comfortable and so long-standing a belief. Inasmuch, however, as the way to succeed in history is to find something that everybody believes and then try to prove that it isn't so, I hope that I may be pardoned if I, at a Conference of Dakota History, endeavor to give a more full, and I hope more accurate, account of this whole controversy of the Sioux and the Black Hills, disturbing perhaps a few beliefs, and joggling a few of the popularly held but insecure assumptions.

Let us first grapple with the related notions that the Sioux lived long in the Black Hills, and that the area was a sacred one to them. To begin with, when the French first made contact with the Sioux these Indians were east of the Allegheny Mountains.[1] Under pressure from eastern tribes they moved westward, reaching Minnesota about 1630. Nothing in recent Sioux tradition seems to place them anywhere else but along the headwaters of the Mississippi. As the noted Dakota historian Doane Robinson put it:

"I have been told by a grave old man of one of the bands that the Dakota come from the far-off land of the setting sun, and within the hour another equally reverend old romancer of the same band has informed me that they come from where the sun rises.

"No reliance whatever may be placed upon their inventions unless collateral matters may be found in substantiation.

"According to all of their traditions they originated north of the Mississippi, about the Mille Lakes of northern Minnesota." [2]

Furthermore, the Sioux, once they got the horse about the middle 1700's, were a wide-ranging, nomadic people, and their presence was occasionally noted from as far north as Hudson's Bay clear down to the Gulf of Mexico, and from the Alleghenies westward to the Rocky Mountains.[3] To say that this gave them some kind of an ancestral claim to any particular area of the West is a bit like saying that a tourist has an ancestral claim on Yellowstone Park because he was once a summer visitor in its vicinity. Nor were Indian notions of land occupation and ownership like those of modern times. They thought of the land much as the ocean fisherman thinks of the sea, as a resource over which they roamed but which it was not possible to claim as a personal or even a tribal possession.

In 1804 Lewis and Clark's map of the locations of the various western Indian tribes showed the Sioux no farther west in Dakota than the banks of the Missouri River, with the Cheyennes in the general area of the Black Hills. In 1822 or so, the Crows vigorously protested Sioux incursions around the Black Hills, and were badly defeated at "The Hill Where the Crows Were Killed" somewhere to the north of present-day Belle Fourche.[4] Sometime in the middle 1800's—and I have seen it put as late as the

Footnotes at end of article.

1850's—the Sioux encountered and defeated the Kiowas in a bloody battle on what is now called Battle Mountain near Hot Springs. By 1856 Lieutenant G. K. Warren, the famous map maker of the west, encountered Minneconjous, Uncpapas and Blackfoot Dakotas hunting in the vicinity of Inyan Kara Mountain, just over the South Dakota border in Wyoming.[5] All of this is, I think, an indication that the Sioux came rather late to, and had to fight for, the area around the Hills. The very earliest estimates of their presence in the area bring them there in 1776,[6] the year of the American Revolution, and from that time onward they encountered fierce resistance from the Plains tribes already there. If the Sioux wandered in the area of the Black Hills no more than two or three generations it is hard to see how in that short and hectic period they could have worked the Hills up into a religious area; there just wasn't time, I think, to sanctify the Black Hills properly.

Nor were the Sioux—or any other tribes—actually very much in the Black Hills themselves, that wooded area which lies within, but does not completely fill, the land between the Cheyenne and Belle Fourche Rivers in southwestern South Dakota. Almost any primitive people who came near the Hills tended to camp and hunt in the foothills were game was more plentiful, the slow-growing jack pines needed for tepee poles were more readily available, and the land was more easily traversed, for the diligent beaver who flooded the Black Hills valleys made travel through that country on horseback nearly impossible; I know, for I have tried it. The many opportunities for hostile ambush in a land so long disputed made trips into the higher Hills seem dangerous as well as difficult, and let any responsible family man to prefer to camp on the perimeter of the area. No doubt young men then, as young men now, occasionally went higher into the Hills in search of adventure—and if they found members of an opposing tribe, or a den of grizzly bears they no doubt found all of the adventure that they wanted—but in the main, almost everybody stayed out of the Black Hills.

Indeed, this is exactly what the Indians said themselves. As old Robe Raiser told Colonel R.I. Dodge in 1875.

The Indians never lived here, and did not and would not live here now; they did not want the country, and would have sold it or given it away long ago to the whites, but the "squaw men" about the reservation urged them to make a "big fuss" and they would be sure to get a "big price." [7]

Robe Raiser himself had been around the Hills all his life, but had never come into them until he accompanied Colonel Dodge and the Jenny expedition into the Hills during the summer of 1875. Dodge also noted, as did the geologist Walter P. Jenney, that the nearly ineradicable trails made by dragging tepee poles were nowhere to be seen within the Hills, and from this negative evidence they surmised that no significant occupation of the area had ever taken place.[8] That same year another Indian, Crow Feather, reported to the Commissioners of 1875 that he had camped all around the Black Hills but had not, apparently, ever ventured to go inside of them.[9]

In 1932 Chief Standing Bear, recalling a happy childhood, wrote that the Lakota and the buffalo had both entered the Black Hills through a pass—which he identified as present-day Buffalo Gap—"which in places narrowed so that the tall pines at the top of the cliffs arched their bows, almost touching as they swayed in the wind." [10] Nobody who had ever actually passed through Buffalo Gap could imagine that it was such a ravine, or that it was so narrow that branches could almost touch across it. A memory like Standing Bear's memory may be valuable as literature but as evidence of his having been in the Hills the critical reader will find it to be in some ways defective.

Part of the Indian avoidance of the interior of the Black Hills (and the inner Hills are singularly devoid of Indian, or even aboriginal, artifacts) may have derived from a superstitious dread of the rumbling thunder, the vicious and all too noticeable strokes of lightning which shattered the tall pines, the frequent forest fires, and the existence of vague legends of long standing which portrayed the Black Hills as a forbidden as well as a somewhat forbidding land. Edwin Thompson Denig, for many years a fur trader along the Missouri River, wrote in the 1830's that.

"Much superstition is attached to the Black Hills by the Indians. The principal peak, called The Hill of Thunder, is volcanic and in 1833 was in almost constant eruption. The Indians believe a Great White Giant was buried there." [11]

There does not seem to be any volcano in the Hills, and none around them that could have been active so recently. Perhaps Denig's informants confused a long-smouldering forest fire in the Black Hills timber for a volcanic eruption. At any rate his story is typical of the legends which surrounded the area.

Similarly the Reverend Samuel D. Hinman, who visited the Hills with a military escort during the late summer of 1874, and who was extremely sympathetic to the Sioux, reported that the Hills were said by the Indians "to be inhabited by the thunder-gods, ever angry and jealous with hot displeasure at intrusions upon their sanctuary and mountain home." He went on to point out that the Black Hills were attractive only in comparision to places like the neighboring Bad Lands.[12]

Other recollections of the Hills as a sacred place of the Sioux seem to trace back to the 1930's memoirs of Black Elk (the father, I believe of Ben Black Elk, whose gentle dignity so long graced the terraces viewing Mount Rushmore) who recalled, as recorded by John G. Neihardt, going to the top of Harney Peak in order to obtain a vision. Alas for evidence: he went there not in reality, but in a dream. It is easier to visit Harney Peak that way than it is to go on foot: I've tried both.[13]

Throughout the record of the negotiations for the sale of the Black Hills, negotiations which were conducted in 1875 and 1876, the reader will search in vain for any indication that the Sioux sellers regarded the area as in any way sacred or holy. In the words of the old joke, they were merely "haggling about the price." They did not ask for compensation for sacred sites surrendered, or for permission to visit such sites within the Hills, or make any reference to sacred sites at all. This lack of any real use of the Hills for religious purposes has been nowadays converted into evidence of the sacredness of the area: modern claimants allege that the Hills were so Holy that their ancestors didn't live in them at all, or even go anywhere near them.[14] This is, of course, one of the advantages of declaring a spot sacred: you can from that simple allegation derive almost any argument you want. This, perhaps, is why the federal government today tends to view such claims with a somewhat jaundiced eye.

Lastly, this whole notion of the Black Hills as a holy land seems to have been, except for the kind of legends, just cited, a fairly recent invention, created for the tourists by Black Hills publicists after the first World War; for a good many centuries prior to that time the Sioux religion had gotten along without the Black Hills, and it is easy to see why this would be so, for having come into the Black Hills area relatively recently the Sioux would not, as already remarked, have had much time to build it up into a legendary shrine.[15]

Viewed in this manner, on what is of course only a sampling of the evidence, it does seem that claims that the Sioux occasionally make nowadays that the Black Hills were their religious and ancestral home should probably not be taken too seriously: not much evidence supports such claims, and a good deal of evidence refutes them. Let us turn, now, to the way in which the Sioux did achieve a legitimate title to the Black Hills and to much else, and to the way in which they surrendered that brief title.

Treaty-making with the Sioux seems to have been a sort of a hobby with the government of the United States. As early as 1805 Lieutenant Zebulon Montgomery Pike bought from the Sioux the site of what was to become Fort Snelling at the mouth of the Minnesota River, the present location of the thriving little village of Minneapolis.[16] In 1815 a treaty "re-establishing peace and friendship" with the Sioux of the Lakes was signed at Portage des Sioux as the federal government continued its endeavors to preserve the peace of the frontier.[17] In 1825 various additional treaties with the Teton, Yancton, Yanctonies and Oglala Sioux "for the purpose of perpetuating the friendship" of all concerned were agreed to at Fort Lookout on the Missouri River.[18] In 1851, at Fort Laramie, the "Sioux or Dahcotah" and the United States agreed "to abstain in future from all hostilities whatever against each other" and the Sioux recognized the right of the United States to establish roads and military posts within the Indian territory, in exchange for which the United States agreed to pay the Indians the sum of $50,000 a year for ten years, a payment which could be continued for five years more if the President so decreed.[19] In 1858 treaties with the Yankton Sioux and the Sioux in Minnesota and with the Sisseton and Wahpeton bands provided for various land cessions and payments, and pledged, again, that all concerned would be peaceful and well-conducted toward each other.[20] The Civil War and the bloody Sioux uprising and reprisals in Western Minnesota in 1862 of course lapped over into the Dakotas and did much to exacerbate ill-feeling between both peoples in those areas. In 1865, however, treaties with the various Sioux tribes, again involving peace and payments, were agreed to, but again it didn't seem to do much good, and resulted only in the various Sioux depredations along the Bozeman trail in Wyoming and Montana, hostilities which came to be known as "Red Cloud's war." [21] In accordance with the Treaty of 1851 the United States Army had established Forts Reno, C.F. Smith and Phil Kearny along the Bozeman Trail, but by 1868 Indian hostilities forced the Army to abandon or to agree to abandon all of these posts, and in 1868 the defeated United States was forced to agree to the famous Treaty of Fort Laramie of that year,[22] in which the government acquiesced in the

Sioux conquest of various lands which up to that time had been vigorously disputed by other western tribes.

The Treaty of Fort Laramie of 1868 provided the Sioux with a title to a reservation comprising the western half of what is today South Dakota, from the Missouri River westward to the Wyoming border, thence northward to a line just north of the present boundary between North and South Dakota. In addition, hunting rights to the west of the reservation were agreed to, much to the irritation of the other western tribes, and especially the Crows, who thus saw what they considered their own lands given away to their enemies. The treaty prohibited, except for governmentally authorized personnel, white entry upon the reservation, and provided for small cash payments and for the erection of various educational and economic facilities of benefit to the Sioux. The treaty further provided that the federal government would provide the Sioux with rations for the next four years, and that any cession of the lands thus granted would require the approval of three-fourths of the adult male Indians, two provisions which we will shortly meet again.

The various Sioux tribes, on their part, undertook in the treaty to permit the construction of various roads and railroads then being built across the plains in their vicinity, and to keep the peace forever. A considerable number of the Sioux, under the leadership of Sitting Bull and Crazy Horse, did not agree to the treaty at all, but nonetheless by their acceptance of its benefits appeared to acquiesce in it. It is interesting to speculate on where the descendants of these "non-treaty Sioux" believe they get their claims to any of the reservation area. For all practical purposes, of course, acceptance by the tribes in general involved acceptance by the entire group, whether any band or member of the band had individually agreed to the treaty or not. It is from the interpretation of the combination of obligations and responsibilities granted and assumed, and in the existence of the "non-treaty Sioux" who enjoyed the benefits but did not accept the responsibilities of the treaty that much of the subsequent difficulty and many of the later misunderstandings have evolved.

To begin with, the Sioux did not keep the peace. The Record of Engagements of the U.S. Army, published in 1882,[23] recounts, year after year, robberies, rapes, thefts and murders committed specifically by the Sioux in areas outside their reservation, and it is likely that many of the other listed atrocities which were committed in appropriate areas but not identified as to the perpetrators may also be laid at their door. Furthermore, the Army for the most part recorded only the soldiers and scouts who were killed, leaving the other Indian and civilian deaths to be recorded by the civil authorities. By 29 June 1876, Dakota Representative Jefferson P. Kidder was able to present to Congress a list of what he termed "utter disregard of their treaty stipulations" identifying "more than two hundred American citizens" who had been killed, outside of the reservation area, by the Sioux since they had signed the treaty of peace at Fort Laramie in 1868, and none of these 200 deaths included the casualties incurred in the 1876 Sioux War or due to the miners' invasion of the Black Hills. These "nameless crimes the contemplation of which makes humanity's warm life-blood congeal at its source and stand still in its fastness"[24] seemed to Kidder, and to Congress, and may well seem to us today, to constitute a breach by the Sioux of those provisions of the Treaty of 1868 which promised that "from this day forward all war between the parties to this agreement shall forever cease." The Treaty of Fort Laramie had been negotiated with one purpose: to preserve the peace of the frontier, but almost from its signing that peace was broken repeatedly. As General George Crook put it in 1876, "the treaty has been regarded by the Indians as an instrument binding upon us but not binding on them"[25] and he pointed out, as had Kidder, that since signing treaty the "Indians have without interruption attacked persons at home, murdered and scalped them, stolen their stock, and in fact violated every leading feature of the treaty."[26]

If making treaties was a hobby of the United States government, making war was something of a hobby with the Sioux. The Plains sign language gesture for them was said to be a cutting of the throat, graphically indicating their inclinations and proclivities as these were apparently to their neighbors. As Lieutenant G. K. Warren pointed out when, in 1856, the Sioux that he encountered refused his presents if these might obligate them not to make war upon their enemies, "War with them was not only a necessity, but a pastime."[27] They repeatedly plundered the Crows to the north and west, and the Pawnees to the west and south, killing, in both cases, such white settlers and travelers as they might encounter in the process. In spite of the Treaty of Fort Laramie war still lay heavily upon the West.

Gold had been known to exist in the Black Hills since 1804 when the Spanish authorities in New Orleans were informed of it by Regis Loisel.[28] It was publicized in 1868 in J. Ross Browne's governmentally authorized account of the mineral wealth of the nation included in the Report of the Secretary of the Interior for that year, and it was publicized again by F. V. Hayden, who described his Black Hills gold discoveries in the foothills in the Proceedings of the American Philosophical Society in 1869.

It was not, therefore, to discover gold in the Black Hills that Brevet Major General George Armstrong Custer and his 7th Cavalry Regiment were sent into the area in the summer of 1874. Custer, as a glance at his instructions will show,[29] was sent out to reconnoiter a route to Bear Butte, to explore the Black Hills, and to find a site for a military post from which the ongoing depredations of the Sioux, northwestward into Montana and North Dakota, and southwestward into Nebraska and Wyoming, might be suitably controlled, and the Sioux coerced by military force into keeping the peace which they had agreed to keep. As might be expected of an exploratory expedition, Custer did take with him anthropologists, botanists, paleontologists, a geologist, and a couple of grizzled old "practical miners." The geologist didn't find any gold in the Hills at all, probably because he searched for lode deposits which are not easy to find around present-day Custer City, near which the General made his principal camp, but the miners did find gold in placer deposits in the valleys.

The publicity given to Custer's gold discoveries—for he was not a man to hide his light under a bushel—coupled with already existing knowledge of gold in the Hills set off a series of gold rushes to the area. The first of these, usually referred to as "The Gordon Party" reached the area around present-day Custer about Christmas of 1874. Five military expeditions were sent out from the surrounding military posts to locate and extract these miners from the Hills, and the last of these the expeditions, that of Captain John Mix, succeeded in extracting the miners in April of 1875.[30] The publicity which the Gordon Party's discoveries and removal engendered of course led to still further miners' expeditions, more than one of which had its wagons burned by the Army and its personnel herded back under guard to the surrounding military posts, and by the summer of 1875 General Crook had come into the Hills with a major force to remove the miners, leaving behind a military post at Custer which continued to capture and expell any remaining or new invaders. Alas, the soliders in the Hills tended by their desertion to augment the numbers of the miners in the area, and in November of 1875 the troops at Custer were withdrawn, and by the spring of 1876 the miners flowed into the Hills in increasing numbers. It is sometimes alleged that it was this miners' invasion of the Black Hills, contrary to the Treaty of Fort Laramie, which initiated the subsequent Sioux War, but as has already been recounted, such a war was already an ongoing reality, and indeed later court decisions held that the miners' invasion of the Black Hills was not a factor.[31]

Thus, within a year before or after Custer's expedition to the Black Hills in the summer of 1874 three other important events took place: The Sioux continued their raids upon their neighbors; the miners entered the Black Hills, and, almost entirely overlooked in later histories, the rationing provisions of the 1868 Treaty of Laramie expired, and by 1876 the government had, even though hostilities were in progress, continued to spend millions of dollars to support the Sioux, who had not, as had been envisioned in the treaty, moved appreciably toward becoming self-supporting on their reservation. It is in this expiration of the four years of rationing that the key to subsequent Black Hills history appears. In the summer of 1875 a Commission appointed to treat with the Sioux reported that "nearly seven years have passed away [since 1868] and these Indians are no nearer a condition of self-support than they were when the treaty was signed," and the Commissioners concluded that "a failure to receive Government rations for a single season would reduce them to starvation. . . . The Government, granting large help which the Sioux are obliged to ask, is entitled to ask for something in return. On this basis of mutual benefit the purchase of the Black Hills should proceed."[32]

The Indians, however eager they might be to exchange the Black Hills which they had rarely visited for rations of which they could make good use, had a good notion of striking a bargain, a vague idea of the value of the Hills, and an unfortunate degree of ineptness with large numbers. The Commissioners suggested that a fair price for the Hills would be $6,000,000, or a lease for $400,000 a year, but the Indians, having heard of the gold in the Hills, suggested a price of $70,000,000, or possibly $700,000,000. It has been suggested, that they, being unfamiliar with figures of this magnitude, probably intended to ask for "seventy hundred thousands" or $7,000,000, a figure in actuality not far from the $6,000,000 which the Commissioners had offered.[33]

There is little question, when one reads over the discussions which took place with the Commissioners of 1875, that the Black Hills were for sale, and that the argument

was only over the price that should be paid for them: the Indians' remarks on the subject cast a clear light upon their attitude. Red Dog, for example, suggested that food and clothing for seven generations, plus horses, cattle, guns and ammunition, would be about right.[34] Little Bear enlarged upon this notion and said "we want to be helped and taken care of forever." [35] Spotted Bear wanted $70,000,000—or whatever he conceived was meant by that figure—and houses, farms, wagons, cattle and tools for all.[36] Red Cloud listed similar goods, so that in time it would be possible, as he put it, "to take a white man out of the Indians," a process which he correctly assumed would be a long and expensive undertaking.[37] Misunderstanding, the timidity of the Commissioners and the limited options left open to them by the government, and the increasingly hostile demonstrations of the Indians brought the negotiations of 1875 to an end without accomplishing anything, and indeed, inasmuch as the Indians went on receiving government rations to which they were no longer entitled, it may be said that the Sioux got what they wanted from the Commission without having to give up anything at all to get it. Negotiations with this sort of outcome have a tendency to make subsequent discussions even less fruitful than before.[38]

In 1876 the Sioux War of that year broke out as a result of the continuing depredations of Sitting Bull's band, some 3,000 Indians in all, providing some six or eight hundred warriors whose activities along the North Dakota and Montana trails was a considerable annoyance to travelers and surveyors in the area. These warriors, "plundering, robbing, and frequently taking the lives of settlers, but extending their hostilities to every tribe of Indians in their vicinity . . ." [39] made constant and often successful efforts to induce the more peaceful Indians on the reservation to join the hostiles in their warfare, and they thus formed, as one Indian agent put it, "an asylum for outlaws among the Indians." [40] It was for this reason that the Secretary of the Interior in December of 1875 ordered them all to return to the agencies where they could be controlled. Some of them complied, others showed a willingness to return when better weather permitted, but others not only didn't comply with the order but made it clear that they would never do so at all. It was on this basis that the Indians away from their agencies were, on 31 January 1876, declared to be hostile—as indeed in fact they were—and military operations aimed at returning them to their reservation were begun against them, much to the relief of both the Indians and the white men in the off-reservations areas which they were occupying.

It was against this dual background of ongoing war and imminent Sioux starvation that a second group of Government Commissioners met with the Sioux during the summer of 1876. An agreement was reached on 15 August 1876, but open hostilities continued well into 1877, even though the various tribes had by then already pledged themselves to "at all times maintain peace with the citizens and the Government of the United States," a point of agreement on which a three-quarters vote of approval by the male Indians was certainly not required. The government rations, too, continued during these hostilities, until at last in desperation the Congress threatened to withhold them totally if an agreement for peace, relinquishment of the Black Hills, and further rationing could not be amicably reached.

The Commissioners of 1876 were very sympathetic to the plight of the Indians, and noted that "at times they told their story of wrongs with such impassioned earnestness that our cheeks were crimsoned with shame." [41] Nevertheless, the Commissioners recommended to the government that "if they [The Sioux] do not consent [to this agreement], the government should withhold all supplies" [42] in order to coerce them into acquiescence. Allegations which were to surface during subsequent court battles that the Commissioners of 1876 got the Indian leaders drunk in order that some of them could be fooled into affixing their signatures to the agreement seem likely to be ill-founded. Were I a commissioner, bargaining in the midst of a hostile tribe with hostilities going on around me, the last thing I would want to do would be to provide liquor for anyone in the vicinity. In any case, such allegations of duress and undue influence were in 1942 found by the United States Court of claims to be without justification in the record.[43] At any rate, the agreement of 1876 was eventually signed by the leaders of the Sioux tribes, a delegation of authority common among the Indians of that day, and indeed the same process by which the Indians had ratified the earlier Treaty of Laramie, and the Commissioners, whose sympathy for the Indians was deep and pervasive, urged the Congress to enact this agreement into law, regardless of any conflicts which it might have with the Treaty of 1868. Perhaps it should be noted, further, that had the Commissioners been able to get the signatures of three-quarters of the male adult Indians on the agreement to cede the Black Hills, the same allegations of duress, chicanery, intoxication and deceit would have in later years been leveled against them. It is very hard to draw up a treaty of peace during wartime without incurring charges that duress was brought to bear upon the losers.

The agreement of 1876 [44] contained some little known and certainly interesting provisions. The provisions of the Treaty of 1868 in regard to peace and friendship were continued. The boundaries of the Sioux reservation, which had under the Treaty of Laramie of 1868 extended across South Dakota from the Missouri River to the Wyoming border, were markedly cut back to the Cheyenne River and the 103° meridian, but also extended to include 917,000 additional acres south of the Cannon Ball River in what is now North Dakota. Wagon roads across the remaining reservation to the Black Hills and the Montana mines were allowed, Sioux hunting privileges west of the Dakota-Wyoming boundary were abandoned, and in consideration of these concessions the government agreed to expand the Sioux Reservation into North Dakota, and to provide rations to the Indians "until the Indians are able to support themselves," a period which, of course, was indefinite, but which the Sioux Commissioners had indicated to Congress might well be for at least a generation. The government had bought, and the Indians had sold, the Black Hills, a bargain which subsequent generations appear to have confirmed by their continued acceptance of its benefits.

We now turn to the legal history of the various claims and court cases involving the Black Hills. It is one of the few times in my life that I have wished that I was a lawyer, so that I might better understand and more clearly convey to you the gist of what went on from the earliest claims on down to the present, continuing, ones. The heart of the matter appears to lie in three points: did the United States legally acquire title to the Black Hills; was the compensation, or as the lawyers say, "the consideration" suitable; and have the Indian claims for justice been adquately heard? The story is a complex and tangled one.

In 1884 an agreement was proposed between the Sioux and the United States to purchase a further section of the then existing reservation, and although the Indians refused to ratify this proposed agreement, and the Congress refused to impose it upon them, it was pointed out by J.H. Teller, one of the Commissioners, that by agreeing to and living under the provisions of the agreement signed in 1876, and enacted by Congress in 1877, the Sioux and the government both had in effect abrogated the treaty of 1868, and especially its provisions that any cession of Sioux lands should be agreed to by three-quarters of the Indians, and it was pointed out by the Commissioners in general that as in the past it was not the sale but the price which had been at issue.[45]

In 1889, however, the government did negotiate a further sale of reservations land, approved at that time by three-fourths of the adult male Indians, an agreement which moreover specifically confirmed the cessions and concessions made in the agreement of 1876, and restored to the public domain all lands remaining outside the then agreed to reduced Sioux Reservation. Apparently at this time the price was right: for as one of the Sioux leaders, Spotted Horse, commented:

"Suppose the Government will sum up all the damage the Sioux Indians have done since the adoption of the Treaty of 1868. Why, it would take all that has been promised us to pay it up. All our personal property . . . would scarely pay for the mischief we have done. . . . What benefit are we to the whites that they should have fed and provided for us all these years? . . . We have violated more of our obligations than the Government has." [46] Spotted Horse was doubtless in a minority, but the justice of his comments may have played some part in persuading his compatriots to touch the pen to the agreement of 1889. It is worth while to note that this agreement was made at about the same time that South Dakota was admitted to statehood, and also about the time of the Ghost Dance uprising and the tragedy at Wounded Knee, and that all three of these events are to some degree—and in ways beyond the scope of this paper—related to each other.

This agreement, which refutes claims that the government took the land without ever getting the approval of three-quarters of the adult male Indians, did not play an important part in the subsequent deliberations of the courts, for it was held from the beginning to be immaterial, Congress having had, as will be seen, the authority to take the Black Hills without reaching any agreement whatsoever with the Indians. It is good to see that this agreement will be the subject of a paper at this year's Dakota History Conference.[47]

In 1920 the Congress by "an act authorizing the Sioux Tribe of Indians to submit claims to the Court of Claims" [48] provided an opportunity for the Sioux specifically to present their grievances, which they did in 1923, the Court of Claims eventually rejecting all of their allegations in 1942.[49]

In 1946, however, the Congress established the Indian Claims Commission, au-

thorized to allow compensation for takings, "with appropriate deductions for all payments made by the United States" on such claims, including, the Act provided, both money and property expended or given gratuitously to the applicants for reimbursement.[50] Claims for reimbursement under several headings were again submitted by the Sioux in 1951, this time to the Indian Claims Commission, which again dismissed their petition alleging that the Sioux had been given an unconscionably small compensation for the taking of the Black Hills in 1877. This decision the Sioux appealed to the United States Court of Claims, which, in a decision which was later vacated by the Court itself, held in favor of the government and again dismissed the Sioux claims.[51] The Court held that it was not the agreement of 1876 which took the Black Hills from the Sioux, but the Act of Congress of 1877, and the Court reasonably pointed out that "treaties with Indians are no different than any other public laws and are subject to contrary legislation by the Congress when it is felt to be in the interest of the country." [52] Indeed, the Court held that Congress could have taken the Hills from the Indians without having reached any agreement with them at all—a course which had been recommended by the Commissioner of 1875—and the Court of Claims held that all that was required of the government was that the compensation for the taking of the Hills be a just one, as determined by the value of the property at the time. As the attorneys for the Sioux had already admitted to the Claims Commission that "based on projected land values in 1877 the Indians have been overpaid" the Court found that a payment of $57,000,000 made up to 1953 was adequate.[53] It is hard to see how the court could have decided otherwise, for if the value of a purchased property can be over the years adjusted upward by each successive generation no purchase and no payment could ever be a final one.

New attorneys have been hired by the Sioux, and the notion presented that new evidence might be available, the Court of Claims in 1958 decided to vacate its earlier decision,[54] and to remand the case to the Indian Claims Commission for another hearing along the lines of the Court's decision.

In 1974 the Sioux again appealed to the Congress and in the "Act Authorizing Appropriations for the Indian Claims Commission for the Year 1975" the Congress inserted specifically on behalf of the Sioux a change in the rules under which the Indian Claims commission operated, declaring that "expenditures for food, rations or provisions shall not be deemed payments." [55] It is difficult to tell what the Congess had in mind by declaring, ex post facto, and 99 years later, that most of the compensation already paid by the government for the purchase of the Black Hills was null and void. The only testimony provided when the Bill was reported into the Senate was provided by "The Committee of the Sioux Tribes" and offered two justifications for this change in the rules: first, that the rations paid were not a consideration for the taking of the Black Hills but merely a compensation for depriving the Sioux of "their traditional hunting areas," [56] and second, that it would take so much time and effort in manpower—the General Services Administration estimated that it would take fifteen men a year, and even then the record might not be complete—to count up the rations and other compensations given to the Sioux, that therefore it would be to the government's advantage to omit this item from the consideration paid, as an economy, sparing the government the expense of counting up how much they had already paid the Indians for the Hills.[57]

In any event, the Sioux by 1975 had renewed their claim before the Indian Claims Commission and this time, the Sioux having at last won a favorable decision, the government appealed the decision to the United States Court of Claims.[58] In its appeal the government not unreasonably held that the matter had already been amply decided, and that the doctrine of what was termed res judicata, "the thing has been decided" applied. The government also disputed the new decision of the Indian Claims Commission which had now awarded the Sioux further reimbursement for the Black Hills in the amount of some $17,000,000, and in addition interest thereon at a rate of 5%, a sum which of course by 1975 far exceeded the basic award. The Court of Claims on this appeal decided in favor of the initial case award, but against the payment of interest on it, the discussion revolving around the tangled question of whether the government had "taken" the Black Hills, in which case interest was applicable, or merely somehow swindled the Indians, which moral claim, the Court held, was beyond its authority to decide.[59]

In 1978 the Congress again took a hand in the matter, ordering that in this particular case the government's defense of res judicata should be disregarded,[60] and the case once more tried before the Court of Claims. In 1979 the case was thus again re-heard, and this time, without the presentation of any new or additional evidence, the Court held that an initial payment plus interest, totaling some $105,000,000, should be paid to the Sioux. The Court laid great stress on the absence of "consideration" and on whether or not the Congress in 1877 had considered that the price that they were paying for the Black Hills was an adequate compensation for the property taken. The Indian Commissioners of 1875 and 1876 had put forward to Congress that the rations to be given to the Sioux would be "in consideration" of their cession of the Hills, and the Agreement of 1876 and the Act of Congress of 1877 putting that cession into effect both contained that very word, but its presence was insufficient to convince the Court that the Congress had given sufficient study to the matter. The Court apparently put no value on the 917,000 acres in North Dakota which had been in 1877 added to the Great Sioux Reservation, an oversight which the Court did not explain. All other claims for compensation were denied, and there the matter rests today, except for the refusal of some of the Sioux to accept any money at all, complaining that what they wanted all along—although they had not previously mentioned it in court—was to have the Black Hills back again. A suit to that effect was rejected by the United States District Court for the Western Division of the District of South Dakota on 11 September 1980.

Whether the Courts were correct in these many cases, or right in some and wrong in others, I do not pretend to know. One does get the vague impression from the record that whenever the Sioux lost in court they went to the Congress and got the law changed in their favor. On the other hand, it is easy to believe that any favors shown to these long suffering people are probably well merited. I cannot help but think that in some ways this long-standing involvement in legal proceedings must have been pernicious, leading some of the Indians to look not to their own efforts but to the successful conclusion of a lawsuit for their success and progress in the world.[61] That the United States has been conscientious and has done its best to right wrongs so disputed and so long ago is a credit to us all, but inasmuch as these wrongs appear to be redefined by each succeeding generation the process of righting them seems likely to go on more or less forever as each new generation finds new causes for complaint. I cannot but believe that sooner or later a "statute of limitations" must eventually limit our efforts to redress wrongs, if wrongs they be, wrought so long ago to people and by persons now long in their graves. Perhaps General Crook, nearly a hundred years ago, had a message for us today when he counseled the Indians that "Instead of complaining of the past they had better think of the future."

FOOTNOTES

[1] Colonel C. F. Bates, "The Redman and the Black Hills," *Outlook*, 27 July 1927.

[2] Doane Robinson, *A History of the Dakota or Sioux Indians*, South Dakota State Historical Society *Collections* II, (1904), p. 15.

[3] *Ibid.*, p. 27.

[4] Doane Robinson, "Indians at the Ra-Sapas", *The Sunshine State*, October 1925.

[5] Lt. G. K. Warren, *Explorations in Nebraska and Dakota*, (Washington: U.S. Government Printing Office, reprinted 1875), pp. 18 *et. seq.*

[6] Robinson, "Indians at the Ra-Sapas" puts it at 1796.

[7] Richard Irving Dodge, *The Black Hills* (New York: J. Miller, 1876), pp. 137-38.

[8] *Ibid.*

[9] *Report* of the Commissioner of Indian Affairs for 1875, "Relinquishment of the Black Hills," p. 190.

[10] Chief Standing Bear, *Land of the Spotted Eagle* (New York: Houghton-Mifflin Company, 1933), pp. 42-43.

[11] Edwin Thompson Denig, ed. by John C. Ewers, *Five Indian Tribes of the Upper Missouri* (Norman: University of Oklahoma Press, 1961), p. 6. Denig was heavily copied by F. V. Hayden, who in turn was copied by Annie Tallent in her notable book on *The Black Hills* (St. Louis: Nixon-Jones, 1899).

[12] Samuel D. Hinman, Letter to the Rev. W. H. Hare, 10 November 1874, pp. 94-5 of the *Report* of the Commissioner of Indian Affairs for 1874. Hinman's letter was reprinted in *Bits and Pieces*, V (November 1969).

[13] John G. Neihardt, *Black Elk Speaks* (New York, William Morrow and Company, 1932), p. 43.

[14] U.S. Department of Agriculture, Forest Service, Rocky Mountain Region, Black Hills National Forest, "Environmental Assessment, Yellow Thunder Camp Special Use Application," 1981, p. 26.

[15] James Hanson, Chadron State College, as quoted in the Sioux Falls *Argus Leader*, 3 December 1982.

[16] Robinson, *History of the Sioux*, pp. 76-77.

[17] Charles J. Kappler, *Indian Affairs: Laws and Treaties* (Washington: Government Printing Office, 1904), pp. 113, 128-30.

[18] *Ibid.*, pp. 227-32.

[19] *Ibid.*, pp. 594-96.

[20] *Ibid.*, pp. 776-89.

[21] *Ibid.*, pp. 905-908 & *passim.*

[22] *Ibid.*, pp. 998 *et seq.*; the treaty may also be found in Donald Jackson, *Custer's Gold* (New Haven: Yale University Press, 1966), pp. 127-36.

[23] General Philip H. Sheridan, *Record of Engagements* (Washington: Government Printing Office, 1882), *passim.* The *Report* of the Commissioner of Indian Affairs for 1877, p. 14 points out that Sitting Bull and the "non-treaty Sioux" were in almost constant violation of the treaty.

[24] George Martin Kingsbury, *History of Dakota Territory*, II (Chicago: S.J. Clarke Publishing Company, 1915), pp. 931-37. The quotation, which has a Shakespereian twang to it, is on p. 934.

[25] Mark H. Brown, *Plainsmen of the Yellowstone* (New York: G.P. Putnam's Sons, 1961), p. 219. Harry H. Anderson, of the Milwaukee Historical So-

ciety has provided some cogent criticism of Brown's theories and statements.

[26] Brown, p. 230.

[27] Robinson, *History of the Sioux*, p. 229.

[28] Pierre Antoine Tabeau, ed. by Annie Heloise Abel, *Tabeau's Narrative of Loisel's Expedition to the Upper Missouri* (Norman: University of Oklahoma Press, 1939).

[29] Captain William Ludlow, *Report of a Reconnaissance of the Black Hills of Dakota Made in the Summer of 1875* (Washington: Government Printing Office, 1875), p. 7. General Philip H. Sheridan, in the *Report* of the Secretary of War for 1873, p. 42.

[30] Captain Mix's *Report* was published, edited by Watson Parker, in *South Dakota History*, VII (Fall 1977).

[31] 97 Court of Claims p. 634 (1 June 1942).

[32] *Report* of the Commissioner of Indian Affairs for 1875, p. 8.

[33] *Ibid.* Kingsbury, p. 916, points out the Indian confusion over large numbers, and their use of "million" when they meant "one hundred thousand".

[34] Kingsbury, p. 913.

[35] *Ibid.*, p. 914.

[36] *Ibid.*

[37] *Ibid.*

[38] George E. Hyde, *Spotted Tail's Folk* (Norman: University of Oklahoma Press, 1961), p. 215 points out the satisfaction of the Sioux at this outcome of the negotiations; only their leaders realized that they had failed to strike a bargain while they could. Hyde's *Red Cloud's Folks* (Norman: University of Oklahoma Press, 1937) is similarly valuable for its insights and comprehensive history.

[39] *Report* of the Commissioner of Indian Affairs for 1876, p. XIV.

[40] *Ibid.*

[41] *Ibid.*, p. 8.

[42] *Ibid.*, p. 194.

[43] 97 Court of Claims, p. 650 (1 June 1942).

[44] South Dakotans will probably most easily find the treaties and agreements (after 1871 the government entered only into "agreements" with the Indians) of 1868, 1876, and 1889 in Kingsbury, I, 756-63, 947-54, and 1283-91.

[45] Kingsbury, 1245-49.

[46] *Ibid.*, p. 1262.

[47] The agreement of 1889 may be found in Kappler, *Indian Affairs: Laws and Treaties*, I, 328-339, as well as in Kingsbury. It was of course both a law and an Act of Congress.

[48] 66th Congress, Session II, Chapter 222, Act of 3 June 1920, 41 Statutes 739.

[49] 97 Court of Claims p. 613-689, 1 June 1942. This decision is a thorough review of the entire matter up to that date.

[50] Act of August 13, 1946; 60 Statutes 1049, U.S.C.A. # #70a.

[51] The Sioux Tribe of Indians, et al., v. the United States, No. 4-55. United States Court of Claims 7 November 1956; 146 Federal Supplement p. 229-240; vacated 5 November 1958.

[52] The right of the President to abrogate Indian treaties is spelled out in the 1946 Claims Commission Act, Chapter 2A. #72. The 1956 decision's holding in regard to treaties is found in 146 Federal Supplement pp. 230, 235, and 236.

[53] *Ibid.*, p. 235.

[54] 182 U.S. Court of Claims pp. 912-13, 6 February 1961.

[55] Public Law 93-494, 27 October 1974, S. 3007.

[56] 93rd Congress, 2nd Session, Senate Report No. 93-863, 21 May 1974, p. 4.

[57] *Ibid.*

[58] 207 Court of Claims pp. 234-254, 25 June 1975.

[59] *Ibid.*, 243 *et seq.*

[60] Public Law 95-243. 92 Statutes 153, 13 May 1968. I am much indebted to Bob Lee of Sturgis for copies of the mass of materials offered in support of this bill when it was presented to the Congress.

[61] A friend has suggested that perhaps the continuing excitement of these court cases serves as a substitute, in a traditionally warrior society, for the earlier plains Indian raids and warfare.

[The case eventually came before the United States Supreme Court, as *U.S. v. Sioux Nation of Indians* (448 U.S. 371, 65 L. Ed. 2d 844, 100 S. Ct. 2716, 1980), in which the Court on 30 June 1980 affirmed the decision of the lower court, Mr. Justice Rehnquist dissenting. An interesting study of the Court's uses of history is by Wilcomb E. Washburn in the August 1983 OAH *Newsletter*.]

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at any time for the majority leader after consultation with the minority leader to proceed to the consideration of H.R. 2890, the transportation appropriations bill.

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

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

RECESS UNTIL 11 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 a.m. today.

There being no objection, the Senate, at 10:48 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BYRD].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of West Virginia, suggests the absence of a quorum.

The absence of a quorum has been suggested. 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 (Mr. HARKIN). Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business, not to extend beyond the hour of 11:30 a.m. today, and that Senators may speak therein.

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

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

THE SPECTER OF SEQUESTER

Mr. CHILES. Mr. President, unless something can be worked out to reduce the deficit by $23 billion, the President of the United States will issue his initial sequester order 1 week from today.

As a practical matter, here is what that means. A whole range of programs—including both domestic programs and defense—will be pushed in front of the buzz saw and big pieces will be cut off. It will take place automatically. We won't have to do a thing. In fact, if that is what actually happens, it will mean we have not done anything at all.

If we end up with a sequester, we will have a lot of bystanders left behind. But some of those will be innocent bystanders—the people served by the programs cut—and some will be guilty, the people who had the chance to act but did not.

In the last couple of weeks, I have heard some talk that maybe it would be allright to just accept the sequester. A lot of that talk is coming from the other end of Pennsylvania Avenue where there has been resistance to just about everything we have tried to do about the Federal deficit.

Under these conditions, it would be a mistake to say the Nation had to put up with automatic sequester because Congress would not act. The truth is, we would end up with Presidential sequester because the White House would not help.

It seems to me the only sensible and responsible course of action would be for Congress and the President to get together and work out an agreement to avoid any kind of sequester at all. That is what we have been trying to do on this side of the aisle all year long.

So, today, I want to extend still another invitation to the White House to join us in the effort to move ahead with this deficit-reduction effort. And to those who seem willing to accept a Presidential sequester, let me take a few minutes to explain what a mistake it would be.

To give the Senate some idea of just what a sequester would mean, let us talk a little about the impact it would have on education programs.

Mr. President, I think every American understands that education has been the key element in our climb to world leadership. And when you look inside that basic fact, people understand education makes a practical difference in their everyday lives.

Education is the difference between a job and a good job. It is the difference between a job and no job at all. Education is, and has been, the way millions of Americans have made their lives better and together have helped make the Nation stronger.

That is why, when the administration proposed massive cuts in education programs at the beginning of the year, there was such universal opposition, not just in the Congress but around the country.

Let us be clear about something. The opposition did not come from some narrow, special interest group that wanted to save some pet programs. In fact, what sounded like opposition was really a broad and positive statement from people around the country who understand we are challenged by other countries and we have to be at our best.

How would sequester effect that effort?

It would cut discretionary appropriations for the Department of Education $1.4 billion below the 1987 baseline. Put another way, we would lose $2.5 billion worth of increases reflected in the Senate-passed appropriations bill for 1988.

Those are big numbers, Mr. President. But when you look more carefully at key education programs, the impact is even bigger.

About $350 million would be cut from programs for disadvantaged children under chapter 1. It would mean depriving the program of the $535 million increase provided in the 1988 appropriations bill.

The cuts would come at a time when the number of kids is increasing who have already been short-changed both in the classroom and economically, as well.

It would mean reduced service to the 400,000 children now served by chapter 1 programs, and denying service to over 650,000 new participants. By doing nothing—by letting a Presidential sequester take place—we would be saying to something like 1 million children "it may be tougher for you, but it will be easier for us."

Sequester would be worse than just standing pat. It would be more like standing aside to let the competition pass. In 1982, the advanced math students in this country scored 5.3 percentage points below the international mean, and 13.4 points below Japanese students.

A Presidential sequester would actually cut math and science education programs by $7.1 million. That would put us at a level of funding, $20 million below the appropriations for 1985. So just at the time when we need to be bold enough to make investments in our future, a sequester would take us several steps back in time.

And it would also be taking back promises we made to people who want to give their best to this country if we are wise enough to help. A Presidential sequester would cut $154 million from programs for education of the handicapped. It would reduce the funding levels $300 million below the levels set in the 1988 appropriations bill.

If those cuts are allowed to happen, we will be going against the grain of demographics. In the 1976-77 school year, about 3.7 million students were enrolled in programs for education of the handicapped. In the 1984-85 school year, the number had risen to 4.4 million students. So there is a clear need for the programs, and another solid reason for avoiding a sequester.

Sequester would take $78 million out of vocational education programs. Student financial aid would be cut by $485 million, even though the cost of higher education is going up. And just at the time when people are demanding better results for the education dollar, a sequester would cut $17.4 million for the Office of Educational Research and Improvement activities. This cut could not come at a worse time. Federal taxpayers and many of us in this building are demanding more information about Federal expenditures on education. We are interested to know what we get for each dollar spent on improving the minds and lives of this country's future decisionmakers. Without sufficient funding, more than this sequester would provide, OERI will never be able to upgrade its information collection and dissemination function.

Mr. President, I hear it said that a sequester is something like a benign option since it is just a different kind of pain in a process that is painful regardless of how the deficit's reduced. That is wrong. It actually amounts to an admission that policymakers are unwilling to make policy, reluctant to make choices, and comfortable with the idea that it is OK to let things ride.

Sequester was never intended as a "way out" or a "way around." I have always thought that when reasonable people see a train coming, they will find a way to get moving.

As things stand right now, the President is the engineer of the "Sequester Special." The Members of the Congress are the switchmen. If we do not talk to each other, we run the risk of derailment. But with a little communication, we can get the deficit-reduction effort on track and keep moving ahead.

So I would say to my colleagues in the Senate and the House as well as to the President, let us not settle for sequester. Let us get together and make choices. I know it's not easy. But there is nothing so tough that we cannot get it done if we only make the effort.

Mr. President, I ask unanimous consent that a factsheet detailing the impact of a sequester on education programs be included in the RECORD.

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

FACTSHEET—IMPACT OF POTENTIAL SEQUESTER ON EDUCATION

Under a full sequester of $23 billion, Department of Education discretionary appropriations would be cut $1.4 billion below the 1987 current services baseline. DOE appropriations would fall to $18.8 billion, a little more than the 1986 pre-sequester funding level. In this year's Budget Resolution, Congress made a strong commitment to substantially boost federal spending for education. If a full sequester takes place, education programs would lose $2.5 billion of increases over last year's spending bill provided under the Senate Appropriations Committee-passed 1988 appropriations bill.

If the 1988 Labor-HHS-Education appropriations bill (H.R. 3058) is signed into law before November 20, discretionary appropriations would be cut by $1.6 billion.

Education programs for disadvantaged children, Chapter 1, would be reduced $350 million at a time when the population of educationally and economically deprived kids is increasing. A cut of this size would return funding to a level approved on the Senate floor for the 1985 program. If the full sequester is enacted, Chapter 1 would not receive the $535 million increase provided in the Senate Appropriations Committee bill for 1988.

A loss of $350 million under enactment of a full sequester would mean reduced educational services to over 400,000 current Chapter 1 children. Even worse, if Congress fails to approve the Appropriation Committee's $535 increase over last year's appropriation, we won't be able to provide services to over 650,000 potential new participants. The aggregate loss would result in Congress choosing to deny services to over one million children who need a little extra educational help to reach their full potential.

If H.R. 3058 is signed into law, Chapter 1 would be cut by $381 million.

A full sequester would cut math and science education grants by $7.1 million, allowing funding to slip $20 million below the 1985 appropriation. This cut would make a mockery of Congress's rhetoric calling upon the nation to invest more in education, specifically in those programs which prepare our children to compete against other industrialized countries. Mathematics scores for 17-year-olds on the SAT increased by only three points from school year 1974-85 to 1985-86 (472-475). In 1982, American advanced mathematics students scored 5.3 percentage points below the international mean, and 13.4 percentage points below Japanese students.

If H.R. 3058 is signed into law, math/science grants would be reduced by $12.8 million.

Education of the handicapped programs would be cut by $154 million, $300 million below the Senate Appropriations Committee 1988 mark. This cut would reduce by $16 million funds for preschool handicapped education grants. In 1986, Congress reauthorized handicapped education programs with the recognition that early intervention is socially and economically efficient. When enrolled in preschool education, developmentally delayed children achieve higher educational levels. Reducing expenditures for these programs flies in the face of demographic trends: In school year 1976-77, 3.7 million students were enrolled in handicapped education programs; in 1984-85, that number increased to 4.4 million students.

If H.R. 3058 is signed into law, education programs for handicapped children would be cut by $167.2 million.

Vocational education would be cut by $78 million, reverting to $9 million less than the 1986 appropriation; $109 million below the Senate Appropriations Committee-passed level for 1988.

If H.R. 3058 is signed into law, vocational education would lose $80.7 million.

Student financial aid would be cut by $485 million, taking these programs back to their 1985 appropriated level. As the costs of attending postsecondary institutions continue to rise, more students and families will seek financial aid to help pay education bills. In 1976, 10.9 million people were enrolled in postsecondary institutions; by 1984, that number had increased to 12.2 million.

If H.R. 3058 is signed into law, student aid would be reduced $500 million.

At a time when the public demands improved measurable outcomes for tax dollars invested in education, a sequester would cut by $17.4 million Office of Educational Re-

search Improvement activities. This would return us to the 1985 appropriated level.

Mr. CHILES. 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.

EXTENDING MORNING BUSINESS FOR 5 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes and Senators may speak therein.

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

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

(The remarks of Mr. DIXON pertaining to the introduction of legislation will appear later in the RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, under the order previously entered I have authority to proceed to the consideration of the Labor-HHS appropriations bill after consultation with the distinguished minority leader. That consultation has been had. The minority leader was aware, earlier today, that we were hoping to bring up the Labor/HHS appropriations bill today. As a matter of fact, he hoped to expedite that through the staff.

So I shall ask the Chair, just in a moment, to lay that before the Senate. This means that there would be about four matters, four tracks going here with the Verity nomination to be the first and highest priority by virtue of the fact that we will have a cloture vote today.

Following that, the war powers has next priority. Following that, catastrophic illness, and then, fourthly, the Labor-HHS appropriations bill.

Under the previous order, the Senate was to go into executive session at noon and debate the Verity nomination for 45 minutes. I do not know that Senators want to debate that at this time.

At any rate, Mr. HELMS is here. Would there be any problem in, say, going on to Labor-HHS and have the two managers—they probably have some preliminary motions they want to make.

Would the distinguished Senator from North Carolina have any problem holding the nomination for 10 or 15 minutes? Perhaps for 10 minutes or less?

Mr. HELMS. Mr. Leader, I am sorry?

Mr. BYRD. It would be 10 minutes or less that would be needed for this exercise here.

Mr. HELMS. So the leader is saying delay the Verity nomination for 10 minutes?

Mr. BYRD. Yes, delay going into executive session for 10 minutes.

Mr. HELMS. That would be fine. If the distinguished leader would not mind if 2 or 3 minutes beyond 12:45 may be needed?

Mr. BYRD. Yes, surely.

If it would be agreeable to Mr. HOLLINGS and Mr. HELMS, if the executive session went, then, 10 minutes beyond what it otherwise would have been.

Mr. HELMS. That will be fine.

Mr. BYRD. Is that agreeable to the Senator from South Carolina?

Mr. HOLLINGS. What is the request?

Mr. BYRD. The Senate was to go into executive session at noon and have a debate until 12:45.

Mr. HOLLINGS. Right.

Mr. BYRD. What I am saying, in order to accommodate the two managers on the Labor-HHS appropriations bill, that we take 10 minutes now, get that bill laid down, and they have some preliminary motions, perhaps; and then go on Verity at 10 after 12, continue Verity until 12:55, if need be. Would that be agreeble?

Mr. HOLLINGS. Yes, sir.

Mr. BYRD. Mr. President, I thank the Senator from South Carolina and I thank the Senator from North Carolina.

Mr. President, I ask unanimous consent that the order for going into executive session on the Verity nomination be delayed for 10 minutes; that in the meantime, the Senate proceed with the consideration of the Labor-HHS appropriations bill, H.R. 3058, and that the 12:45 recess time be extended to 12:55 p.m. today if it becomes necessary in the opinion of those who are handling the Verity nomination.

The PRESIDING OFFICER (Mr. ADAMS). Is there objection? Without objection, it is so ordered.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

The PRESIDING OFFICER. The clerk will report the bill, H.R. 3058.

The bill clerk read as follows:

A bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 3058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, **[**$73,896,000**]** *$74,027,000* together with not to exceed **[**$46,425,000**]** *$43,855,000* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, *the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act,* **[**$3,511,185,000**]** *$3,877,201,000* plus reimbursements, to be available for obligation for the period July 1, 1988, through June 30, 1989, of which **[**$62,370,000**]** *$62,700,000* shall be for carrying out section 401, **[**$70,480,000**]** *$66,500,000* shall be for carrying out section 402, **[**$10,409,000**]** *$10,575,000* shall be for carrying out section 441, $2,000,000 shall be for the National Commission for Employment Policy, **[**$3,000,000**]** *$5,000,000* shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, *$2,000,000 shall be for service delivery areas under the Job Training Partnership Act with high concentrations of American Samoans in addition to amounts otherwise provided under Section 202 of the Act,* and $8,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

[For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $128,500,000, to be available for obligation for the period July 1, 1988 through June 30, 1991.]

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $50,000,000.

For activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, [$8,000,000] *$12,000,000, of which $2,000,000 shall be for carrying out section 738 of the Act.*

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $269,880,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $76,120,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $141,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g)(1)(2)(3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $23,400,000, together with not to exceed [$2,536,012,000] *$2,470,812,000* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1988, and of which $22,700,000 together with not to exceed [$732,500,000] *$677,300,000* of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1988, through June 30, 1989, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $182,866,000 (including not to exceed $4,600,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1988.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1989; $30,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $81,192,000, of which $13,600,000 for a pension plan data base shall remain available until September 30, 1989.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1988, for such Corporation: *Provided,* That not to exceed $40,034,000 shall be available for administrative expenses of the Corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, [$217,085,000] *$216,952,000,* of which not to exceed $8,000,000 shall be available for obligation through September 30, 1989, for acquisition of computer equipment and software for the Federal Employees' Compensation Program's ADP system, together with $488,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, [$257,177,000] *$174,000,000,* together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1988.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, [$646,842,000] *$649,169,000,* of which $594,522,000 shall be available until September 30, 1989, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which [$28,293,000] *$28,217,000* shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and [$23,521,000] *$25,924,000* for transfer to Departmental Management, Salaries and Expenses, and $506,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition, there are hereby appropriated such amounts as may be necessary to repay advances from the Treasury that are not needed to make disbursements during the current fiscal year, as authorized by section 9501(d)(4) of that Act: *Provided further,* That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, [$244,001,000] *$247,901,000,* including not to exceed $42,327,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary

under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, **[**$164,874,000**]** *$169,765,000,* including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed sixty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, **[**$184,833,000**]** *$183,833,000,* of which $9,184,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed $43,419,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided,* That $7,694,000 shall remain available until September 30, 1989.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including **[**$2,434,000**]** *$2,507,000* for the President's Committee on Employment of the Handicapped, $120,041,000, together with not to exceed $286,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $145,826,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, **[**$38,224,000**]** *$38,700,000,* together with not to exceed $6,476,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant.

This title may be cited as the "Department of Labor Appropriations Act, 1988".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

[OFFICE OF THE SECRETARY

[PRIORITY DISEASE CONTROL AND RESEARCH (AIDS)

[For carrying out the Public Health Service Act with respect to Acquired Immune Deficiency Syndrome, $945,430,000, of which $38,500,000 shall be for the Health Resources and Services Administration, $306,750,000 shall be for the Centers for Disease Control, $93,946,000 shall be for the National Cancer Institute, $25,839,000 shall be for the National Heart, Lung and Blood Institute, $3,310,000 shall be for the National Institute of Dental Research, $3,500,000 shall be for the National Institute of Diabetes, Digestive, and Kidney Diseases, $12,755,000 shall be for the National Institute of Neurological and Communicative Disorders and Stroke, $223,323,000 shall be for the National Institute of Allergy and Infectious Diseases, $2,500,000 shall be for the National Institute of General Medical Sciences, $9,928,000 shall be for the National Institute of Child Health and Human Development, $4,000,000 shall be for the National Eye Institute, $4,091,000 shall be for the National Institute of Environmental Health Sciences, $377,000 shall be for the National Institute on Aging, $25,661,000 shall be for Research Resources, $533,000 shall be for the National Center for Nursing Research, $1,200,000 shall be for the John E. Fogarty International Center, $61,465,000 shall be for the Office of the Director, $101,252,000 shall be for the Alcohol, Drug Abuse and Mental Health Administration, $1,500,000 shall be for the Office of Minority Health, and $25,000,000 shall be for the Office of the Secretary: *Provided,* That of the amounts appropriated under this heading, $40,000,000 shall remain available until expended, including $10,000,000 for section 1610(b): *Provided further,* That amounts appropriated herein may be transferred between the institutes and agencies named herein upon the approval by the House and Senate Committees on Appropriations of a reprogramming request submitted by the Secretary of Health and Human Services.]

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VI, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Stewart B. McKinney Homeless Assistance Act, [$1,343,476,000] *$1,640,813,000* of which not to exceed $750,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $100,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *of which $25,000,000 shall be available for an infant mortality initiative funded through the community health centers and migrant health centers; of which $4,000,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients: Provided further, That Florida Agricultural and Mechanical University School of Pharmacy shall be an eligible recipient of the Excellence in Minority Health Education and Care program without respect to section 788A.(c): Provided further, That funds remaining unobligated in the National Health Service corps program shall be transferred to the Community Health Centers program to support the costs associated with the private placement assignment of corps personnel: Provided further, that the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1988 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation: Provided,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $22,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out title III, *XVII, and XIX* and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, [$221,977,000] *$802,987,000,* of which $2,000,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation: *Provided further, That the General Services Administration is directed to construct under their lease purchase authority, a 100,000 net sq. ft. office building at the CDC Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, designed with the funds which Congress provided to the Centers for Disease Control in the FY 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation. CDC is to reimburse GSA for the annual lease payment: Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to states or municipalities as assignees under authority of Section 214 of the PHS Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be exempt from full-time equivalent employment limitation, administrative ceiling or target. In addition, the full-time equivalent ceiling for other organizations within the Department of Health and Human Services shall not be reduced to accommodate the full-time equivalent ceiling exempt provisions for State assignees: Provided further, That the Director shall cause to be distributed without necessary clearance of the content by any official, organization or office, an AIDS mailer to every American household by February 15, 1988, as approved and funded by the Congress in Public Law 100-71, of which $9,500,000 for the mass mailing shall remain available until September 30, 1988.*

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, [$1,448,411,000] *$1,527,054,000.*

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, [$990,808,000] *$1,000,349,000.*

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, [$128,965,000] *$131,559,000.*

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, [$563,768,000] *$549,784,000.*

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, [$554,039,000] *$550,172,000.*

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, [$439,667,000] *$661,458,000.*

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, [$666,037,000] *$653,117,000.*

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, [$405,673,000] *$408,334,000.*

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, [$234,382,000] *$231,529,000.*

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, [$225,724,000] *$220,709,000.*

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, [$203,034,000] *$199,642,000.*

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, [$154,632,000] *$153,867,000.*

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, [$338,991,000] *$367,415,000, of which $25,000,000 shall remain available until expended to provide for the acquisition, repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: Provided,* That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, [$24,744,000] *$23,566,000, of which $750,000 shall be used to support the planning of a nursing research facility at the Oregon Health Sciences University, School of Nursing, Portland, Oregon.*

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, [$12,128,000] *$15,866,000* of which $1,934,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, [$71,465,000] *$70,399,000.*

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, [$71,389,000] *$61,284,000,* including purchase of not to exceed six passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, [$30,000,000] *$50,000,000,* to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, [$401,782,000] *$1,469,313,000, of which $5,000,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), and* of which $200,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

(INCLUDING TRANSFER OF FUNDS)

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $65,587,000, together with any unobligated balances from "Saint Elizabeths Hospital, Construction and Renovation" (except those balances determined by the Secretary of Health and Human Services to be necessary to carry out existing Federal renovation contracts), all of which shall be available in fiscal year 1988 for payments to the District of Columbia as authorized by sections 2, 4, and 9 of the Act; and in addition, $2,725,000 which shall be available through September 30, 1989 for Federal activities authorized by sections 6 and 9 of the Act: *Provided,* That funds appropriated under this heading may be used for multi-year contracts with the District of Columbia for maintenance of Saint Elizabeths Hospital: *Provided further,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1988 the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, and XX of the Public Health Service Act, $118,609,000, together with not to exceed $1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and $2,000,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $1,300,000 will come from the Federal Hospital Insurance Trust Fund and $700,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: Provided, That in addition to amounts provided herein, up to $16,000,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and $6,086,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), such amounts as may be required during the current fiscal year.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $22,946,000,000, to remain available until expended.

For making, after May 31, 1988, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1988 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1987, and before October 1, 1988, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1989, $8,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, [$25,893,000,000] *$25,364,000,000.*

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $102,580,000, together with not to exceed [$1,421,578,000] *$1,411,828,000* to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided,* That [$80,000,000] *$120,200,000* of said trust funds shall be expended only to the extent necessary to process workloads not antici-

pated in the budget estimates, including the cost of administration of catastrophic health insurance if enacted into law, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further, notwithstanding any other provision of law, $120,200,000 shall be made available for use by the Secretary within 30 days after the enactment of any Medicare legislation or changes in contractor workload or performance requirements: Provided further,* That all funds derived in accordance with 31 U.S.C 9701, are to be credited to this appropriation[: *Provided further,* That of the amount transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, $2,000,000 shall be made available for patient outcome assessment research, as authorized by section 9316 of Public Law 99-509].

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, $105,298,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, [$651,452,000] *$663,452,000,* to remain available until expended: *Provided,* That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1989, $250,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,535,384,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1989, $3,000,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,680,921,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided,* That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further,* That $50,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That [$65,400,000] *$55,400,000* for automatic data processing and telecommunications activities shall remain available until expended: *Provided further,* That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States: *Provided further, That notwithstanding any other provision of law, amounts appropriated by this Act for the Social Security Administration shall be used to maintain not less than 70,345 Federal full-time equivalent positions.*

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,644,385,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1989, $2,500,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, [$1,822,265,000] *$1,237,000,000.*

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), [$320,885,000] *$389,597,000.*

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $96,669,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425 and the Stewart B. McKinney Homeless Assistance Act, [$408,200,000] *$407,000,000,* of which [$18,700,000] *$21,000,000* shall be for carrying out section 681(a)(2)(A), [$4,000,000] *$4,200,000* shall be for carrying out section 681(a)(2)(D), [$3,000,000] *$3,250,000* shall be for carrying out section 681(a)(2)(E), [$7,000,000] *$6,130,000* shall be for carrying out section 681(a)(2)(F), *$250,000 shall be for carrying out section 681(a)(3),* [$3,000,000] *$4,000,000* shall be for carrying out section 408 of Public Law 99-425 and $2,500,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, the Stewart B. McKinney Homeless Assistance Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, [$74,913,000] *$83,619,000.*

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, *the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native Americans Programs Act, title II of Public Law 95-266 (adoption opportunities),* title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV *and section 1110* of the Social Security Act, [$1,641,456,000] *$2,565,785,000.*

FAMILY SOCIAL SERVICES

For carrying out part E of title IV of the Social Security Act, $811,178,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental manage-

ment, including hire of six medium sedans, [$66,359,000] *$70,859,000*, together with not to exceed $7,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, *of which $4,500,000 shall be for construction and fixed equipment for the Mary Babb Randolph Center in West Virginia.*

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $37,361,000, together with not to exceed $40,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,070,000, together with not to exceed $4,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $5,090,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1988, by this or any other Act, may be used to pay basic pay, special pay, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control Research and Training", and "Federal Subsidy for Saint Elizabeths Hospital"*: Provided further, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.*

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. Funds appropriated by this Act may be used to pay physicians' comparability allowances, as authorized under 5 U.S.C. 5948[, only to those persons who are licensed to practice medicine, except that this provision shall not apply to individuals receiving such allowances prior to January 1, 1988].

SEC. 213. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 214. All funds appropriated to the National Institutes of Health in this Act shall be apportioned at the individual appropriation level. The Executive Branch may not require the NIH to consolidate its apportionments at the mechanism level, nor apportion to any Institute at a level below the appropriation level.

SEC. 215. Notwithstanding any other provision of law, no personnel ceilings may be imposed nor any action may be taken to restrict the full-time equivalent (FTE) levels for Public Health Service programs, projects, and activities funded by this or any other Act.

SEC. 216. Funds made available under this Act to carry out title X of the Public Health Service Act (42 U.S.C. 300 et seq.) may only be expended in accordance with Department of Health and Human Services regulations and guidelines in effect as of August 31, 1987.

SEC. 217. Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by a retirement system pursuant to section 410.1

of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date).

Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986), any modification in the agreement with the State of Iowa under section 1 shall be made effective with respect to—

(1) all services performed in any policemen's or firemen's position to which the modification relates on or after January 1, 1987, and

(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1988".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, [$4,595,000,000] *$4,478,000,000*, of which [$10,000,000] *$7,500,000* shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining [$4,585,000,000] *$4,470,500,000* shall become available on July 1, 1988, and remain available until September 30, 1989: *Provided*, That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), [$278,000,000] *$285,000,000* shall be available for purposes of section 554(a)(2)(A), $158,000,000 shall be available for purposes of section 554(a)(2)(B), $34,000,000 shall be available for purposes of section 554(a)(2)(C) and $40,000,000 shall be available for purposes of section 554(b)(1)(D).

For carrying out section 418A of the Higher Education Act, $8,000,000*: Provided, That $200,000 of the amount made available for the College Assistance Migrant Program shall be awarded to the highest ranking unfunded project applicant for grants made pursuant to the fiscal year 1987 appropriation: Provided further, That the Secretary shall make such grant awards for a two-year period.*

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), [$735,000,000] *$677,000,000*, of which [$22,000,000] *$10,000,000* shall be for entitlements under section 2 of said Act and [$713,000,000] *$667,000,000* shall be for entitlements under section 3 of said Act of which [$568,000,000] *$550,000,000* shall be for entitlements under section 3(a) of said Act: *Provided*, That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement*: Provided further*, That payments with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 15 per centum of entitlement, so long as the fiscal year 1988 per pupil payment does not exceed 105 per centum of the fiscal year 1987 per pupil payment: *Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 11.25 per centum of entitlement and the fiscal year 1988 local contribution rate for such agency shall not exceed 105 per centum of such agency's fiscal year 1987 local contribution rate: *Provided further*, That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 15 per centum of such agency's total average daily attendance shall be ratably reduced from 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) of said Act shall be ratably reduced from 15 per centum of entitlement: *Provided further, That payments of less than $30,000 shall not be made to any local educational agency under section 3(a) or section 3(b) unless such payments amount to at least 5 per centum of such agencies total current expenditures: Provided further*, That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further, That payments with respect to entitlements under section 3(a) for any local educational agency that is described in section 3(d)(1)(A) and is coterminous with a military installation are not subject to limitations on increases in per pupil payments unless such agency's State aid payment is reduced as a result of its section 3 payment: Provided further, That the Secretary shall consider as timely filed requests for assistance filed after the applicable deadline and related to applications for assistance submitted under section 7 of said Act or section 16 of the Act of September 23, 1950, stemming from FEMA Disaster Number 753DR as declared on November 7, 1985:* [*Provided further*, That none of the funds appropriated in this Act shall be used for the recovery of payments made to any local educational agency under section 2 and section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), for fiscal years prior to 1987, but in the case of section 3 only on behalf of children who reside on or whose parents are employed on property that is housing assisted under section 8 of the United States Housing Act of 1937, as amended:] *Provided further, That any payment made to a local educational agency for fiscal years prior to 1986 that is attributable to an incorrect determination under section 2(a)(1)(C) of such Act shall be deemed to have been made in accordance with such section, and any payment made to a local educational agency under section 3, for fiscal years prior to 1987, on behalf of children claimed by such agency for any such fiscal year who resided on or whose parents were employed on property that was housing assisted under section 8 of the United States Housing Act of 1937, as amended, shall stand, and such payments withheld or recovered shall be made or restored.*

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), [$22,500,000] *$24,000,000* which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $9,000,000 shall be for awards under section 10 of said Act, [$9,000,000] *$10,500,000* shall be for awards under sections 14(a) and 14(b) of said Act, and $4,500,000 shall be for awards under sections 5, 9 and 14(c) of said Act*: Provided further, That funds appropriated under the heading "School Assistance in Federally Affected Areas" in Public Law 98-8 that are available for obligation shall be available until expended for the purposes of sections 14(a) and 14(b).*

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, [$529,337,000] *$530,137,000*, of which [$29,337,000] *$30,137,000* shall be for programs and projects authorized under subchapter D of said Act, including $10,700,000 for programs and projects authorized under subsection 583(a)(1) of said Act; [$4,500,000] *$3,250,000* shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $1,000,000 to any recipient for national impact demonstration or research projects; [$7,800,000] *$8,200,000* for activities authorized under subsection 583(b)(1) of said Act; [$3,337,000] *$3,587,000* for programs authorized under subsection 583(b)(2) of said Act; [and $3,000,000] *$4,000,000* for activities authorized under subsection 583(b)(4) of said Act [including support for the center for law related education providing a statewide K-12 program]*; and $400,000 for national school volunteer programs*: *Provided*, That $500,000,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989.

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, [$25,000,000] *$24,000,000.*

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $3,500,000.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $5,000,000.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $2,000,000.

For carrying out activities authorized under Public Law 92-506, as amended, [$2,000,000] *$2,500,000: Provided,* That said sum shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out activities authorized under the Drug-Free Schools and Communities Act of 1986, [$200,000,000] *$250,000,000,* of which [$161,000,000] *$207,000,000* for grants to States and outlying areas shall be available beginning July 1, 1988, and shall remain available until September 30, 1989*: Provided, That State educational agencies allot fiscal year 1988 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative enrollments in public and private nonprofit schools.*

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $75,000,000: *Provided,* That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency.

For carrying out the provisions of title II of the Education for Economic Security Act, [$55,000,000 of which $50,000,000 for State grants] *$150,000,000 of which $136,500,000 for grants to States and outlying areas* under section 204 shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of Part C of title V of the Higher Education Act, [$7,177,000] *$10,000,000,* to become available July 1, 1988, and to remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part D of title V of the Higher Education Act, $2,000,000.

For carrying out the provisions of subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, [$7,500,000] *$3,750,000* to become available July 1, 1988, and remain available through September 30, 1989.

For carrying out activities authorized under the Follow Through Act, [$7,800,000] *$7,100,000.*

For carrying out activities authorized under H.R. 3, as passed by the Senate on July 21, 1987, relating to dropout prevention, $25,000,000.

For carrying out activities authorized under H.R. 3, as passed by the Senate on July 21, 1987, relating to workplace literacy, $10,000,000.

For carrying out activities authorized under H.R. 3, as passed by the Senate on July 21, 1987, relating to State schools, $20,000,000.

For carrying out the Academic Institute for Minority Scholars under EIN 1590624459A1, $700,000.

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, [and section 501 of the Refugee Education Assistance Act of 1980,] and title VI of the Education Amendments of 1984, $198,981,000, of which $105,701,250 shall be for part A, $10,370,000 shall be for part B, and $37,023,750 shall be for part C of title VII of the Elementary and Secondary Education Act and $30,000,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, [$1,913,800,000] *$1,966,990,000,* of which [$1,490,000,000] *$1,500,886,000* for section 611, [and $189,000,000] *$216,000,000 for section 619, and $75,000,000 for section 685* shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That [$150,000 shall be available to operate a model program for deaf, hearing impaired, and handicapped students under section 625 of said Act.] *notwithstanding section 621(e) of the Education of the Handicapped Act, up to $500,000 may be used for section 621(d) of that Act: Provided further, That the amount appropriated for section 685 of the Education of the Handicapped Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.*

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended [$1,561,940,000] *$1,619,395,000,* of which [$1,350,000,000] *$1,409,000,000* shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, *$16,590,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), of which $750,000 shall be made available for making a grant to the Louise Rude Center for Deaf Adults in Anchorage, Alaska, for the construction of a residential center for deaf adults to facilitate the delivery of rehabilitation services to deaf adults, as under section 311 of the Rehabilitation Act of 1973, except that no limitation contained in that Act shall apply to this amount,* and $4,800,000 shall be for the Helen Keller National Center: *Provided, That $500,000 shall be available for research and training for hearing loss assessments for native Hawaiian children under section 204 of such Act until September 30, 1989: Provided further, That the amount appropriated for title VI, part C of the Rehabilitation Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.*

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, [$1,029,600,000] *$1,072,450,000* which shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* [*That $13,000,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act including $6,000,000 for section 404 and $450,000 for section 415 of said title*] *That $22,050,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,600,000 shall be for part A, including $6,000,000 for section 404, $10,450,000 shall be for part B, including $10,000,000 for section 410 and $4,000,000 shall be for part C of said title: Provided further,* That [$7,900,000] *$8,500,000* shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That [$6,300,000] *$8,000,000* shall be made available to carry out title III-A [and $33,500,000,] *$35,000,000* shall be made available for title III-B, *and $20,000,000 shall be for title III-E* of said Vocational Education Act: *Provided further,* That $3,900,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act*: Provided further, That section 202 of the Carl D. Perkins Vocational Education Act is amended—*

(1) by inserting (a) after the section designation, and

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

"(b) Funds described in clause (4) of subsection (a) shall also be available for single pregnant women.".

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C and E of title IV of the Higher Education Act, as amended, [$5,806,000,000] *$5,837,598,000,* which shall remain available until September 30, 1989: *Provided,* That the maximum Pell grant that a student may receive in the 1988-89 award year shall be [$2,300] *$2,100.*

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, [$2,425,000,000] *$2,935,600,000,* to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, [$180,000,000, of which up to $20,000,000 for] *$138,300,000, of which up to $20,000,000 for section 332 of* part C of title III of said Act shall remain available until expended: *Provided,* That [$84,533,000] *$68,300,000* of funds appropriated for title III of said Act shall be available only to historically black colleges and universities.

For carrying out subparts 4 and 6 of part A of title IV; [part B and] subpart 1 of part D of title V; titles VI and VIII, parts [A,] B, C, D, E, and F of title IX, *notwithstanding section 971(g);* [parts B and] *part* D of title VII; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; [$391,900,000] *$356,798,000,* [*of which $29,500,000 for parts B and D of title VII and $8,000,000 for subpart 6 of part A of title IV*] *of which $22,500,000 for part D of title VII* of said Act shall remain available until expended: *Provided,* That $8,000,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a))*: Provided further, That $250,000 of the amount provided for part B of title IX shall be allocated to the National Consortium for Educational Access.*

For carrying out sections 772, 773, [and 775] *775, and 776* of part G of title VII of the Higher Education Act, [and] sections 1-5 of Public Law 99-608, *title III, section 303 of Public Law 98-480, and planning and feasibility studies under EIN 1576001153A1 and EIN 1576000254A1,* [$12,550,000] *$16,850,000* to remain available until expended.

Of any funds appropriated in fiscal year 1988 for a grant to an appropriate consortium of institutions of higher education for carrying out part B of title VII of the Higher Education Act, the limitations contained in

sections 702(a) and 721(a)(2) shall not apply.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1988, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE CONSTRUCTION LOAN INSURANCE

For carrying out part E of title VII of the Higher Education Act of 1965, as amended, $20,000,000 to be available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account: *Provided,* That during fiscal year 1988, gross commitments for the principal amount of direct loans shall be [$90,000,000] *$40,000,000.* Any unobligated balances remaining from fixed fees previously paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

Whenever the Secretary, pursuant to sections 762(c) or 783 of the Act, sells, exchanges, or otherwise transfers on a discounted basis obligations or securities held by the Secretary under title VII, part F of the Act, the outstanding balance remaining on the notes of the Secretary issued to the Secretary of the Treasury under section 761(d) of the Act shall be reduced by the amount of the discount. For such transactions occurring prior to the fiscal year 1988, such reduction is effective on September 30, 1987. For such transactions occurring in fiscal year 1988 or thereafter, such reduction is to be effective on the last day of the fiscal year in which the discounted transaction occurs.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, [$73,801,000] *$69,231,000,* of which [$14,486,000] *$12,686,000* shall be used for the Center for Education Statistics, as authorized under section 406 of the General Education Provisions Act, and $7,900,000 shall be for the National Assessment of Educational Progress, as authorized under section 405(e)(1) of the General Education Provisions Act: *Provided,* That $4,000,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, [$144,500,000] *$136,600,000*: *Provided,* That [$22,500,000] *$23,600,000* of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, [$5,510,000] *$5,500,000.*

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For [carrying out the National Technical Institute for the Deaf] *the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986* (20 U.S.C. 4301 et seq.), $33,000,000, *of which $200,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: Provided, That none of the funds provided herein may be used to subsidize the tuition of foreign students.*

GALLAUDET UNIVERSITY

For [carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet University (20 U.S.C. 4301, as amended,] *the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.),* including continuing education activities, existing extension centers and the National Center for Law and the Deaf, [$65,925,000] *$64,000,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.*

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), [$179,865,000] *$174,230,000.*

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $251,753,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $42,333,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $18,341,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1988".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, [$162,191,000] *$173,491,000.*

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount

which shall be available within limitations specified by that Act, for the fiscal year 1990, [$238,000,000] *$248,000,000*: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $25,601,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,080,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), [$750,000] *$791,000*.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

OPERATING EXPENSES

Funds appropriated for operating expenses of the National Commission to Prevent Infant Mortality in the Supplemental Appropriations Act, 1987 (Public Law 100-71) shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $932,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $139,019,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $7,316,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,147,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,130,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,752,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $368,000,000, all of which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1989, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $60,434,000, to be derived from the railroad retirement accounts: *Provided*, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,254 full-time equivalent employees: *Provided further*, That $500,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r): *Provided further*, That not to exceed $2,500,000 of funds provided under this head in Public Law 99-591 shall remain available until September 30, 1988, only for retirement claims processing automation activities.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $14,445,000 shall be apportioned for fiscal year 1988 from moneys credited to the railroad unemployment insurance administration fund: *Provided*, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 303 full-time equivalent employees.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than $2,310,000 to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, [$36,647,000] *$38,303,000*: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $16,132,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Insitute of Peace as authorized in the United States Institute of Peace Act, $5,000,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized

by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. (a)(1) In the cases of all appropriations accounts within this Act from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1988 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1988, and

(C) result in total outlays of $22,600,000 in fiscal year 1988.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1988, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

(c) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (a).

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1988".

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, the bill and report before the Members provide for $129.4 billion for the Departments of Labor, Health and Human Services, Education and Related Agencies. Of this amount, only $38.9 billion is for discretionary programs over which the Appropriations Committee has direct control. This is an $8.9 billion increase over the President's request and $2.6 billion more than enacted in fiscal year 1987 for discretionary programs.

The increase for the Public Health Service agencies in this bill represents a 10.7-percent increase for our health programs. The overall increase for education is approximately 9 percent, and the increase for discretionary Labor programs is approximately 7 percent. For the Social Security Administration we have included the necessary funding and language to add 1,000 full-time equivalent positions over the requested level.

These recommendations accommodate as best as possible the many requests we have received from the other Members of the Senate, as well as the many interest groups who have contacted us. In the process of developing these recommendations we have consulted carefully with the authorizing committees to also reflect as best as possible their concerns and priorities.

These recommendations have been scored by the Budget Committee, and we are at our amended allocation ceiling. As many of the Members know, we had a protracted 302(b) process in the Appropriations Committee with 14 separate votes to divide among our 13 subcommittees the allocation from the budget resolution. In this process the Labor-HHS-Education Subcommittee lost $300 million in discretionary outlays from the level provided by the Budget Resolution. Our Senate allocation is also $824 million in discretionary outlays below the House allocation. This has made it difficult to provide even larger increases than are recommended in the committee bill.

The Low Income Energy Program is funded at $1.237 billion or the level requested by the administration. This is $585 million less than this year's funding level but hopefully with over $3 billion of oil overcharge moneys the States will help meet the shortfall.

For AIDS, this recommendation includes an increase of $180 million over the President's request, for a total AIDS budget of $946.4 million, or approximately $1 million more than the House level. In developing the AIDS budget we solicited a separate review by the Institute of Medicine and had the General Accounting Office interview public health officials around the country to help us determine the shortfalls in the President's request. I want to thank Senator WEICKER and Senator KENNEDY and their staffs for the advice and assistance they have given us in formulating the AIDS package. The effort we have made in this regard is to find the best advice we can from all interested parties and reflect that in our numbers. I hope we have succeeded.

The bill was also drafted with special attention to programs for children and older Americans. For children we are recommending the fully authorized level for a number of programs including Maternal and Child Health, Immunization, Developmental Disabilities, Head Start, Drug Free Schools,

Community and Migrant Health Centers, and $25 million for a new Infant Mortality Initiative.

For older Americans, a number of health care initiatives are provided, including a 25-percent increase for Alzheimer's disease research and more funds for arthritis, foot care, and dental health. In addition to health research programs, additional funding is included for training geriatric health professionals, support services, centers, and nutrition programs for the elderly.

Mr. President, for too many of our senior citizens their so-called golden years often are tarnished by anxiety, illness, and financial hardship. This bill attempts to address some of those problems.

At this time, Mr. President, I call upon the ranking member, Senator WEICKER, who participated all the way through our exercise in trying to put together this bill, to make such statement as he desires.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Florida and compliment him on the hard work he did in bringing this bill before the body.

The bill before us today totals more than $129 billion and includes funding for job training programs, biomedical research, education for the disadvantaged and disabled, services for older Americans, and a whole host of other vital human service programs.

Given the budgetary constraints imposed on this bill and on the entire appropriations process, this bill provides for needed increases in many programs and restores funding for others which the administration would have had us totally eliminate.

But this is not a perfect bill. The funds provided for basic biomedical research are extremely limited when they are compared to the overwhelming health needs we are faced with in this country and around the world. The funding levels for special education are still below the promise of Public Law 94-142, the landmark legislation which guaranteed all handicapped children a free appropriate education; and the Low-Income Home Energy Assistance Program is cut by nearly $600 million below last year's level. I intend to offer an amendment to restore these funds which are essential to all those Americans who rely on this assistance to heat their homes.

Mr. President, with the exception of the funding level proposed for the Low-Income Home Energy Assistance Program, and given the budgetary constraints under which we are forced to work, I support the bill which is before the Senate this afternoon and commend the chairman for all of his efforts to meet the needs of the programs and the people who benefit from the dollars in this bill. I only wish we could be doing more and I will continue to argue that we should be spending more in this country on the business of life than is reflected in our current budget priorities.

Basically, this bill does as well as can be expected, considering the budgetary strictures placed on the subcommittee and its jurisdiction. My own feeling is that health, science, education, safety, training and job opportunities are the matters that should be the highest priority to the Nation. Sad to say, they are not. Not all the rhetoric on this floor changes the fact that the business of life takes a back seat to the business of death insofar as the activities of this Government are concerned.

An easy comparison would be the National Institutes of Health who are our front-line fighters against disease of all types and sorts—cancer, heart, diabetes, every disease, every affliction. Not just AIDS, but every affliction that curses this Nation and the world. That is the mission of the National Institutes of Health.

And yet the NIH budget will be somewhere in the area of $6 billion. The defense budget is around $300 billion. So after we get all through talking, the fact is the business of life is one-fiftieth the importance of the business of death.

So be it. That is what we have before us. I do not agree with it. I will never agree to that. But it is the Nation that is going to have to call for a change in its priorities, not a handful of U.S. Senators.

One last point, and that is the matter of low-income home energy assistance. We could not deal with this problem, considering its magnitude, within the full Appropriations Committee. The sum of $600 million is needed if low-income home energy assistance is to be at the same level as last year. Unless that money is provided, families are going to go cold, families will suffer, people will die.

I wish I could say the price of oil has gone down since last year. It has not. It has risen. So even at last year's level, fewer will be served.

Winter is hard upon us and now the decision is hard upon us.

I will present an amendment to restore the Low Income Home Energy Assistance Program to last year's level. I suspect there will be plenty of scratching of heads and plenty of debate on the subject. I would hope, however, that in some way we can prevail.

Again, my compliments to the chairman of the committee for his efforts.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and the bill, as thus amended, be considered original text for the purpose of further amendment, provided that no point of order will be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, will the Senator restate the request?

Mr. CHILES. That the committee amendments be agreed to en bloc.

Mr. HELMS. Will the Senator withhold that and let me think about it?

Mr. BYRD. Mr. President, was the Senate to go into executive session at 10 after?

The PRESIDING OFFICER. That is correct.

Mr. CHILES. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and the bill as thus amended be considered as original text for the purpose of further amendment providing no point of order be waived by this agreement.

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

The amendments were agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stay in legislative session for not to exceed 2 minutes.

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

AMENDMENT NO. 953

(Purpose: To restore funding for the Low Income Home Energy Assistance Program)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 953.

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

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

The amendment is as follows:

On page 36, line 26, strike out "1,237,000,000" and insert in lieu thereof "1,822,265,000".

Mr. WEICKER. Mr. President, this amendment restores the low income home energy assistance to the House level. I realize it is going to be a matter for debate and further thinking in the process itself, and I will ask unanimous consent that the amendment be set-aside to permit the committee to continue its work on all other matters.

The PRESIDING OFFICER. Is that the request of the Senator?

Mr. WEICKER. I do not think at this point there is any purpose to

asking for it, but I just wanted to indicate to my colleagues that it is not my intention to have this the matter for debate at the outset; rather, the amendment has been submitted and it will be set-aside during the course of the debate on this bill.

The PRESIDING OFFICER. The amendment is pending to the bill.

EXECUTIVE SESSION

The PRESIDING OFFICER. The hour of 12:10 having arrived, under the previous order, the Senate will go into executive session and proceed to the consideration of C. William Verity, Jr., of Ohio, to be Secretary of Commerce.

The clerk will report the nomination.

DEPARTMENT OF COMMERCE

The assistant legislative clerk read the nomination of C. William Verity, Jr., of Ohio, to be Secretary of Commerce.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the Commerce Committee has acted promptly regarding the nomination of C. William Verity to be the new Secretary of Commerce. We conducted a hearing on this nomination almost immediately upon returning from the August recess, and we reported it to the floor in mid-September most favorably on a 17-to-1 vote. I am grateful for the assistance and cooperation of our ranking Republican, Senator DANFORTH, which made possible the expeditious handling of this nomination by the committee.

For the past 4 weeks, we have been waiting most anxiously for the full Senate to take up this nomination. With the trade bill now in conference, we need to fill this vacancy at the head of a department which has so many responsibilities concerning international trade. Fortunately, we have a nominee before us—a distinguished business leader with the highest of qualifications—who is most deserving of swift approval by the Senate. That nominee is Bill Verity.

It was with mixed emotions that the committee considered this nomination—while the thoughts of Mac Baldrige were still very much in mind. In an administration which has very little to show for itself on international trade and the preservation of America's industrial might, Mac provided some of the few bright spots. He understood many of the problems American firms are experiencing in the global marketplace. And he recognized that Government does, indeed, have a role to play as we seek to nurture the development of new technologies and win the world economic competition. We will miss him.

But we must move ahead. Clearly, now is the time to act to preserve and enhance our industrial capacity and our world technological leadership. The trade bill now before the conference committee is a very important step in this direction—but it is only a step. We need a new attitude here in Washington. We need to recognize the realities of world trade and face some of the obvious facts about doing business in this new global marketplace. And fact No. 1 is that there is no such thing as free enterprise in world trade. The reality is government-to-government enterprise. We've been in a trade war for years, and our Government has refused to get in there and compete.

We must start competing. We must begin enforcing some of the trade laws already on our books. We must recognize that Government can have a role. And we must initiate a sound fiscal policy that reduces these outrageous budget deficits that have driven up our dollar on the international markets, thus making our goods and services too expensive and our trade deficits too high.

The Secretary of Commerce can be a vital player in the administration on these and many other issues.

Mr. Verity's resume is impressive. He brings to us solid credentials as a businessman and industrialist. Shortly after his graduation from Yale in 1939, he joined Armco, Inc., of Middletown, OH, a firm founded by his grandfather which had become one of the Nation's largest steelmakers. He was elected president and chief executive officer of Armco in 1965 and chairman of the board in 1971. He headed the company until his retirement in 1982.

In 1980 and 1981, Mr. Verity served as Chairman of the U.S. Chamber of Commerce. President Reagan appointed him in 1981 to serve as Chairman of the President's Task Force on Private Sector Initiatives, which issued recommendations aimed at encouraging businesses to take a more active role in community service. In 1984, he served as cochairman of the U.S.-U.S.S.R. Trade and Economic Council, an organization which seeks to increase nonstrategic trade between the two countries.

Although Mr. Verity has never held a Government post, his many years in the steel industry has given him frontline experience in meeting the challenges which now face the whole of American industry. I look forward to working with him toward the goal of making America more competitive in the world marketplace.

I urge my colleagues to invoke cloture on this nomination, and then vote to confirm Bill Verity as Secretary of Commerce.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina has yielded the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair very much for recognizing me. Cloture is going to be voted this afternoon. There is no question about that. But before it is, there are some Senators who wish to express some concerns, and I am one of those Senators. I shall speak relatively briefly now and a little more in detail after the cloture vote occurs.

I am deeply concerned, Mr. President, by this nomination. Mr. President, I have nothing personal against Mr. Verity. I am sure he is eveything that my able friend from South Carolina said. It is largely, however, because of Mr. Verity and some businessmen like him that the Soviet Union today poses such a serious military threat to the United States and the free world.

Mr. Verity and his business colleagues have been and are now literally selling the Soviets the rope with which to hang the free world. Now, I came to this conclusion not hastily and not without study of the record, which I will discuss briefly in a moment and more in detail later on this afternoon.

Mr. President, when you get down to it, export control is a form of arms control. If we do not understand that, then we lack an understanding of what is at stake in terms of the world today.

Mr. Verity and his kind of business friends do not believe in export control. In fact, I am persuaded that they wish to eliminate export controls for the Communist world so that a profit can be made, a profit to be made at the expense of building and spreading communism across the face of this Earth. So, by building the Soviet economy, these men are propelling the arms race to ever more dangerous proportions.

At the same time, it is instructive to bear in mind that this kind of trade is costing the American taxpayer countless billions of dollars for the increased defense expenditures which are needed to counter the increased capability of the Soviet military-industrial complex.

I find myself wondering what Mr. Verity and his business associates at the U.S.-U.S.S.R. Trade and Economic Council, which is the main lobby for virtually unlimited trade with the Soviets, thought when the reports were confirmed last week that the Soviets had used Hawaii for target practice. It was a matter of the Soviets testing their nuclear weapons system, bracketing Hawaii, on September 29 and 30. Were they proud of all these years of

commercial activity involving the most sophisticated technology in building the Soviet military-industrial base? Were they pleased by the accuracy of the Soviet missile warheads which simulated a first strike at the United States?

Just this morning, Mr. President, the Washington Times had a front page story entitled "Gorbachev Approved Missile Test Near Hawaii." The article is written by Gregory Fossedal of the Copley Wire Service, and it stated:

"Soviet leader Mikhail Gorbachev not only approved tests that sent unarmed missile warheads * * * within a few hundred miles of Pearl Harbor, but he possibly spent hours during the test deep in an underground bunker near Moscow, U.S. intelligence sources say."

Mr. President, so that Senators may have this article readily available, I ask unanimous consent to have it printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, Senators will recall that the Soviets also targeted U.S. observation aircraft with laser light beams as well as electronic countermeasures that were so powerful as to destroy the monitoring systems in one of the aircraft.

While we are on the subject, I found myself deeply disturbed by a remark attributed by the Washington Times to Mr. Bob Linhard, a Director for Arms Control Policy at the National Security Council. The news story quotes his reaction to the Soviets' first-strike test against the United States at Hawaii as follows: "I hope this never gets out."

Mr. Linhard's apparent desire to conceal from the American people highly provocative Soviet behavior has no place in this administration or any other. It is the same sort of desire to conceal from the American people the facts about U.S. business and financial corporations engaging in trade with the Communist countries which characterizes the attitude of Mr. Verity and his associates at the U.S.-U.S.S.R. Trade and Economic Council.

That is the reason why I proposed two reporting requirements in 1984 and the year following, included in the Export Administration Act revision. They are section 14(d) and section 14(e).

The first report requires a listing of American corporations, the general type of product they receive an export license for, and where the product is going. The second report requires an assessment of the impact of trading with Communist countries, the impact on the U.S. economy, particularly in the area of production and job displacement.

Mr. President, Mr. Verity and his fellow lobbyists have consistently sought to deny this information to the American people, and thus far they have been successful. They want to keep making money from trading with the Communist countries, but they do not want the American people to know about the magnitude of the trade, for one simple reason—that the American people would be aghast if they knew the truth and had it available.

Unfortunately, the Department of Commerce has participated in what amounts to a coverup of the trade of American corporations and banks with the Communist world. The Department clearly does not want the American people to have the truth. Rather than protect the American people, there seems clearly to be an effort to protect the trade lobby dealing with the Communists. The Commerce Department, for the better part of 2 years, flatly refused to comply with my repeated requests for this information.

So, one day last week, I went to see the President of the United States about the Verity nomination. I told him that if I could receive the information that I had been seeking for 2 years, I would have no problem about letting the process function in terms of this nomination. I do not favor the Verity nomination, but I am willing to let the process work. The President apparently acted immediately, because the same afternoon, within just a few hours, the information was delivered to me at my office, and I wish Senators could look at it.

This is one printout after another of dealing with the Communists. This happens to be a general list. Here is one to Bulgaria. Here is one to East Germany. I will not unroll it all. Here is another one. Here is another computer printout—this is to Czechoslovakia, containing all sorts of sophisticated technology.

I could go down the list. Here is another one, a thick one. Here is another one. And so forth.

When the Department of Commerce delivered this information to me, the Department stipulated that one copy had been delivered to the Banking Committee and that only members of the Banking Committee could see it. I could not believe my ears when I heard that restriction, particularly since, in my judgment, that interpretation is a violation of the law.

Here is a cover letter that accompanied the list of this pile of computer printouts. It is signed by Mr. Bruce Smart, who is acting Secretary of Commerce. He said:

I deem this data to be covered by the confidentiality provisions of Section 12(c) of the Act.

He goes on to say:

I have, therefore, exercised my discretion under Section 12(c) and have determined that it is in the national interest to provide the data to you subject to the condition that it not be publicly disclosed without the approval of a Congressional committee of appropriate jurisdiction.

Mr. President, I ask unanimous consent that the entire letter be printed at this point in the RECORD.

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

THE SECRETARY OF COMMERCE,
Washington, DC, October 2, 1987.

Hon. JESSE A. HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: In response to your request, I enclose that portion of the Fiscal Year 1986 annual report under Section 14(d) of the Export Administration Act of 1979, as amended, which lists by country the companies receiving licenses for exports to controlled countries, and shows the type of goods or technology exported.

On the basis of legislative history, recent court interpretations, and the terms on which this information was furnished in license applications, I deem this data to be covered by the confidentiality provisions of Section 12(c) of the Act.

I appreciate that you are the author of the 1985 amendment that requires the submission of this information to the Congress with each annual report. You have a proper interest in seeing how we are complying with this amendment. I have, therefore, exercised my discretion under Section 12(c) and have determined that it is in the national interest to provide the data to you subject to the condition that it not be publicly disclosed without the approval of a Congressional committee of appropriate jurisdiction.

Sincerely,

BRUCE SMART,
Acting Secretary of Commerce.

Mr. HELMS. Here we go again. We are going to see about that, Mr. President. The Soviets and other Communist countries know what they have bought from U.S. corporations. They know of the financial dealings with U.S. banks and other financial institutions. The Department of Commerce knows as does the U.S. Government. The only people left out of this little transaction are the American people who have the most at stake.

So, Mr. President, that is about all I am going to say at the moment. I am going to abide, for the time being, by the confidentiality restrictions. I am not even going to show any of this to the Senator. I am going to put it back in my safe until we can resolve the conflict of opinion about whether this information should be made public as I stipulated at the time I offered the amendments to the Export Control Act.

Mr. President, I thank you very much. I yield the floor.

EXHIBIT 1

[From the Washington Times, Oct. 13, 1987]

GORBACHEV APPROVED MISSILE TEST NEAR HAWAII

(By Gregory Fossedal)

Soviet leader Mikhail Gorbachev not only approved tests that sent unarmed missile warheads to a spot in the Pacific within a few hundred miles of Pearl Harbor, but he possibly spent hours during the tests deep in an underground bunker near Moscow, U.S. intelligence sources say.

Communications intercepted by the United States indicate that a number of other top Soviet officials went into the deep underground bunkers near Moscow during the tests on Sept. 29 and 30.

These conclusions are reported to have been presented to National Security Adviser Frank Carlucci about Oct. 7, after an interagency meeting on the provocative incident.

If true, U.S. officials believe, the findings suggest a Soviet willingness to test the resolve of a politically disabled Ronald Reagan.

"Gorbachev stuck his thumb in Reagan's eye and got away with it," one defense aide on Capitol Hill said. "He's going to remember that come the summit."

Many details of the incident remain classified, but U.S. officials knew, for example, about the tests as early as Sept. 22 and no later than Sept. 26, as the Soviet Union began to notify international navigators to avoid the area targeted by its TT-09 missiles.

However, the United States did not protest until the afternoon of Sept. 30. The first public reports of the tests appeared in The Washington Times on Oct. 1.

When a three-sentence cable, drafted by Mark Parris, regarded as a State Department "soft-liner," was sent to the Soviets, it raised only mild objections. "In keeping with the cooperative spirit and the desire for new relations," the message read, the United States requested that the nearly completed tests be halted, and that future tests "not choose the Hawaiian Islands as an impact area."

The message, officials say, made no mention of the Soviet's having fired at least three lasers at U.S. reconnaissance planes during the tests—one powerful enough to knock out most of one U.S. plane's electronic gear—at once acts of belligerence and violations of arms control treaties that ban interference with technical verification of missile tests.

Neither the State Department nor the White House noted that the missile itself appears to violate several provisions of the second strategic arms limitation treaty (SALT II) that was not ratified by the U.S. Senate but has been observed by both superpowers.

That U.S.-Soviet pact limits the Soviets to one new-type intercontinental missile. The TT-09 is the third such missile the Soviets have developed. Its range and throwweight also place the TT-09 well above ceilings established in the 1979 pact.

Moreover, the missile is only about one-third of the way through its testing program. There was thus a better-than-normal chance of damage to U.S. property and people. "You would never fire a missile with so little testing toward U.S.," a Pentagon weapons consultant said, "unless you wanted to be deliberately provocative."

Some officials evidently expected the incident might escape notice. "I hope this never gets out," said Bob Linhard, the director for arms control policy on the National Security Council, when he was informed that the Soviets also had fired ship-based laser weapons at several U.S. reconnaissance planes trying to observe the tests.

Why are all of those congressmen and senators saying that Soviet warheads are flying on Pearl Harbor?

However, several Republican legislators, notably Sen. Malcolm Wallop of Wyoming and Sen. Jesse Helms of North Carolina, began asking questions. Mr. Helms called Mr. Carlucci and demanded that official reports on the tests be declassified. Most were.

Contrary to early reports, however, the Soviet lasers did not injure U.S. pilots seriously. They were outfitted with protective headgear.

However, one government official conversant with the incident said the Soviets hit not two U.S. aircraft with lasers, but three. The third plane, a reconnaissance craft, was aloft over the Pacific well after the State Department filed its mild protest.

This plane was hit with a beam of such power that most of its electronic surveillance equipment was knocked out instantly.

Some U.S. officials recalled that the White House reacted with similar timidity to the Soviet seizure of Nicholas Daniloff, Moscow correspondent for U.S. News & World Report, on the eve of the Reykjavik summit. These officials worry that Mr. Gorbachev, strengthened by his glasnost campaign, may be emboldened to make dramatic demands on a U.S. president whose administration allowed the Hawaii tests to pass with impunity.

Mr. THURMOND and Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Before I yield to my distinguished colleague, let me as the manager of this nomination acknowledge the particular statement made by my friend from North Carolina. I certainly join the Senator from North Carolina in the definite feeling that all of us in the American public should be informed on this score, and there should be no hanky-panky with only letting certain people know.

However, that is not Mr. Verity's record. Mr. Verity's record is not as one responsible for the concealing of this information, nor for the missile test that landed out there near Hawaii. He has been living calmly down in my own back yard, enjoying the sea breezes of Beaufort, SC. I have many, many fine marines down there at Parris Island that are ready, willing, and able to come up here and testify for this distinguished American.

The truth of the matter is that President Reagan some 3 years ago announced that he was going to try to explore ways to expand trade and develop more stable relationships with the Soviets, a more constructive relationship with the Soviets through international trade. At that particular time, there was raised a question, for example, about strategic materials and oil drilling equipment. And it was brought out at that time those materials would not be included because they could be used in a strategic sense.

Let me read an article appearing in the New York Times entitled "Trade Talks With Soviet Planned" dated in November of 1984, 3 years ago:

WASHINGTON, Nov. 6.—The United States and the Soviet Union have agreed to sit down in Moscow early next year and explore ways to expand trade, American officials said today

The meeting will be the highest-level economic talks between the two superpowers in six years. Although some Defense Department officials are wary of more trade with the Russians, the talks scheduled for Jan. 8-10 are seen here as a step toward what President Reagan has called a "more constructive relationship" with the Soviet Union.

Asked for comment on the meeting, Sergei L. Divilkovskiy, counselor for press affairs at the Soviet Embassy in Washington, said, "I cannot help you because I am not prepared to give you a meaningful reply."

Should the meeting go well, it could lead to a ministerial conference a few months later between Commerce Secretary Malcolm Baldrige and the Soviet Union's Foreign Trade Minister, Nikolai Patolichev.

Lionel H. Olmer, Under Secretary of Commerce for International Trade, who will lead the American delegation, said in an interview that the January meeting should contribute to "a better working relationship" but probably would not result in a sharp rise in trade between the two countries, which totals a little more than $2 billion a year.

"I don't view the Soviet market as having enormous potential," he said. "But there is room for expansion on a modest scale. If I were an American businessman producing nonstrategic goods, I would take heart."

Because of opposition from some people in the Administration, Mr. Olmer will not offer advanced oil exploration equipment, which the Russians have been eager to buy.

The agreement to hold trade talks follows actions by the Reagan Administration in recent months to relax American-Soviet tensions, including the 10-year renewal last summer of an economic cooperation accord between the two nations and stepped-up cultural exchanges.

The United States and the Soviet Union have also agreed to hold talks on Nov. 28 on controlling the spread of nuclear weapons to other nations.

Although the Administration's attitude has softened, there is still a conflict between Republican hard-liners who oppose accommodation with Moscow (mostly found in the Defense Department) and those who want better relations (mostly found in the State and Commerce Departments).

"I'm all in favor of talking to the Soviets," said Asssitant Defense Secretary Richard N. Perle, a leader of the hard-line school. "Whether the trip will serve our interests remains to be seen.

"I am confident," he continued in an interview, "that it will not produce a resumption of the profligate transfer of sensitive technology that was characteristic of some previous trade missions."

Secretary of State George P. Shultz said two weeks ago in a speech in Los Angeles that the "way is wide open" to sustain progress in relations with the Russians, but he said he expected no immediate breakthroughs.

POLICY OF 'LINKAGE' OPPPOSED

He criticized the policy of "linkage" in which the United States had applied trade sanctions against Moscow in retaliation against imprisonment of dissident, military intervention in Afghanistan and imposition of martial law in Poland.

"We should not sacrifice long-term interests in order to express immediate outrage," Mr. Shultz declared.

What Mr. Olmer can offer the Russians will be a much more restricted list of products than was taken to Moscow 12 years ago by Peter G. Peterson, then the Secretary of Commerce, who negotiated the first trade agreement between the countries.

But the agreement never went into effect. Two years later Congress passed the Jackson-Vanik amendment to the 1974 Trade Act. The amendment linked trade expansion to elimination of impediments to Jewish emigration from the Soviet Union. Mr. Perle, then an aide to Senator Henry M. Jackson, the Democrat from Washington who died last year, was its principal author.

Moscow wants American technology and drilling equipment to help open up the Barents Sea oilfields, considered one of the most promising areas for oil exploration. But the sanctions imposed after Afghanistan and Poland prevent the sale by American companies of advanced exploration equipment and technology.

"The agenda is not being crafted with a view of selling oil and gas equipment and technology," Mr. Olmer said.

Defense Secretary Caspar W. Weinberger and Mr. Perle have been the principal advocates of continued oil equipment sanctions on the ground that oil exports are the Russians' principal source of foreign exchange. They argue that such earnings bolster Soviet military strength.

Some oil exploration technology has military applications, Mr. Perle said. Seismic technology, for instance, is relevant to equipment used in antisubmarine warfare.

"We are not talking about altering the existing policies of technology transfer, but we think that within the existing policies there are still a number of areas of opportunity for American suppliers," Mr. Olmer said.

In recent years American exports to the Soviet Union have averaged $2 billion a year, of which wheat, corn and other food products accounted for about two-thirds to three-quarters. Other exports include phosphoric acid, pressure-sensitive tape, tractor parts and drilling equipment.

The exports are four to five times the imports, which have not exceeded $500 million in recent years. Principal Soviet products shipped to the United States include anhydrous ammonia (used in making fertilizers) and some minerals, fuels and lubricants.

The meeting between Mr. Olmer and Moscow's Deputy Foreign Trade Minister, Aleksei Manzhulo, will be the highest-level encounter on general trade issues since December 1978, when Commerce Secretary Juanita M. Kreps represented the United States in the Joint Commercial commission of the two countries.

That commission was set up to discuss economic issues under the long-term economic cooperation accord. Commission meetings were suspended by the United States after the Russians entered Afghanistan in 1979.

I yield to my distinguished senior colleague.

Mr. HELMS. May I have just 30 seconds?

If Mr. Verity will agree, which he has not yet done, to release this information, I have no problem with the nomination. But I think if the Senator will check with him, he does not favor the release of this information.

Mr. HOLLINGS. I will certainly check that because I think we are both entitled to this information. No question about it.

Mr. HELMS. Exactly.

Mr. HOLLINGS. Yes.

Mr. HELMS. I thank the Senator.

Mr. HOLLINGS. I yield 2 minutes to my distinguished senior colleague.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 2 minutes.

Mr. THURMOND. Mr. President, I rise in support of the nomination of Mr. C. William Verity, the President's nominee to be the new Secretary of Commerce and hope the Senate will vote for cloture.

Mr. Verity is a distinguished individual, who is well qualified for the position of Secretary of Commerce. He has worked with Armco Steel for 35 years, rising through the ranks to become the chairman of the board and its chief executive officer. Regarding his formal education, Mr. Verity is a graduate of Yale University, and holds nine honorary degrees.

Mr. Verity has been a member of many distinguished organizations dedicated to the improvement of the business climate in the United States. He was appointed by the President to serve as chairman of the task force on private sector initiatives. He also served as chairman of the U.S. Chamber of Commerce. Further, Mr. Verity has dedicated his time to educational institutions: He served as a trustee of the Colgate Darden Graduate School of Business at the University of Virginia; a trustee of Phillips Exeter Academy; and an honorary trustee of the Univesity of Dayton.

In summary, his credentials are impeccable and he has taken an active interest in American business and education throughout his life.

During the August recess, I had the pleasure of meeting with Mr. Verity to discuss his nomination and his views on trade. Mr. President, if the current pace of the trade deficit increases, 1987 will be another record year for the American trade deficit. I discussed the problem with Mr. Verity and the need to improve our competitive position worldwide. I am confident that Mr. Verity will respond to the needs of American industries, especially those like the textile industry that have been hard hit by foreign imports. I believe he will make a diligent effort to reduce the massive trade deficit we currently face.

Some of my colleagues have raised concerns about Mr. Verity and his position on trade with the Soviet Union. I have been assured by Mr. Verity that he is opposed to any trade with the Soviet Union that is not beneficial to the United States or that involves strategic materials which could pose a threat to our national security.

I hope that my colleagues will carefully consider his qualifications and I urge my colleagues to vote for Mr. Verity's confirmation and to vote for cloture.

Thank you, Mr. President. I wish to thank my able colleague.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. HOLLINGS. Mr. President, I yield time to my distinguished friend from California.

The PRESIDING OFFICER. The Senator from South Carolina yields to the Senator from California.

The Senator from California is recognized.

Mr. CRANSTON. I thank my friend from South Carolina.

Mr. President, I rise once again to speak on behalf of the nomination of William Verity to be Secretary of Commerce. It is tragic that a vacancy occurred in this important position with the death of Malcolm Baldrige. We have a fine trading negotiator in Clayton Yeutter presently handling that repsonsibility. But it is very unfortunate that we have had a long and needless delay in dealing with the nomination of William Verity. We all know that our trade problems are immense. We need a Secretary of Commerce working on those problems and a man with the capacity that William Verity brings to that position. This morning's newspaper reports "Trade gap with Japan gets wider." We need a Secretary of Commerce working on this problem. We need progress in coping with this trade deficit. And William Verity has all the attributes that I believe are needed for this very important position.

He has a remarkable background in the business world which I outlined when I spoke last Thursday and as others have done so. I will not go into those details once again except to underscore that he has provided remarkable leadership in the business world, and in the trade world. And we need that leadership in our Nation now at the helm of the Department of Commerce.

On the matter of trade with the Soviet Union, I think the President pro tempore stated very well that situation when STROM THURMOND said that while Mr. Verity favors trade with the Soviet Union, he obviously does not favor trade with the Soviet Union that in any way does damage to our country or could do so. And he would not specifically favor any trade that would

give them technological secrets to our disadvantage.

It would be very helpful to have expanded trade with the Soviet Union, first, to help cope with our trade deficit; second, because when you trade with a nation, you develop relationships that are likely to reduce the sort of misunderstanding that could lead, in the case of our relationship with the Soviet Union, to tragedy if we do not manage those relationships wisely and well. A trade relationship would be an important part of the process of developing a more stable and peaceful relationship with the Soviet Union.

On the matter of trade with that country, we have had difficulties, obviously, in protecting technology but, on the other hand, I think we have leaned over far too far in inhibiting trade of a peaceful and nonsecurity-related nature. And I trust that William Verity, like Malcolm Baldrige, will provide leadership to us on that front where we need it to see to it that we do not inhibit trade that is to our advantage as well as to the advantage of the Soviet Union.

For all those reasons, I trust that the Senate will move speedily to break this filibuster and to proceed to uphold the nomination.

The PRESIDING OFFICER. The Senator has yielded the floor. Who yields time?

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 15 minutes. The Senator from South Carolina has 49 seconds.

Mr. HELMS. Mr. President, the suggestion of a filibuster does not quite fit. As I recall, the distinguished Senator from New York spoke about 40 minutes the other night. I spoke about 22 minutes. If that constitutes a filibuster, then I am unaware of what the situation is.

Mr. CRANSTON. Will the Senator yield?

Mr. HELMS. Mr. President, I yield such time as he may require to the distinguished Senator from New York.

Mr. CRANSTON. Will the Senator from New York yield for a question?

The PRESIDING OFFICER. The Senator from New York has been yielded time.

Mr. D'AMATO. I see my colleague from California would like the floor. I certainly would like to accommodate him.

Mr. CRANTSON. I appreciate that very much, since the Senator from North Carolina did not choose to yield.

I just wanted to ask why it was necessary to file a cloture motion, since, apparently, it was, given the delays this nomination had.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. HELMS. Will the Senator from New York yield to me for just a moment?

Mr. D'AMATO. Certainly.

Mr. HELMS. The distinguished Senator from California is the assistant majority leader and the majority leader made the judgment about filing the cloture motion. I suggest he talk to him about it.

Mr. CRANSTON. It was plain to the majority leader, who knows how this body works as well as any Member of this body and probably better, and he came to the conclusion that a cloture motion was necessary in order to bring this nomination to a vote.

The PRESIDING OFFICER. The Senator from New York has been yielded time and is recognized.

Mr. D'AMATO. Mr. President, let me address myself to the issue of cloture. I think it is fair to say that a number of us in the Senate, including myself, were sufficiently concerned about this nomination and the manner in which, I believe, it was rushed toward a conclusion—without our colleagues having adequate time to focus their attention on this matter—that we decided it required further debate.

I spoke at length on Thursday. That was for some 40-odd minutes. I think it is fair to say the attention of the Senate has been taken up by another nomination, a nomination that has totally dominated the attention of most of my colleagues, a good part of my attention, and a good part of the media attention. We are, I think—confronted with—a rather serious situation. We are confronted with it in such a short period that we almost have got to rush to judgment.

I am not suggesting that the Commerce Committee did not fulfill its role as it should. But I am suggesting to you that one should take the time to research the record of Mr. Verity, the nominee for Secretary of Commerce. When they do that, many of my colleagues have indicated that they are rather shocked at what they find. They are shocked by Verity's past statements.

Notwithstanding that, there seems to be a silent acquiescence to his confirmation, based upon the feeling that, "Well, he will only be there for a year." Then among my Republican colleagues, there is the view that, "Look, we don't want to oppose the President. He is having a tough enough time with the Bork nomination and other matters. Do we really want to do this? How will I be perceived by my constituents back home?"

If you want to talk about someone who is not being judged on his record—we have heard a lot about that—I suggest it is C. William Verity.

What exactly are Mr. Verity's views? I began last Thursday to review that record and to bring to the attention of my colleagues some of his testimony.

Responding to a question as to whether he opposed Jackson-Vanik when it was passed, at Verity's confirmation hearing, he said:

I wasn't in a position to oppose it.

Later he said:

And I really am still on a two point thing on this. We have got to support Jackson-Vanik, but we also must find a way to increase emigration out of the Soviet Union that is not tied to trade. There are better ways to do this.

This is the Secretary of Commerce designee.

Following up on that, he said:

I honestly believe, Senator, that more can be done that way than by Jackson-Vanik, although I think that the Soviets through proper negotiation perhaps will raise the level of emigration to the point that maybe we can get a waiver on Jackson-Vanik.

Then Mr. Verity was asked if he would advise the President to suggest repeal of Jackson-Vanik. Here is what he responded:

I would suggest to the President that he bring up the issue with President Gorbachev and explain this is something that is very, very important to the United States, and would he assure him—him, President Reagan—that he would look into the possible increase of emigration as a means of improving relationships between our two countries.

Since that reply was not responsive to the question about Verity's position on repeal of Jackson-Vanik, he was asked again what his recommendation would be and to explain it. Here is what he replied:

I would have to say that Jackson-Vanik from a trade point of view in my opinion has been counterproductive.

Now, I wonder how my friends and colleagues here can say, "Well, we think he has changed. He has modified his view." Either we are saying Jackson-Vanik is out of step with the times and should be repealed or we are saying that a Secretary designate, a Secretary of Commerce who will be the point man on this important human rights issue, that he is going to be out of step with U.S. policy and is going to put this country in a position where we are saying one thing and doing another.

Then he was asked at a later point if Jackson-Vanik is effective. This is what he said: "My interest, Senator, is to increase trade with the Soviet Union." That is his interest.

He said:

And I believe that if we could resolve the Jewish emigration problem, that the Jewish community would be willing to make waivers in the Jackson-Vanik which would allow MFN to the Soviet Union.

He was asked if he thought that it was sufficiently worthwhile to increase trade with the Soviet Union that we should not be using trade as a lever for emigration. I think it is

worthwhile to note that part of his response. Now, remember, "Should it not be used as a lever"—that is the question. He said: "I have a problem anytime we use trade as a lever."

Well, I have a problem with anyone, a Secretary of Commerce in particular, who says that he has a problem any time we use trade as a lever.

Then he goes on to conclude:

This is the one situation where I think that it is clear that human rights is such an important problem or of interest to the United States that Jackson-Vanik should be kept on the books until the emigration is such that there would be a willingness by the Congress and by the Jewish community to waive those limitations.

Last Thursday, I stated that the thrust of Mr. Verity's confirmation testimony was his overriding desire and intent to increase trade with the Soviet Union. Regardless of what the situation is, whether it is Afghanistan, whether it is human rights, whether it is Soviet Jewry, or whether it is the oppression of Pentecostalists, Baptists, Catholics, Ukrainians, Balts, or other ethnics, you do not use trade as a lever, he says.

I was not able to complete my review of his testimony last Thursday, but I have now put before the Senate over these 2 days Mr. Verity's views on this subject. And they are rather revealing.

What I think they show is that Mr. Verity is a man who has not undergone a confirmation conversion. We talk about others who have undergone a confirmation conversion. I suggest that we take a look at Mr. Verity's record and see what he has done, what he has said, and what he says now. And, indeed, his views have remained remarkably consistent. He is not shy about them. When he said, "My interest, Senator, is to increase trade with the Soviet Union," he could not have been any more direct or any more honest in his views.

And when he speaks about human rights, his views are equally clear. During my speech last Thursday, I quoted part of Mr. Verity's response to questions during his confirmation hearing. In a sentence which I omitted, Mr. Verity said:

But in addition to all that, Jackson-Vanik was put on the books because of the concern for human rights that is peculiar to America.

Mr. President, I ask you to listen to that.

His choice of words caught my attention: "* * * the concern for human rights that is peculiar to America."; I am not going to criticize Mr. Verity's diction. I suspect, however, that in this choice of words he may have revealed more about his views than he intended to.

Reading his statements, I looked for compassion and understanding. All I found were statements in which he grudgingly recognized the influence of powerful interests.

For his confirmation hearing, he made the minimum possible retreat from his past stated positions, qualifying his views just enough to allow his confirmation. In this, I cannot fault his integrity or his honesty. But I can and do challenge his suitability to be the next Secretary of Commerce, because his record and his views are incompatible with established U.S. policy.

Looking at his current statements, I have to ask what lessons he may have learned from the collapse of détente. I fear the only lesson he learned was that he was denied the opportunity to profit from his deals with the Soviet Union.

The rest of us learned other lessons. First among them was that the Soviet Union had not forgone its imperial ambitions around the world and that it was willing to pursue them directly by force of arms. The second lesson was that rights promised to its people by the Soviet Government when it signed various international agreements, including the Helsinki Final Act, could be snatched away when the international situation was no longer promising. The third lesson was that economic ties developed under détente only bound one party—the United States—and not the Soviet Union. This last lesson is particularly important in today's debate over Mr. Verity's confirmation.

We had a full-scale test of the real-world effectiveness of the idea that trade is a road to increased understanding, cooperation, and peace. That was called détente. It was a failure. The arrival of Soviet airborne troops in Kabul, Afghanistan, showed it for what it was.

Those Soviet troops, or their replacements, are still in Kabul, still killing the citizens of Afghanistan. We went through a difficult period, responding to this act of armed aggression with all the measures in our power to show our displeasure.

We did terminate trade with the Soviet Union, to the extent that it was possible to do so. We did boycott the Moscow Olympics. We did take a variety of diplomatic measures. Yet the Soviet Government pressed ahead with its Asian adventure.

We also suffered for the decisions we made to back up our principles. Our farmers were hurt by the grain embargo. Others, whose jobs depended upon the ties forged during the heyday of détente, were hurt.

Where, in Mr. Verity's testimony, is any understanding of this? What lessons did he learn? He is still trying to tear down barriers to United States-Soviet trade. While we were traveling to international meetings to criticize the Soviet Government for the worst post-Stalin domestic oppression, Mr. Verity was traveling to international meetings to work with Soviet officials in preparation for the day when the floodgates of trade—and profit—could be opened again.

While we were marveling the heroism and moral stature of Andrei Sakharov, Yelena Bonner, Juri Orlov, and Natan Sharansky, and working for Soviet compliance with their human rights promises, Mr. Verity was exhorting his colleagues to work for expanded trade.

While we were seeking to reunite families torn asunder by Soviet oppression, he was hobnobbing with his Soviet friends on the council. While we were compiling lists of prisoners of conscience and trying to determine in which labor camp, prison, or special psychiatric hospital they were confined, he was making lists of new United States-Soviet business projects and settling on the site for the next meeting of the council.

Mr. President, this man does not appear to believe in the primacy of human rights. He believes in profit. His concern for the human suffering of victims of Soviet oppression extends only far enough to ensure his confirmation. Once he is in office, he has higher priorities to serve—trade and profit.

I will say it again—I urge my colleagues to think twice, to review Mr. Verity's remarks and record, and vote against his confirmation as Secretary of Commerce.

That is why this Senator said: Let us not rush to judgment. Let us look at the record.

Mr. President, I ask unanimous consent that we place in the RECORD the text of the recent editorial from the New York Post and, Mr. President, I yield the floor.

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

MR. VERITY—THE WRONG MAN

Senator Alfonse D'Amato is mounting a heroic fight against the confirmation of C. William Verity as Secretary of Commerce. The vote on Verity is likely to take place this week. And while D'Amato knows that the President's nominee is all but certain to be confirmed, this is a battle that must be fought to the end.

There are issues of principle at stake: Verity—one of the leading champions of U.S.-Soviet trade in American corporate life—is an altogether inappropriate choice for the commerce post. The fact that this corporate detentist is being elevated to the cabinet by—of all people—President Ronald Reagan, serves only to make the whole episode even more distressing.

The former chief executive of Armco, Inc.—the nation's fifth largest steel company—Verity was cordially received by the Senate Commerce Committee, which promptly recommended his confirmation.

D'Amato, thus far, has secured the promise of only seven opposing votes. Still, those seven votes—and any more that can be garnered—will represent a symbolic protest, as

well as a warning to Verity. The new commerce secretary, whose job centers on shaping U.S. trade policy, will know that he is being watched.

From a purely pragmatic standpoint, it's understandable that Verity should have been a staunch friend of trade with Moscow. Armco—Verity's family firm—did a good deal of business with the Soviets.

Indeed, in 1979, the company was on the verge of building an entire steel plant in the Soviet Union. The papers had already been signed when the U.S. government—in the wake of the Soviet invasion of Afghanistan—killed the deal.

The project would have meant many millions in profits for Verity and Armco—his disappointment, therefore, isn't surprising.

But in terms of national security, the Armco-Soviet joint undertaking was bad news. In retrospect, the mere fact that a U.S. company almost built a state-of-the-art steel plant in the USSR boggles the mind. It doesn't take an engineering degree to fathom the uses to which steel can be put.

That Verity—a past chairman of the U.S.-Soviet Trade and Economic Council—should join the administration at this particular moment is especially disquieting. The issue of East-West strategic trade has come to the fore. Many of the European allies, not to speak of the Japanese, are willing to sell the Soviets anything—without regard to the strategic or military utility of the transferred technology. The Toshiba affair was but one manifestation of this disposition toward unfettered East-West trade.

If the U.S. is to continue the battle against the transfer of sophisticated technology, it will need strong, tough leadership—not just from the White House and the Pentagon, but also from Commerce.

Verity, to be sure, now claims to oppose the sale of sensitive technology to Moscow. But his record gives little cause for optimism.

And there's another reason for concern about this appointment—Verity's longstanding opposition to linking U.S.-Soviet trade with the Kremlin's performance in the human rights field. On more than one occasion, Verity has argued explicitly for scrapping the Jackson-Vanik amendment, which links Most Favored Nation trade status for the Soviets to increased Jewish emmigration.

Verity's opponents in the Senate may not be able to prevent his confirmation—but they can certainly cramp his style. And that's reason enough for senators who are concerned about these issues to join Al D'Amato in voting "No."

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. The Senator from North Carolina yields back the remainder of his time. The Senator from South Carolina yields back the remainder of his time. All time has been yielded back. All time has expired.

Under the previous order, the time having expired, the Senate will now stand in recess until the hour of 2 p.m.

There being no objection, the Senate, at 12:55 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the clerk will report the motion to invoke cloture.

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 nomination of C. William Verity, of Ohio, to be Secretary of Commerce.

Robert C. Byrd, Chuck Grassley, Kit Bond, John H. Chafee, Ted Stevens, Phil Gramm, J.J. Exon, Frank Lautenberg, Patrick Leahy, George J. Mitchell, Bob Dole, Bob Kasten, Bob Packwood, Robert Stafford, Larry Pressler, Wendell Ford, and Dennis DeConcini.

CALL OF THE ROLL

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 nomination of C. William Verity, Jr., of Ohio, to be Secretary of Commerce, shall be brought to a close. The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. STAFFORD] is necessarily absent.

I further announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Kansas [Mrs. KASSEBAUM] would vote "yea."

Mr. BYRD. Mr. President, regular order.

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

The result was announced—yeas 85, nays 8, as follows:

[Rollcall Vote No. 320 Ex.]

YEAS—85

Adams	Boschwitz	Cochran
Armstrong	Bradley	Cohen
Baucus	Breaux	Conrad
Bentsen	Bumpers	Cranston
Biden	Burdick	Danforth
Bingaman	Byrd	Daschle
Bond	Chafee	DeConcini
Boren	Chiles	Dixon
Dole	Kennedy	Reid
Domenici	Kerry	Riegle
Durenberger	Leahy	Rockefeller
Evans	Levin	Roth
Exon	Lugar	Rudman
Ford	Matsunaga	Sanford
Fowler	McCain	Sarbanes
Garn	McConnell	Sasser
Glenn	Melcher	Shelby
Graham	Mikulski	Simpson
Gramm	Mitchell	Specter
Harkin	Moynihan	Stennis
Hatfield	Murkowski	Stevens
Hecht	Nickles	Symms
Heflin	Nunn	Thurmond
Heinz	Packwood	Trible
Hollings	Pell	Warner
Inouye	Pressler	Weicker
Johnston	Proxmire	Wirth
Karnes	Pryor	
Kasten	Quayle	

NAYS—8

D'Amato	Helms	Wallop
Grassley	Humphrey	Wilson
Hatch	McClure	

NOT VOTING—7

Dodd	Lautenberg	Stafford
Gore	Metzenbaum	
Kassebaum	Simon	

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 8. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

NOMINATION OF C. WILLIAM VERITY

Mr. BYRD. Mr. President, I yield myself 5 minutes under the cloture rule.

May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, the cloture vote was a very decisive vote, 85 to 8. I wonder if we might be able to get an agreement as to a time to vote on this nomination this afternoon, say, 3 o'clock, 3:30.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I am advised that the Senator from New York would like about 10 minutes. I do not know how much time the distinguished Senator from North Carolina would like. So far as I know, there are no other requests on this side.

Mr. HELMS. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. HELMS. If it can be arranged that I will be allocated 30 minutes, or whatever we can work out with the other Senators, it will be fine with me.

Mr. D'AMATO. I would not need more than 15 minutes. I will probably take less.

Mr. BYRD. Do I hear anyone on this side?

Mr. HOLLINGS. I would like equal time to sum up.

Mr. DANFORTH. I would like about 10 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the nomination of Mr. Verity occur today at 4 p.m., provided that Mr. HELMS has 30 minutes, Mr. D'AMATO 15 minutes, Mr. DANFORTH 10 minutes, Mr. HOLLINGS 15 minutes, Mr. THURMOND 5 minutes, Mr. ARMSTRONG 10 minutes, and that the remainder of the time be equally divided and under the control of Mr. HOLLINGS and Mr. DOLE or his designee.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

NOMINATION OF JUDGE BORK

Mr. BYRD. Mr. President, I will take whatever time is necessary out of my time under the rule, anent the nomination of Mr. Bork.

Mr. LEAHY. May we have order, Mr. President, so that we can hear the majority leader?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I thank the Senator from Vermont, and I thank the Chair.

The President has urged that there be a quick vote on the Bork nomination. I may not be using precisely the same words the President has used, but Mr. Bork, himself, has asked for a vote on his nomination. I think Mr. Bork is entitled to that vote on the nomination. I do not believe, however, that the debate ought to be prolonged in reaching that vote.

The distinguished Republican leader has indicated, I believe, on Sunday, on television, that he would be agreeable to a reasonably quick vote. The report has not been filed, but the nomination can be called up by unanimous consent prior to the filing of the report. In addition, the two leaders may, between themselves, agree to waive the 2-day rule on the filing of the report or on the availability of the report.

The President, in today's New York Times, says he favors a vote on Mr. Bork this week.

Mr. President, we need not wait to begin that debate beyond this afternoon, if it is agreeable with the distinguished Republican leader. We an waive the availability of that report, and we certainly do not need to string this debate out the rest of the week. I think the important thing is to give Mr. Bork the vote he has asked for, let the Senate work its will, let the Senate take its position, let the Senate speak as a body, with a reasonable amount of debate before that decision by the Senate.

The Judiciary Committee conducted thorough hearings, very ably and fairly chaired by the distinguished Senator from Delaware [Mr. BIDEN]; and the fact that he did conduct himself with preeminent fairness was attested to by members on both sides of the committee, Democrats and Republicans.

I think that the sooner the Senate speaks, the better—the better for Mr. Bork, the better for the Court, the better for the Senate, and the country. The administration will need to send another nomination up, in the event that the Senate rejects this nominee, and every indication is to that end.

Therefore, it would seem to be the wise approach for the nominee to be voted on very soon, that the administration send up the name of another nominee, and that the Judiciary Committee in the Senate then begin at the earliest reasonable date to examine the qualifications of that nominee.

Having said that, and I just discussed this in a very cursory way with the Republican leader a moment ago, I ask unanimous consent that the Senate proceed, following the vote on the nomination of Mr. Verity, to the nomination of Judge Bork, that the availability of the committee report be waived together with the hearings, and that a vote occur on the Bork nomination no later than tomorrow afternoon at 6 p.m., with the time to be equally divided between the chairman and the ranking member of the Judiciary Committee.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, reserving the right to object, and if I could just be heard briefly on the reservation——

Mr. BYRD. Yes.

Mr. DOLE. I say first of all we did have a discussion in our policy luncheon about disposition of the Bork nomination. And I did have a unanimous-consent request which I read to the membership which would dispose of the nomination after 2½ or 3 days of discussion. But I have not had a chance to go all around because all the Members were not at the luncheon. Different Members have different ideas on how lengthy the debate should be. But I think as a general consensus on this side that it should not be 3 days. But I must say until I do that, I would be constrained to object.

I think we should keep in mind just the perspective that it was 72 days between the nomination and the hearings; 12 days of hearings; 120 witnesses. And even though the outcome may be a foregone conclusion, I read in the Boston Globe, for example, this weekend how there was great planning on how to stall the nomination so that the opposition could gear up. That is how the 72-day delay came about.

There are other things that I think ought to be discussed in any debate on the nomination insofar as the process is concerned because there will be another nomination, if the Bork nomination is not confirmed.

Let me at least hope that there will be some Members, after hearing hopefully a high level and reasonable debate, who will feel compelled to change their position. It would not take very many days to confirm Judge Bork, but I do believe that the proposal of the distinguished majority leader would not provide adequate time to the proponents or the opponents. It would be only 1 day, and it would be about 7 or 8 hours of debate.

It is not the nomination of Judge Bork that is very important. Judge Bork decided he wanted a vote up or down. I think the majority leader is right. He deserves that. I think he also deserves an opportunity to have the record set straight in many areas, where he feels that it is distorted.

I hope it is not an acrimonious debate. This Senator does not intend to engage in that kind of debate. But I do believe it would take additional time.

I had a chance to visit with the distinguished ranking Republican on the Judiciary Committee, Senator THURMOND. What we want to do is to get together this afternoon. Maybe I could come back and visit privately with the majority leader.

In the meantime, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, let it be said that the 72 days, I think, in this particular instance can be explained in large part by the fact that there was the August recess which by law consumed 30 or 31 or 32 days of that 72 days.

Additionally, I think a great deal of time was required to prepare for these hearings. After all, Judge Bork had a good many lectures, writings, statements, and speeches, and whatnot that needed to be researched. The administration could have saved itself a great deal of time, trouble, and grief, it could have saved Judge Bork a great deal of grief and traumatic experience if it had listened to the advice that was given; namely, that if Judge Bork's name was sent to the Senate there would be a difficult fight on that nomination for the very reasons that we have seen. And that advice fell upon deaf ears.

As a matter of fact, I was shown a list of names, 10, 12, or 14 on 1 day. I only recognized Judge Bork's name on the list as I recall. There might have been one other name that I recognized. But the very next day Judge Bork's name was sent up to the Senate which indicated to me that minds were made up and closed downtown before I was shown the list of names.

I am not so presumptuous as to say that the President has to name some-

one that suits me. I indicated that at that time I might vote for Judge Bork, or I might vote against him. It was my judgment at that time that he probably would be confirmed. But there would be a very, very difficult fight, and it would need a lightning rod because of his statements and viewpoints that had been expressed in the classrooms and on the bench that would certainly have to be gone into quite carefully and thoroughly. So much for that.

I think it is important that the administration listen and counsel with some of the people in this body, at least on the other side of the aisle, before it sends up another nomination. And it will be conducive to a reasonably—I hate to use the word "expedited," but for now I will use that word. Let me put it this way: It would be conducive to the action by the Senate within a reasonable time on the next nomination if the administration does seek some advice within the Senate before sending up another name.

Moreover, may I say to my colleagues that it will be conducive to the Senate's acting within a reasonable time on the next nomination if we keep our voices lowered here in connection with the upcoming debate on the Bork nomination.

Mr. JOHNSTON. Mr. President, would the Senator yield?

Mr. BYRD. If I may just continue, and I will be happy to yield. I will be brief.

Mr. President, if this deteriorates into a contentious, devisive, and bitter debate on the Bork nomination or in relation to the Bork nomination, it will not be helpful in the action that will be taken on the next nomination. In the first place, we do not have a lot of time. We will take whatever time is necessary but I think most Members have reached a judgment on the Bork nomination. It should not take long.

I have heard that the debate will be on the "process." Well, we can debate that process. But I just hope that Senators would restrain themselves, use a little judicial restraint, restrain themselves and their comments, recognize that the Senate is going to vote on the nomination one way or the other, and that in the interest of getting on with our work, filling the vacancy on the Court, and speeding up in a reasonable way the logical and methodical way the action on the next nominee, we keep our tempers lowered and do not allow ourselves to get carried away with our own rhetoric.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. JOHNSTON. I thank the Senator for yielding.

I would simply point out that in my judgment asking for 3 legislative days to deal with the Bork nomination is vastly excessive. My bill on energy and water appropriations has been on this calendar now for over a month waiting for time. There are less than 30 legislative days between now and the scheduled recess date. To take over 10 percent of that when we have not dealt with the appropriation bills—and we have a filibuster to overcome on that energy-water; no way to avoid that.

We have a filibuster to overcome on defense appropriations once it gets here. We have all the taxation matters. We have an impending sequestration coming up. And with all that, to take 3 legislative days, I just think is excessive, and I hope that the majority leader will not accede to that request unless we put it after all the other legislative business.

In other words, in my view, unless we can get a prompt disposal of a matter that is already decided—let us face it, there is no longer an issue on this. It is just a question of debate, to be charitable; I hope we will not take over 10 percent of the remaining part of the year and fritter in away on an issue already decided.

Mr. BYRD. Mr. President, the Senator from Louisiana made a good point. I share that hope, I also hope that we will do what we can to depoliticize this nomination. I hope that we do not gin up the policitization of the next nominee. So the less rhetoric, it would seem to me, the better. The shorter the time, the better.

Mr. BIDEN. Mr. President, if the Senator will yield for just a moment.

Mr. BYRD. Yes.

Mr. BIDEN. The President of the United States indicates he wants a vote this week. Everyone knows what the outcome of this vote is likely to be. Over half of our colleagues—as a matter of fact all but 7 of our colleagues have publicly spoken for or against Judge Bork thus far out of 100 of our colleagues.

To delay another week, to go to the 22d before we vote, consuming the time in the meantime, I am quite frankly worried that I know what will happen. The President hopefully will promptly send us another nominee. The entire Senate is going to look to the Judiciary Committee and say, "Now, we want you to hold hearings promptly. We'd like you to have the hearings completed. And we'd like you to have this back before the recess on the 21st and we'd like to vote on the 21st or before then."

The fact of the matter is, Mr. President, it takes the FBI weeks to do their background checks before they even send us a nominee. I hope the administration has that underway. Some of the nominees, potential nominees who have been mentioned, are a total blank slate to me and I suspect to 95 percent of the Members of the U.S. Senate and of the committee.

For us to waste a week when the President says he wants a vote now seems to me to, in a sense, cast the die on the probability of the Judiciary Committee being able to get their work done and report back to the Senate before we recess.

I will respond to the will of the body in how they want me to proceed and chair the committee. But, quite frankly, if those who wish to speak to the process—and I think that is their right to speak to the process. Why do we not vote and speak to the process every morning in morning business? Why do we not vote tomorrow and while the other nominee is underway and we are doing our work, let all those who wish to speak to the process come and vilify the chairman of the committee and anyone else they would like to go after, and so be it? But let them do it while we have the committee hearings, while I can be preparing in my committee the hearings for the next nominee.

Quite frankly, I would just suggest, as my colleagues talk about the process, unless they have changed their minds, I believe all but one of my colleagues on the Judiciary Committee went out of the way, while the hearings were going on and before they were concluded, to talk about what exemplary hearings they were and how fairly they were conducted. Now, if they want to talk about changing their minds about them now being unfair, that is their right. But why do we not do that during morning business and at the press conferences and let us get on with the business of confirming or rejecting Judge Bork?

As I said, the President wants it. I am ready. The committee report will be finished tonight. Obviously, you have to waive the 2-day rule, but it will be finished tonight. We are ready to go. But to take another 7 days before we vote on this, it seems to me to be making it convincingly more difficult to get to the point where we are going to have a nominee before this body that can be confirmed by the time we leave here.

Mr. BYRD. Mr. President, we have a request for 1 hour 25 minutes of time. I ask unanimous consent that the vote on the nomination occur at 4:15 p.m. today rather than 4 o'clock.

Mr. SIMPSON. Mr. President, do you have the floor, Mr. Leader?

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. Is there objection to the request?

Mr. DANFORTH. Reserving the right to object. I take it, Mr. Leader, you are talking about the Verity nomination?

Mr. BYRD. Yes, I am trying to accommodate Mr. DOLE and some of the other Members on that side of the aisle.

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

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to say just a few brief remarks with regard to the Bork situation. First, let me pay my respects to the Senator from Delaware, who conducted a very fair hearing. There is not any question about that. I do not think anybody is going to get up and say that the chairman of the Judiciary Committee did not. I know no one on our side is going to say it was not fair. I think it was very fair. We surely all would have liked a little more time. We started with a half hour and there was no way to accommodate everyone. Then we came to 10 minutes, then we came to 5. Then we all used our 5 for a quick statement because we did not want to allow the witnesses any time to answer or it would have used up all our time. But it was done very fairly, and I have no problem with that at all.

But what I would share in just a brief time is that only 14 of us participated—there were 14 of us there—and there are 86 of you that did not. There are 86 of our colleagues that did not see or hear or stick with the 32 hours of testimony of Judge Bork or hear the witnesses. It is all there. There is a record.

I think all I want to express to my colleagues is that this is a situation where our function here is not to make a contribution through public statements or keeping score as to who is for or who is against. Our function under the Constitution is called advice and consent. And the only way you have advice and consent is to have a debate. And the only way to have a debate is to have it on the floor of the U.S. Senate. And that is what I am saying, that, you know, this is a very poor way to do the business of advice and consent.

We heard a lot about the Constitution in these last days with Judge Bork. But the great threat to this body is in not doing our job and the job to be done right here on the floor of the U.S. Senate.

I have no desire to take it for 2 weeks. I think we could reach a time certain for next week; have it 5 o'clock Thursday, if we are to start Friday; a time certain to vote. I see no need to stretch that on into any great period of time.

But there is a very definite need here for those who do support Judge Bork. Not to get into terrible things, not to get into bitterness and some of the phrases that the majority leader uses. That is not what we are intending to do, I can assure the majority leader.

What we do intend to do is to be able to present a case like the American Cyanamid case in more than 5 minutes. So that the people of America can know that it was not a pleasant experience for Judge Bork to give a determination that women had the option of voluntarily sterilizing themselves. That case needs to be described. That is what came up in the television ads, that this was a man who seemed to get some kind of—I do not know how to describe it—that he did not seem to mind that women had the choice of voluntary sterilization. It does not take a half hour to describe the American Cyanamid case. You describe it as the OSHA board of review saying that had to be done or they would shut down the plant.

Then that it was the unanimous decision of that court; and people can see that the three judges were unanimous; and one can see that the full court chose to do nothing with it. The Supreme Court chose not to hear it. The reason was because it was a tough and hidious decision to make and some women chose that voluntary sterilization and, somehow all that has been placed upon Judge Bork.

I think that is unfair. That needs a little bit of explanation.

The other one, and there are several: the poll tax. The poll tax was used in the exact phrase as equated with racism. Yet Hugo Black, in the case 2 years before, said this issue of the poll tax has nothing to do with discrimination.

Those are the things we need to present. That, and the fact that somehow this man was the central sinister cog at Watergate and flog that old dog again—as we did in the hearings—and that somehow, Bork is the center of all that. And all of it (Watergate) got resolved just the way the American people wanted it.

And we should review the true issue of fact as to his being hostile to women, that he discriminated against women in discrimination based upon gender. Every one of you that voted to exempt women from the draft discriminated against women on the basis of their gender. Those are those flash words that were used. They were not used by the chairman. They were used by the opponents.

When you here voted in this body to exempt women from the draft, you were discriminating against women on the basis of their gender alone. Those are the things that popped up. They need a little bit of explanation. They do not need a lot, but they need some thoroughness and those are the things that we will be presenting.

Even a smattering of anti-Semitism came up in the hearings. So we want to present those things. We can set a time. It is nothing more than what I would express as something that I think we all deeply understand here. It is called fairness. That is what I hope we can do and do it in a timely manner and have the other 86 of you present to do it.

You must know, too, please, and I will conclude, that a great part of the impetus of this comes from the three children of Judge Bork and his wife who would like it to be expressed that their husband and father was not the person portrayed in the hearing process and that he is simply not any of these things that have been discussed. That is something that I think should enter the fray in our busy lives.

We get carried away with the process. We get carried away with a lot of things in this remarkable arena. But we forget the human dimension, and there is a human dimension here and it may not take 3 days to resolve it and move on.

I assure you that I will assist the majority leader in doing that.

Mr. HOLLINGS. Mr. President, I believe now we are under the unanimous-consent and controlled time. I remind you of the particular nomination. I will conserve that amount of time so we can fit in the 30 minutes for Senator HELMS, the 15 minutes for Senator D'AMATO, the 10 minutes for Senator DANFORTH, the 5 for Senator THURMOND and the 10 for Senator ARMSTRONG.

Perhaps they can conserve a little time, too, so we can make sure we can all fit in.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri?

Mr. DANFORTH. Mr. President, it is with genuine enthusiasm that I endorse the nomination of Bill Verity to be the next Secretary of Commerce. I commend the President for sending us a man of such considerable accomplishment and substance.

I was both a friend and a fan of Mac Baldrige. He helped put the Commerce Department back on the map in Washington. He not only knew about business—both domestic and international—but also he knew how to run one. He took a "hands-on" approach to everything he did, and he was a good listener. He actively sought advice from the Hill, and either incorporated that advice in his actions or told us why he wouldn't. He was a pragmatist on international trade who played a very constructive role in promoting fairness and understanding in international economic matters. His counsel and his voice are missed.

I, for one, doubted that we would be able to replace Mac Baldrige with someone of comparable ability, experience, and temperament. Now I believe I was wrong. Bill Verity strikes me as an ideal successor to Mac Baldrige.

Bill was in the steel business for more than 40 years. What better training ground to learn about the rise and fall and rise again of U.S. heavy industry. What better vantage point for watching the erosion of the U.S. competitive edge in international business,

for learning what both fair and unfair foreign competition can do to U.S. companies.

Just as Armco steel is more than a steel company, so is Bill Verity more than a steel man. He has an impressive record of voluntary service to community and country. Throughout his career at Armco, he urged his employees to be good, active community citizens. His record at Armco made him a logical choice to chair the President's "Task Force on Private Sector Initiatives," a group which made many constructive recommendations encouraging businesses to do a better job serving their communities.

Like any man of high accomplishment and substance, Bill Verity has spoken out publicly over the years about things he felt strongly about. Some of his past statements and actions raised questions in the minds of Members of the Senate and groups on the outside whose views we respect and care about.

All issues of controversy received extensive discussion at the Commerce Committee's hearings and in written responses to members' questions. Considerable time was spent discussing his views on Soviet human rights violations, the Jackson-Vanik amendment, export controls, trade with the Soviet Union, and the Reserve Mining Co. controversy of the early 1970's. I think most of us were impressed with his answers, whether or not we agreed with all of his conclusions.

I particularly liked the fact that he believes there should be a trade bill enacted into law this year. He believes that the Senate and House bills contain the elements for a bill which will be good for the country. The challenge is to eliminate the major weak points in both bills.

I think there are some in this administration who believe that there should be no trade bill. I think that would be a terrible mistake. We need Bill Verity's voice and experience at the table to improve our chances of fashioning a bill the administration can accept. I urge my colleagues to support a candidate we need—a man we are very fortunate to have.

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

Mr. D'AMATO. Mr. President, I would like to join with my distinguished colleague, the senior Senator from Missouri, in his praise of our former Secretary of Commerce, Mac Baldrige. He was a man who had the kind of balance and presence that lent great purpose to our ideals; to tearing down artificial barriers; and to using trade and commerce effectively in the area of foreign policy. Mac Baldrige believed in using trade and commerce to protect the national security and interests of this Nation and to protect something that is so much more fundamental than preventing advanced materials, technology, and machinery from falling into the hands of the Soviets, our principal support for human rights.

But, whether or not we are really committed to individual human rights and the dignity of men and women regardless of their religion, regardless of their nationality, Mac Baldrige was such a man.

I have to part with my colleague from Missouri in so far as his statement relates to the nominee who was submitted to fill that position. C. William Verity fails this test. We have only to look at his record and his words to find that it is replete with a total disdain for the principles of human rights and total disdain with respect to Soviet violations of the Helsinki Final Act; the Soviet war in Afghanistan, where they are killing innocent children; and to Soviet violations of the terms of other international human rights agreements they have adhered to.

Mr. President, I have spoken on this issue a number of times, so I will attempt in just a few minutes to point out several areas that I think make it impossible not only for this Senator but I think for all Senators to support Mr. Verity. If we were to look at the record and examine Verity's views instead of voting as a pack, Verity would not be confirmed.

What we have, however, is pack mentality, pack voting. We come down to the floor and ask, "How are you voting?"

"Well, he is not so good, but, you know. We do not want to embarrass the President."

I will tell you, I have a question: Where are those groups who talk about civil rights, those groups who talk about human rights, those groups who come to see me about these issues? I ask my constituency in New York, I wonder where they are on the Verity nomination? I have some ideas about how they could remain silent on Virity. But their silence is incredible to this Senator, absolutely incredible.

In 1977 William Verity said, "Soviet trade has to be increased." He opposes barriers. "We have to increase Soviet trade."

In 1979, in a Washington Star interview, now rather famous, Mr. Verity said, with reference to Soviet Jewish emigration: "The American Jewish community can never be satisfied in this matter. Their desires will ever be escalating." What an outrageous view to take. But, after all, that was in 1979. Maybe Verity changed his views.

But then if we look at the record again, we see in 1984, in an interview with Radio Moscow, Verity's remarks denouncing Jackson-Vanik. He said, "I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians."

He goes on, "It does no good."

Mr. President, we see a litany, a history, of long, outspoken objections to anything that interferes with trade.

Coming forward from the early 1970's, to 1979, to 1984, I now read part of an editorial from the Washington Times dated October 1987.

Mr. Verity's zest for making money from trade with Moscow seems to be in indirect relation to his concern for the victims of Soviet repression. In 1979, he contributed to the book published by the American Committee on East-West Accord entitled Common Sense in United States-Soviet Trade. Mr. Verity assailed the Jackson-Vanik amendment which tied Soviet trade status to Jewish emigration.

The editorial next talks about the plight of more than 400,000 Soviet refuseniks. Verity is worried that the Soviets are going to say that our concerns about them is an interference with domestic affairs.

This is the man we are now going to make Secretary of Commerce? Voting to confirm him is like putting the fox in the chicken coop as it relates to the principles of human rights.

You might say, "Well, maybe he had a change of heart. After all, those are the views that he held as a businessman."

Al Smith, the famous Governor of New York, said, "Let's look at the record."

I would refer us to the record, the record of the Commerce Committee's confirmation hearings, just concluded. Let us see if Mr. Verity changed his position.

He was asked about Jackson-Vanik, about the repeal of Jackson-Vanik, and he said, "I would have to say that Jackson-Vanik from a trade point of view in my opinion has been counterproductive."

That is Mr. Verity. He has not changed his views. The questioner went on and asked if Jackson-Vanik was effective and Mr. Verity replied, "My interest, Senator, is to increase trade with the Soviet Union."

Mr. Verity is quite clear, he is honest. That is his interest.

His interests are not human rights, not those who are enslaved. His interests are not to free those in the slave labor camps. His interests are not those being oppressed in Afhganistan. His interests are not that the Soviets are financing revolution in South America, in Central America.

No, "My interest is to increase trade with the Soviet Union"—I will supply with my own emphasis, "at any cost."

Verity was then asked if he thought it was sufficently worthwhile to increase trade with the Soviet Union, that we should not be using trade as a lever for emigration. I will tell you how he responded. He said, "I have a problem any time we use trade as a lever, any time."

Mr. President, let me just make one observation. Maybe human rights are a peculiar concern to America. That is what Mr. Verity says, I would like to think it is not a peculiar concern. Human rights, the dignity of men and women and freedom—because that is what rights are, human rights, they are freedom—are a special concern to America, a special concern. That is a concern that the Secretary of Commerce should have, and that all of my colleagues, I hope, will have.

When he says Jackson-Vanik was put on the books because of the concern for human rights that is peculiar to America, I think he identifies himself as someone who has a very different view of America than I do, and hopefully than most of my colleagues do.

I think human rights, freedom, democracy, are all a special concern to America, and I want to have a Secretary who understands that.

The record is clear on Mr. Verity. He does not appreciate those values.

For that reason, Mr. President, I will urge my colleagues to vote no and I intend to vote no. I yield the floor.

The PRESIDING OFFICER (Mr. DIXON). Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair for recognizing me.

As I indicated this morning, there was no question how the cloture vote would turn out. I hope it is clear that this Senator takes no pleasure in opposing nominations by any President, especially a nomination offered by a long-time friend, this President of the United States.

But as I said this morning, I have deep concerns about the nomination of Mr. Verity. In fact, as I review the record, I can think of almost no one else less suited to the job from the standpoint of our national security.

I am not going to say that he intends it that way. I am saying, as Senator D'AMATO has so eloquently said, that you judge by the fruits.

The nomination of one of the leading proponents of America's Western trade with the Communist world, C. William Verity, Jr., as Secretary of Commerce, may have serious, long-term consequences for the future of this country as well as for the future of the free world.

I genuinely hope and pray that I am wrong in these apprehensions, but I would not be fulfilling my duty as I see it if I did not state my concerns in some detail.

Mr. President, let me go back to the point that I made this morning, a point which admittedly has nothing to do with Mr. Verity. But Mr. Verity, if confirmed, will have the power to change the situation. It has to do with the policies of the Commerce Department, some of the bureaucracy there, and it has to do with an unwise law passed by the Senate and the House of Representatives and signed into law by the President of the United States.

Senator HOLLINGS and I have discussed this law, and we have some tentative plans to try to change it so that the American people can have access to the information about the United States corporations and financial institutions that have been doing perilous business with the Soviet Union, perilous in the sense that the security of the free world is laid on the line.

Now, Senator D'AMATO has eloquently addressed the record of Mr. Verity in terms of putting profits before security. Admittedly, Mr. President, that is the view of those of us who have taken the time to study Mr. Verity's record. And I say quickly that there is nothing personal in my opposition to his nomination. I am sure he is a nice man and means well. But his utter disregard for such things as Jackson-Vanik, his willingness to export goods and services including sensitive, sophisticated technology to not only the Soviet Union but other Communist countries around the world has made me apprehensive about him in this very sensitive spot.

Now, for 2 years, Mr. President, I have had what amounts to a running battle with the administration, the Secretary of Commerce, who was a friend of mine, and the bureaucrats in the Department of Commerce and, as I said earlier, with the Congress of the United States. We have the absurd situation where hundreds of millions of dollars' worth of goods and technology have been exported to Communist countries and are being exported to Communist countries—the Soviet Union, Bulgaria, and countless others. And you know what, Mr. President? All of this information has been kept secret. For 2 years I have been pleading with the administration to furnish that information, and I always got a response saying, "Well, we are working on it; we don't have it; maybe next month," and so forth.

So in the past couple weeks I went down to see the President, and I told him quite candidly that I believed the American people would take care of a great many of my concerns if this administration would simply make available to the American people the information to which I believed the people of this country are entitled, to wit: the names of those companies which are shipping goods and sensitive material to the Soviet Union and other Communist countries.

Well, the President, in all candor, was surprised that I was having such difficulty getting the information, and without going into any details about our conversation, suffice to say, Mr. President, within 3 hours after my visit with the President there was hand delivered to me this batch of computer printouts. However, the policy of the Commerce Department and the law, depending on how you interpret it, restricts that information as of now to the Senators who happen to belong to the Senate Banking Committee. Unless you are a member of the Banking Committee, you cannot get it. But the President of the United States, I imagine, got on the telephone and said, "Get Helms that information so we can move this Verity nomination."

That afternoon it was delivered; but with a cover letter saying in effect, "You can have this but you can't let the American people know about it."

Now, the point, Mr. President, is this: The Soviets and the other Communist countries know what they are getting in terms of goods and sophisticated technology from the United States. Our Commerce Department knows and has known. The Senators who happen to belong to the Senate Banking Committee know.

Mr. President, in my reading of the law, the Secretary of Commerce has full power to waive confidentiality. And I go further than that. If you read the law closely no confidentiality at all is required for the information my 1985 amendments require.

Mr. President, my amendment, section 14(d) of the Export Administration Act [EAA] requires a detailed report which lists every export license granted for exports to controlled countries, including three types of information: first, names to whom the license was granted; second, the type of goods or technology exported, and third, the country receiving the goods or technology. The legislative history shows that my intent in offering the amendment was to make this information available "to Congress and the American people." That was my intention.

However, in the conference Committee, a proviso was added that 14(d) would be subject to 12(c), on confidentiality. What does 12(d) say?

Section 12(c) says "information obtained under this Act * * * which is deemed confidential, including Shippers' Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest. Information obtained under this act may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning the license applications under this Act * * * shall be withheld from public disclosure unless the release of such information is determined by the Secretary to be in the national interest."

So we see, Mr. President, that in the first place, the Secretary can issue a waiver if he deems it is in the national interest.

In the second place, a reasonable interpretation of the act is that the name of the country, the type of goods to be exported, and the country to which it is to be exported is not "information obtained for the purpose of consideration of license applications." Rather, it is information issued by the Commerce Department after the consideration is completed, and upon issuance of the license. No proprietary information, such as financial or technological data would be revealed. The fact of the issuance of the license should be public information, and is required for debate of public policy.

Finally, Mr. President, there is no reason why, even if the strained interpretation is maintained that complete confidentiality is required under the law, there is no reason why the information couldn't be released to the Committee on Foreign Relations. The law states [12(c)(2)] that "any information obtained at any time under this act shall be made available to any committee or subcommittee of appropriate jurisdication upon request of the chairman or ranking member of such committee." Senate rule 25 says that the jurisdiction of the Committee on Foreign Relations includes "Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad."

So there is no reason at all to block disclosure of this information. The Soviets know, the Commerce Department knows, and the Banking Committee knows. But nobody else is supposed to know, least of all the American people, whose liberties and security may well be at stake in this matter.

Now, I cannot read this computer list and I will not, and I have about 15 computer lists, by the way, broken down by countries.

Mr. President, I suggest that you look at these. Each one of these lines represents a substantial shipment of sophisticated technology to a Communist country, broken down by countries. Let me unfold this so you can see how long this one is.

Let me show you another one, just as long.

Here is another one, and so on. And now I will put the whole stack aside.

Now, bear in mind that as I stand on the Senate floor, I cannot reveal one name of an exporter, a United States corporation, let alone a financial institution, that is dealing in the most sensitive of ways with the Soviet Union.

Senator HOLLINGS, and I admire him for it, was appropriately indignant about this situation when it was brought to his attention, and he came to me and said, "Well, the Secretary can't do much about this." But the Secretary can, and I think Mr. Verity would do well by himself and certainly by the American people, Mr. President, if he said right now that "this is information that ought to be available to the American people and the minute I am sworn in as Secretary of Commerce, I am going to order that it be released."

A few questions come to mind, obvious questions: for example, would Mr. Verity have us make our profits by becoming partners in what might be called Gulag, Incorporated? Does he believe that we can improve the U.S. economy by exporting American jobs to an economy where the workers have few rights, if any, and the rest are slaves in the literal sense of the word?

Now, our intelligence community knows where all of these gulags are and they still number in the hundreds. Our intelligence community knows that the railroads which haul these goods, this sensitive, sophisticated technology, to market were built by work gangs under police guard at a frightful cost in human life and suffering. Our intelligence community knows that the mines which produce the commodities used in Soviet plants are worked by men and women under a sentence to work themselves to death.

Mr. President, I will never forget a decade ago when I first met a man named Alexandr Solzhenitsyn. Prior to my meeting Solzhenitsyn in person, I had been in correspondence with him. Subsequent to that we had many transatlantic telephone conversations. He came to my home when he first came to America, and we sat for the better part of an evening in which he said to me over and over again, "Do your leaders not understand, can they not comprehend what the Soviets are up to?" The man was intense, he was frustrated because he had been in that gulag for a long, long time. His grievous sin was that he dared to raise his voice in protest as a citizen of the Soviet Union.

I think about Solzhenitsyn, Sakharov, and others frequently, almost constantly. And I think about my grandchildren and their prospects for living in the kind of society that I was blessed to be born in and thus far have enjoyed. Maybe that is the reason why I look twice at all the statements that, inferentially at least, say, "Well, the big thing is to make a profit, the fast buck. Let us deal with them." "Them," of course, being the Communists.

Mr. Verity, himself, in his testimony asserted that trade should be divorced from politics. Well, that depends. The truth is that Mr. Verity obviously views trade as the only valid politics. For him, trade is the same as a philosophy or a religion. But if the lure of trade is used as a weapon against the American people to bring the United States into compliance with the Soviet goal of world domination, both economic and military, then Mr. Verity's rhetoric stands revealed for what it is. I do not doubt his sincerity. I just believe that he has been sincerely wrong.

Mr. President, as I have said, I can think of almost no one less suited to the job from the standpoint of our national security than Mr. Verity. As one of the leading proponents of American and Western trade with the Communist world, his confirmation would have serious long term consequences for the future of our country as well as for the future of the free world.

I shall in due course discuss the issues raised by Mr. Verity's nomination. But first, let me draw the picture in a few broad strokes.

First of all, as Senator D'AMATO has indicated, it is abundantly clear that Mr. Verity does not believe the Soviet Union is an evil empire. He does not understand that building communism through finance and trade with the Soviet bloc directly threatens the survival of our Constitution and our way of life.

Mr. Verity has been the key agent in the United States for developing the Soviet trade. He promotes and has promoted policies which would result in the sacrifice of our friends in the developing world, particularly in Latin America, in order to build communism in the so-called Socialist economies. This sacrifice of our friends would be required by the supposed desireability of shifting investments from the developing world, burdened by the debt crisis and political instability, to our antagonists in the Comecon countries, especially the Soviet Union, where stability is provided by Soviet troops, border troops, and the KGB.

Mr. Verity doesn't seem to realize that by building communism, in place of a policy of promoting free economic growth and development in the Third World and other areas eager for developing the free market economy, our long-term national security interests are put at risk.

Moreover, at the very time when Congress was trying to legislate responsible controls for East-West trade, Mr. Verity and his associates were bending every effort to prevent, circumvent, or destroy such legislation. Indeed, one member of Mr. Verity's group promoting the Soviet trade was successful in destroying the intricate system of checks and balances in the mechanisms in the executive branch which supervised this trade from a national security standpoint.

Finally, Mr. President, Mr. Verity's long and intimate association with the U.S.-U.S.S.R. Trade and Economic Council, the primary lobby for the Soviet trade, is reason enough to vote against his confirmation as Commerce Secretary. The Council is quite simply an arm of the Soviet Government,

under KGB control, whose purpose is to subvert the U.S. economy. The Communists have always believed in war on all fronts—military, diplomatic, social, and economic. The Council is an instrument of that subversion.

Mr. Verity, as a key agent of influence for the Soviet trade, has unceasingly promoted a simplistic globalist viewpoint, as out of date as the rhetoric which used to accompany the old one-world school of thought, a school which has changed its tactics, but not its goals. It still hopes for an ultimate convergence, or merging, of the United States and the Soviet Union, into a common culture, economy, philosophy, and despotism.

Mr. Verity asserts that trade should be divorced from politics. But the truth is that Mr. Verity conceives of trade as the only valid politics. For Mr. Verity, trade is the same as a philosophy or a religion. But if the lure of trade is used as a weapon against the American people to bring the United States into compliance with the Soviet goal of world domination, both economic and military, Mr. Verity's false rhetoric stands revealed.

Such views disqualify anyone from a position of public trust. They certainly disqualify Mr. Verity.

GUIDELINES FOR ASSESSING THE SOVIET TRADE

Mr. President, I shall shortly set forth the details and specifics to support these broad points I have made. But first it is necessary to point out that Mr. Verity's nomination comes at a crucial moment in world economic policy. We have reached a watershed which may well be the dividing point in our history. At this crucial time, there are 10 fundamental issues, 10 fundamental questions to be answered, 10 fundamental decisions which we, as a nation, must face up to if we are going to maintain our independence and freedom as a sovereign country. It is not an exaggeration to call the Soviet trade a life or death issue because what is at stake is the long-term survival of the United States as a sovereign nation, our Constitution as the fundamental law of the land and bedrock of justice, and our way of life based on Judeo-Christian principles. Communism, Marxist-Leninism, and Soviet imperialism are irretrievably opposed to our survival on that basis.

Mr. President, it is clear then, that these 10 points constitute the minimum basis for U.S. policy in this area. These, then, are the guidelines:

First, U.S. export controls over goods and services to the Soviet Union should be strengthened.

Second, the NATO Coordinating Committee [Cocom] system of export controls over goods and services to the Soviet Union should be strengthened.

Third, the Soviet Union should be denied membership in the International Monetary Fund [IMF], the World Bank [IBRD], the Asian Development Bank, and any other Western multilateral economic and financial institution.

Fourth, the Soviet Union should be denied membership in the General Agreement on Trade and Tariffs [GATT] and the Multi-Fiber Arrangement.

Fifth, the Soviet Union should be denied official and private subsidies of any kind by any free world ally.

Sixth, the Soviet Union should be denied access to free world securities markets.

Seventh, the Soviet Union should be denied untied general purpose loans from free world commercial banks.

Eighth, the Soviet Union should be denied any significant free world participation in Soviet energy related projects.

Ninth, the Soviet Union should be denied participation in inter-ministerial meetings on Western economic policy held by the United States and our European allies including any East-West economic conferences held under the Helsinki framework.

Tenth, the Soviet controlled COMECON organization should be denied any formal relationship with the European Economic Community.

Mr. President, if we uphold these 10 principles, our national identity and freedom will likewise be upheld. If we deviate from them, our future is foredoomed.

Nevertheless, Mr. President, the deeply disturbing thing about Mr. Verity is that, based upon everything I have heard him say, and everything I have read about his views, I am convinced that he is opposed to all 10 points. I have to conclude that he will be an agent of opportunity, within the U.S. Government, within the Cabinet itself, working to break down our economic defenses against Communist influence and interdependence. While this city sleeps, he will be awake, unbarring the very gates that keep out the enemy.

VERITY—KEY AGENT FOR THE SOVIET TRADE

Mr. President, Mr. Verity has made a career out of promoting economic détente with the Soviet Union and its satellites behind the Iron Curtain. He is one of the leading personalities in the American business community who are willing to seek short term profits on the Soviet trade while looking the other way at the betrayal of our long term national security interests. Other prominent personalities in this well-organized and well-financed group promoting the Soviet trade include David Rockefeller, Dwayne Andreas, Donald Kendall, and Armand Hammer. It is not too strong to describe this as a cabal.

As a leading business figure promoting the Soviet trade, Mr. Verity served from March 1978 to July 1984 as cochairman of the shadowy U.S.-U.S.S.R. Trade and Economic Council. This organization was established in 1973 as a result of a diplomatic protocol, signed by then Secretary of the Treasury George Shultz, between the United States and the Soviet Union. Businessmen such as Mr. Verity played a major role in lobbying for this protocol.

Mr. Verity has been a leading member of the Council since its inception. This organization, which serves as a Soviet-American chamber of commerce, has unceasingly lobbied for expanded trade with the Communist world. Half of its board of directors are private United States businessmen; but, by contrast, the other half are all Soviet Government officials. This imbalance—private businessmen on our side and all Soviet Government officials on the other—is very significant. It demonstrates that the Council is an arm of the Soviet Government. Of course, there are no private businessmen in the Soviet Union, a fact which emphasizes the impropriety in any trade relationship.

According to David Rockefeller, in an article entitled "Chase Manhattan's Transactions in the U.S.S.R." which appeared in the October/November 1977 issue of the Journal of the U.S.-U.S.S.R. Trade and Economic Council, the Council had its origins in a meeting of the Dartmouth conference. The Dartmouth conference, like the Pugwash conference, is one of several international groups devoted to promoting convergence of United States-Soviet relations. The Dartmouth conference was founded in November 1960 under the sponsorship of the Ford Foundation. Since 1968, the Conference has been funded and administered by the Kettering Foundation.

Mr. Rockefeller stated:

> And it was at the seventh session of the Dartmouth Conference in Hanover in 1972 that the idea of forming a high-level Trade and Economic Council was first proposed.

Mr. President, I ask unanimous consent that the article by Mr. Rockefeller entitled "Chase Manhattan's Transactions in the U.S.S.R." be printed in the RECORD at the conclusion of my remarks as exhibit 1.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, there has been a good deal of public concern raised by Mr. Verity's nomination. Examples of this growing concern can be found in a recent nationally syndicated column by Evans and Novak; in a feature article in Insight magazine; and in the press statement of Mr. Anthony Harrigan, president of the U.S. Business and Industrial Council, on behalf of the Ad Hoc Coalition to Oppose the Verity Nomination on the day of the Verity confirmation hearing.

Mr. President, I ask unanimous consent that the Evans and Novak column which appeared in the Washington Post on September 26, 1987; the Insight magazine article entitled, "Verity's Views on Soviet Trade Setting off a Few Fireworks," which appeared on September 14, 1987; and the statement of Mr. Anthony Harrigan representing the Ad Hoc Coalition to Oppose the Verity Nomination of September 10, 1987, be printed in the RECORD at the conclusion of my remarks as exhibit 2.

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

(See exhibit 2.)

Mr. HELMS. Mr. President, Mr. Verity's hostility to the traditional use of trade as an effective instrument of national policy is well known. Indeed, in an article entitled, "U.S.-U.S.S.R. Trade: A Vital Need." which appeared in the Journal of the U.S.-U.S.S.R. Trade and Economic Council he stated:

> Trade all too often was used as a foreign policy lever: The trade agreement between the U.S. and U.S.S.R. was never signed because of the Jackson-Vanik amendment, which offended the Soviets because they viewed this as the United States meddling in their internal affairs.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks as exhibit 3.

Mr. Verity's callous disregard for fundamental human rights and religious freedom with respect to Soviet minorities and particularly Soviet Jewry has drawn sharp criticism. Indeed, the White House felt compelled to reaffirm a commitment to the Jackson-Vanik and Stevenson amendments which link United States trade benefits with Soviet emigration policies.

Mr. President, I ask unanimous consent that an article by Bill Gertz entitled, "Reagan Affirms Links Between Soviet Trade, Emigration," which appeared in the Washington Times on September 15, 1987, be printed in the RECORD at the conclusion of my remarks as exhibit 4.

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

(See exhibit 4.)

LATIN AMERICA AND THE SOVIET TRADE—A STRUGGLE FOR THIRD PLACE

Mr. HELMS. Mr. President, I am deeply concerned about the potential consequences of an expansion of financial and commercial relations with the Soviet Union. The transfer of goods and technology to the Soviet Union directly and indirectly contributes to Soviet military capabilities. The installation of turnkey projects for manufacturing in the Soviet Union deprives American workers of jobs and impairs our export markets in third countries for downstream finished goods which these manufacturing facilities produce. The Soviet trade impairs economic development in the Third World and particularly Latin America.

The Under Secretary of Commerce, Bruce Smart, gave an address to the 10th annual members meeting of the U.S.-U.S.S.R. Trade and Economic Council in which he drew specific attention to such turnkey projects as the installation of complete factories in the Soviet Union. In volume 12, No. 1, 1987, of the council's journal carrying this address, he is quoted as stating to the meeting:

> Complete factories can be exported to the Soviet Union totally comparable to new factories that would be built in the United States with all the most modern equipment including process controls.

A deeply disturbing aspect of the Soviet trade is linked to the international debt crisis which has affected the developing world and Latin America in paricular. All too often the fact that the Soviet Union and Eastern Europe are also part of the debt crisis is overlooked. The Soviet bloc has a debt of some $112 billion. Given the global competition for investment capital there are fundamental choices that are made as to the placement of this investment capital. These choices have long-range strategic consequences which bear directly upon our national security and the shape of the world that we live in.

Mr. President, as we look at the international economic situation today we find what some economists refer to as the "international division of labor" has resulted in five general categories of economic status. In the first rank are the United States, Western Europe, and Japan. In the second rank are the newly industrialized countries such as South Korea, Taiwan, and Singapore. We then find a struggle for the third rank between Latin America and the Soviet bloc. The loser will be in the fourth rank. In the fifth and last rank we find Africa.

Among the fundamental policy choices that we face within this context is whether or not we will sacrifice the economic development and future well-being of our friends and allies in Latin America in order to assist Gorbachev hold the Soviet empire together.

Mr. President, the Soviets are quite frank that the real reason behind Gorbachev's so-called glasnost propaganda offensive is to pave the way for increased Western financing of the Soviet empire and for increased commercial relations in order to rescue and to build communism in the Soviet empire. The Soviets want United States banks to finance communism. If this expansion of finance and trade with the Soviet bloc does materialize, it will certainly be at the expense of Latin American and other parts of the developing world. The Soviets want a special relationship.

Mr. President, so that Senators might better understand the Soviet plan to develop permanent financial relationships with American banks, I ask unanimous consent that an article entitled "Cooperation with U.S. Banks: Prospects for the Future," by Victor Gerashckenko, First Deputy Chairman of the Board of the Soviet Bank for Foreign Trade which appeared in the nine-page special advertising section carried by the Wall Street Journal on August 24, 1987, be printed in the RECORD at the conclusion of my remarks as exhibit 5.

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

(See exhibit 5.)

Mr. HELMS. Mr. President, at this time, there is no new capital for productive investment moving into Latin America owing to the debt situation there as well as to the problem of political stability and the investment climate. Of course, the State Department by supporting socialist governments throughout the hemisphere, as well as elsewhere in the world, has played a major role in causing the disintegration of political stability and the investment climate in Latin America.

The lobby for the Soviet trade—and Mr. Verity is a driving force in it—seeks to shift investment capital into the Soviet bloc and to expand trade with the Soviet bloc at the expense of Latin America in particular and the Third World generally. From the Kremlin's standpoint, such access to Western finance, goods, and technology will be used to prevent the Soviet bloc from falling below Latin America in development status while continuing its unprecedented military buildup.

The Kremlin cannot allow the Soviet empire to fall below Latin America in development status for reasons of not only international prestige but also of ideological necessity. If communism is the wave of the future that Marxist-Leninism would have us believe then the Soviet bloc must be perceived as developing economically. Seven decades of experience have demonstrated that communism as an economic system cannot function without a bailout from the West. This is where business leaders such as Mr. Verity come in. Their role is to assist in building Soviet communism through trade and finance.

Mr. President, instability and economic disintegration in Latin America is not in the long-term interest of the United States. To the contrary, economic development in Latin America based upon productive investment and trade with the United States is a fundamental interest because it contributes to the general peace and prosperity of this hemisphere, the New World.

The Communist world, however, does not want to see economic progress in Latin America for the reasons that I have just outlined. This is one of the major underlying factors behind Communist aggression in this hemisphere.

This is why the Soviets have been bending every effort to destabilize Chile for example. Chile, by engaging in productive capitalism, has registered the most significant economic progress in Latin America. The Soviets don't want Chile's example for progress in development to be used as a model for other Latin American and Third World countries.

Of course, the Soviets also want to expand their empire geographically and drain Third World countries of their mineral, agricultural, and fisheries production.

Socialist regimes also are to the Soviet Union's advantage. These regimes offer more possibilities for Communist penetration and subversion. They also result in a lack of economic development which produces discontent. The Communists then take advantage of this discontent in order to promote their own subversive designs.

Mr. President, I should add that the New York banks find important profit centers in their lending to countries plunged into debt by Socialist regimes. It is an interesting convergence of interests between Communists, Socialists, and the big New York banks. Under socialist regimes, these countries naturally go further and further into debt because socialism as an economic system does not work. International bankers are sophisticated enough to know this and to profit from it.

The New York banks find the profit from the interest on this sovereign debt to be critical to their balance sheets. Up until now, this has been an essentially riskless game for the banks because the IMF and the World Bank have stood ready to bail the banks out with our taxpayer's money. In today's conditions, however, the debt problem has arrived at almost unmanageable proportions. Undoubtedly, the American taxpayer one way or another will be asked to bail the banks out.

Mr. President, we simply should not sacrifice our friends in the developing world, and particularly in Latin America, to the special interests of the lobby for the Soviet trade and its partners in the Kremlin. Yet, this is precisely what Mr. Verity and his associates in the US.-U.S.S.R. Trade and Economic Council would have us do.

NATIONAL SECURITY AND THE SOVIET TRADE

As the ranking minority member of the Foreign Relations Committee, I would draw Senators' attention to the economic dimension of our policy toward the Soviet Union and the Communist world. Commercial policy toward foreign nations, either on a bilateral or on a multilateral basis, is an important element in foreign policy and in national strategy. Sound national strategy must combine diplomatic, economic, political, psychological, and military elements in a comprehensive, systematic, and integrated manner in order to protect and to advance long-range national interests in the foreign realm.

Mr. President, on any number of occasions I have stated my view that export control is an important form of arms control. By denying the Soviet Union and its satellites the capability to manufacture weapons systems, including nuclear weapons systems, we are in fact contributing to arms control. The masters of the Kremlin gain such capabilities through the acquisition of Western goods and technology as well as through the access to capital markets and finance.

The policy of the United States should be to close off unrestricted Soviet and Comecon access to such Western trade and finance in order systematically to roll back development in the Soviet military-industrial complex. By denying the Soviet bloc access to Western trade and finance, particularly in the areas of strategic equipment and technology and untied credits, we contribute to arms control and ultimately to world peace.

Mr. President, the control and supervision of our trade with the Soviet bloc from a national security standpoint should be a central element in our foreign policy and national security planning. It should be a fundamental element of a sound national strategy. I am deeply concerned with the trend in the administration by those sharing Mr. Verity's views to assist Soviet economic development on a wide front by means of an economic détente.

Executive branch mechanisms for the control and supervision of trade have been all but dismantled since 1985 by those sharing Mr. Verity's views. A range of proposals to bail the Soviet Empire out of its economic morass has been advanced by those sharing Mr. Verity's views. Such proposals include the membership of the the Soviet Union in the International Monetary Fund [IMF], in the General Agreement on Trade and Traiffs [GATT], in the World Bank, and in the multifiber arrangement as well as allowing future Soviet participation in the Eurobond and other securities markets.

Mr. Verity has a long and highly visible record as a key advocate of expanded trade and financial relations with the Communist world. He has actively opposed the responsible control of trade with the Soviet Union acting in concert with such leading business figures as I noted earlier.

It is significant that a close associate of Mr. Verity in promoting the Soviet trade, Mr. Dwayne Andreas, as Chairman of the President's Task Force on Private Sector Initiatives, in December 1984, recommended the dismantling of the policymaking structure set in place during the first term of the Reagan Administration to control and to supervise United States trade with the Soviet bloc. These recommendations were implemented in April 1985 and the stage was set for a renewal of economic détente with the Soviet Union.

CONGRESS AND THE SOVIET TRADE

Mr. President, on February 23, 1984, I introduced S. 2342, a bill whose purpose was to strengthen our national security by strengthening our controls over exports to Communist countries. Working closing with our distinguished colleagues from Pennsylvania [Mr. HEINZ], Utah [Mr. GARN], and Wisconsin [Mr. PROXMIRE], certain features of my bill incorporated into their bill S. 979, the Export Administration Act of 1984, whose purpose also was to control trade to Communist countries. S. 979 was a fine bill but its passage was sabotaged in 1984 at the last minute by the lobby for the Soviet trade including our own Department of Commerce. Ultimately, the bill passed in the following year and became known as the Export Administration Act of 1985 and I was pleased to support it.

The significance of the Export Administration Act of 1985 was that it was intended to reserve a disintegration, which began in 1969, of our traditional export controls over trade with the Communists. The background of export control in the United States started with the Trading With the Enemy Act of 1917. Congress recognized that during World War I certain industrial and banking circles were doing business with the Germans and the Axis powers. This trade and commerical activity strengthened German warmaking power. Congress wisely banned such trade. Similar procedures were employed during World War II to inhibit Nazi warmaking power.

In the postwar period, the Export Control Act of 1949 together with the Mutual Defense Assistance Control Act of 1951 enbodied the principles that exports should be controlled to hostile countries and that the foreign availability of goods and technology should be reduced by close cooperation with our allies through a process of bilateral and multilateral negotiation. Within the NATO alliance, the Coordinating Committee for Multilateral Export Control [Cocom] was established in 1950.

In 1969, Henry Kissinger, who was then the National Security Adviser, together with the lobby for the Soviet trade and the pro-Soviet detente group within the administration, began to change the central thrust of our export control legislation. With the

support of Kissinger and George Shultz, who held a number of important positions in the Nixon administration including that of the Secretary of the Treasury, additional weakening of long-standing legislation took place in 1972 and 1974. Senators may recall that Shultz during this period played a leading role as the architect of economic detente with the Soviets.

Under the Carter administration further legislative weakening of our export controls took place in 1977 and 1979. The Soviet invasion of Afghanistan, however, resulted in the imposition of a range of sanctions against Moscow although they have not remained in place.

Mr. President, throughout this period, the main players promoting the Soviet trade were the same. The same U.S. business interests were at the forefront of lobbying for an expansion of the Soviet trade. C. William Verity, Jr., was at the forefront of the efforts to expand trade with the Communist world and to destroy our controls over such trade with Communists. Thanks to our distinguished colleagues—Senator HEINZ, Senator GARN, and Senator PROXMIRE, in particular—the Export Control Act of 1985 was passed by Congress in order to strengthen our controls and, thereby, our national security.

THE ANDREAS-VERITY COUP

Mr. President, while we were hard at work in Congress to strengthen our controls over exports to the Communists, Mr. Verity's friends and associates were hard at work in the business community and in the executive branch to overturn the effect of our legislation and to dismantle the system and procedures in the executive branch for controlling and for supervising such trade.

The President's Task Force on International Private Enterprise, headed by Dwayne Andreas, was the principal instrument used by the lobby for the Soviet trade. I would point out to Senators that Mr. Andreas replaced Mr. Verity as the co-Chairman of the United States-U.S.S.R. Trade and Economic Council in 1984. The other co-chairman is a Soviet official.

During the first term of the Reagan administration, the Senior Interagency Group for International Economic Policy [SIG/IEP], which was a part of the National Security Council structure, was responsible for formulating recommendations for the President on international economic policy. Through the National Security Adviser, or directly in National Security Council meetings, such recommendations were presented to the President.

Such deliberations placed major international economic and trade issues into the broader context of American foreign policy and national security objectives. While the SIG/IEP was chaired by the Secretary of the Treasury, the Executive Secretary was domiciled in the NSC staff and the NSC, CIA, and DOD were full and regular members of the SIG.

When Dwayne Andreas became the Chairman of the President's Task Force on International Private Enterprise, the primary objective on his hidden agenda was to destroy the ability of Congress and the executive branch national security agencies to supervise and to help control and manage economic relations with the Communist bloc. The key target was the SIG/IEP.

Mr. President, I would point out to Senators that Mr. Andreas succeeded Mr. Verity as Co-Chairman of the United States-U.S.S.R. Trade and Economic Council in 1984. As I have already indicated, this organization acts as the main Soviet-American Chamber of Commerce. So what we had was the co-Chairman of the United States-U.S.S.R. Trade and Economic Council lobby as the chairman of a Presidential task force which made recommendations affecting East-West trade.

Andreas, in his task force recommendations, called for the establishment of an "Economic Security Council" which would replace the SIG/IEP structure and eliminate the active and central role of the NSC, CIA, and DOD in helping ensure that our international economic policy conformed to vital national security and foreign policy requirements.

Mr. President, I ask unanimous consent that an excerpt from the task force recommendations entitled "Establishing an Economic Security Council" be printed in the RECORD at the conclusion of my remarks as exhibit 6.

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

[See exhibit 6.]

Mr. HELMS. Mr. President, in this new structure, the council would, in the absence of the President, have the Secretary of the Treasury as the acting chairman with the Executive Secretary being drawn from the Office of the Chief of Staff at the White House. CIA, DOD, and the NSC would be eliminated as full and regular members of this Cabinet level body. Reporting of recommendations would be through the Secretary of the Treasury and the Chief of Staff directly to the President with no mandatory vetting through the National Security Council apparatus.

I am told by a number of informed sources that this policy recommendation by late 1984 was supported by then Chief of Staff James Baker and his aide Richard Darman as well as by Treasury Secretary Don Regan and by Secretary of State George Shultz. According to these sources, this policy concensus was actually part of the understanding involved in the job swap between Jim Baker and Don Regan.

The coup took place on April 11-12, 1985 when the Andreas recommendations were actually implemented. The "Economic Policy Council" (EPC) was created with virtually no interagency consultation and the SIG/IEP system was abolished. The NSC, DOD, and CIA were shut out as full members of the deliberations on international economic policy and invited to participate only as deemed appropriate.

Mr. President, I ask unanimous consent that the Presidential statement of April 11, 1985 on the creation of the Economic Policy Council be printed in the RECORD at the conclusion of my remarks as Exhibit 7.

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

[See exhibit 7.]

Mr. HELMS. Mr. President, under the SIG/IEP system in the first term of the Reagan administration, the President made substantial progress in the area of economic and financial security. The President eliminated subsidized terms on all official Government-backed loans to the Soviet Union.

The President was successful in getting the Organization for Economic Cooperation and Development [OECD] in July 1982 to eliminate subsidized terms on such official credits to the Soviet Union.

The President was also successful in getting the International Energy Agency [IEA] in May of 1983 to place a ceiling on West European imports of Soviet natural gas at the level already contracted by year-end 1982.

The President was successful in strengthening COCOM in a number of areas during the high-level meetings in April 1983.

Finally, the President was successful in forging an allied NATO concensus on the security aspects of East-West trade which is embodied in the NATO Ministerial Communique of June 1983. This concensus was reinforced at the Williamsburg Summit in May 1983.

Mr. President, all of these successes were owing to the SIG/IEP system and the inclusion of the NSC, CIA, and DOD in all SIG deliberations as full participating members so that our international economic policy reinforced our overall national security planning and policy.

Because this system was so successful in defending our national interests with respect to our international economic policy, the lobby for the Soviet trade bent every effort to change the system and replace it with one amenable to its special interests. For this lobby, profits from the Soviet trade supercede foreign policy and national security considerations.

The Andreas-Verity coup has had serious consequences for our long range national security all of which will lead to a strengthening of the Soviet mili-

tary-industrial complex. The American taxpayer is currently subsidizing trade with the Soviet Union. The fine 1985 proposal by our distinguished colleague from Utah, Senator GARN, S. 812, which would have granted the President discretionary authority to control Western financial flows to the Soviet Union was opposed by the Economic Policy Council system. Foreign policy controls on the shipments of United States oil and gas equipment to the Soviet Union have been lifted. The very important Kemp-Roth International Financial Security Act of 1987, H.R. 3095, is being opposed by the Economic Policy Council. A similar bill, S. 786, the Financial Export Control Act, has been introduced in the Senate by Senator GARN. It is a fine bill which I have been pleased to cosponsor.

VERITY AND THE U.S.-U.S.S.R. TRADE AND ECONOMIC COUNCIL

Mr. President, the leading role of Mr. Verity in the shadowy U.S.-U.S.S.R. Trade and Economic Council [USTEC] is a fundamental consideration recommending against his confirmation. As I have pointed out, this organization is the principal lobby for the Soviet trade. Mr. Verity has served as cochairman of that organization from 1978–84. As chairman of Armco, which is the fifth largest steel producer in the United States and which was founded by his grandfather, Mr. Verity has for years been engaged in promoting trade with the Soviet Union in various business and political organizations.

In fact, during the late 1970's his family company, Armco, had negotiated a several hundred million dollar deal to erect a steelmaking facility in the Soviet Union. Fortunately, the deal did not go through owing to sanctions imposed after the Soviets invaded Afghanistan in 1979.

Mr. President, it is amazing to me that to this day the Department of State and the Department of Commerce maintain the fiction that the U.S.-U.S.S.R. Trade and Economic Council is a private organization. This is simply not the case in light of the facts which State and Commerce apparently wish to suppress or to forget.

On March 5 of this year, I submitted a series of questions in writing at the nomination hearing of Mr. Jack F. Matlock, Jr., for Ambassador to the Soviet Union. Two of my questions dealt directly with the U.S.-U.S.S.R. Trade and Economic Council.

I question 22, I asked Mr. Matlock the following:

What is the exact status of the U.S.-U.S.S.R. Trade and Economic Council? What instrument between the United States and the Soviet Union created this entity? Please provide a copy of this instrument with your response.

The United States-U.S.S.R. Trade and Economic Council [USTEC] is a nonprofit organization incorporated in the State of New York whose purpose is to promote United States-Soviet trade. Half of its shares are held by private United States interests and the other half are held by the Soviet equivalent of the National Chamber of Commerce which includes representatives from the Ministry of Foreign Trade, GOSPLAN, and the Committee on Science and Technology. The U.S. Government did not create USTEC.

In Question 23, I asked the following:

Precisely which American banks, financial corporations, trading companies, manufacturing companies and other United States corporations are members of U.S.-U.S.S.R. Trade and Economic Council?

Please provide a complete listing of these companies.

Mr. Matlock answered as follows, and I quote:

The Department of State does not maintain a list of private American firms that participate in USTEC, since it is a private corporation.

Mr. President, I was surprised that Mr. Matlock and the Department of State did not include a copy of the 1973 protocol between the United States and the Soviet Union which called for the establishment of a United States-U.S.S.R. Chamber of Commerce. It was also of interest to note that Mr. Matlock did admit that one-half of the stock of the United States-U.S.S.R. Trade and Economic Council is held by the Soviet Union. Presumably, this would make the organization a quasi-governmental organ of the Soviet state in which private United States business interests participate.

The fact is that this organization was founded as a result of a diplomatic protocol between the United States and the Soviet Union which was signed on June 22, 1973, by George Shultz as Secretary of the Treasury and by Nikolai Patolichev as Soviet Minister of Trade. In the protocol, and in the Commerce Department press release describing the event, the organization is described as the United States-U.S.S.R. Chamber of Commerce. Undoubtedly, owing to potential public opposition to such body, the name was altered to "U.S.-U.S.S.R. Trade and Economic Council" in order to mask its objectives.

Mr. President, I ask unanimous consent that the text of the Protocol calling for the establishment of the "United States-U.S.S.R. Chamber of Commerce" be printed in the Record at the conclusion of my remarks as exhibit 8.

The PRESIDING OFFICER. Without objection, it is so ordered

[See exhibit 8.]

Mr. HELMS. Mr. President, I ask unanimous consent that the text of the Commerce Department press release of July 12, 1973 entitled, "Commerce Secretary Hosts Meeting to Discuss Formation of United States-U.S.S.R. Chamber of Commerce" and the text of the speech by Secretary Dent at the meeting be printed in the RECORD at the conclusion of my remarks as exhibit 9.

The PRESIDING OFFICER. Without objection, it is so ordered

[See exhibit 9.]

Mr. HELMS. Mr. President, I ask unanimous consent that a background paper prepared by the United States-U.S.S.R. Trade and Economic Council about its activities which was received by the Congressional Research Service in May 1974 be printed at the conclusion of my remarks as exhibit 10.

The PRESIDING OFFICER. Without objection, it is so ordered

[See exhibit 10.]

Mr. HELMS. Mr. President, I would draw Senators' attention to a report entitled "Intelligence Collection in the U.S.S.R. Chamber of Commerce and Industry" which was prepared in an unclassified version by the State Department and based upon a classified CIA study.

This report documents the fact that the KGB and the Soviet GRU military intelligence organization both have numerous agents working in this chamber whose sole purpose is to target United States and Western companies for the acquisition of information of value to the Soviet state. The report states that this Chamber has representatives working within the United States-U.S.S.R. Trade and Economic Council offices in New York City.

It is highly interesting that the report describes that chairman of the U.S.S.R. Chamber of Commerce, Yevgeniy Petrovich Pitovranov as a KGB Lieutenant general. Mr. Pitovranov is a colleague of Mr. Verity's on the executive committee of the United States-U.S.S.R. Trade and Economic Council. Further details provided in the report show that Mr. Pitovranov was the KGB resident in the Embassies in Berlin (1953–54) and in Beijing (1959–61). The further indicates that he was the head of the KGB Training School (1962–64).

From this and similar reports, one can only conclude that Mr. Verity was, as cochairman, presiding over an organization which is deeply penetrated by Soviet intelligence services.

Mr. President, so that Senators might better understand Soviet intelligence activities in the trade area, I ask unanimous consent that the key judgments section and sections describing the intelligence connections of officials of the U.S.S.R. Chamber of Commerce from an unclassified report entitled, "Intelligence Collection in the U.S.S.R. Chamber of Commerce" be printed at the conclusion of my remarks as exhibit 11.

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

(See exhibit 11.)

VERITY, COMMUNISM, AND THE GLOBALIST VIEWPOINT

Mr. HELMS. Mr. President, the nomination of C. William Verity, Jr., for Secretary of Commerce is deeply disturbing for many reasons. The nomination sends a signal around this town, around Moscow, and around international financial and commerical centers, that our trade policy with respect to Communist countries is wide open and anything goes.

All the progress that was registered during the first term of the Reagan administration will be for nought. All of the careful work done by the Senate and Congress back in 1983, 1984, and 1985 in crafting the Export Administration Act of 1985 will be for nought.

The nomination of C. William Verity, Jr., is deeply disturbing because he embodies that point of view which holds the movement of history as a convergence, or merging, of the Soviet and United States systems. Today this viewpoint is called globalism. Not so long ago, this viewpoint was called the One-World" view by its critics. The phrase is no longer fashionable among sophisticates yet the phrase is still apt because noting has changed in the minds and actions of those promoting policies consistent with its fundamental tenets.

Mr. President, in the globalist point of view nation-states and national boundaries do not count for anything. Political philosophies and political principles are merely relative. Liberty and tyranny are neither necessarily good nor evil.

In this point of view, for example, the United States and the Soviet Union rather than opposing each other should become more and more alike and ultimately the two systems should become integrated within a global system.

In this point of view, the activities of international financial and commerical forces should be oriented to bringing this one-world design into being. Mr. Verity and his friends argue that trade should be separated from political considerations involving national security.

Mr. President, I ask unanimous consent that an article appearing in the New York Times on May 25, 1984, which describes a New York meeting of the U.S.-U.S.S.R. Trade and Economic Council and in which Mr. Verity is quoted as saying that "trade is trade" and should be separated from political issued be printed at the conclusion of my remarks as exhibit 12.

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

(See exhibit No. 12.)

Mr. HELMS. Mr. President, the report that Mr. Verity gave as cochairman to this May 1984 meeting is contained in volume 9, No. 3 of the Journal of the U.S.-U.S.S.R. Trade and Economic Council. In his speech he stated that, and I quote, "We urgently need to find a way to coexist on this small planet" and indicated that, and I quote, "In the absence of common institutions and similar approaches to an economic and political way of life, we must continue to reach out for ways and means that will bring us together."

Mr. Verity puts aside the realities of Soviet global expansionism and its impact on the peoples of Afghanistan, Nicaragua, Ethiopia, Angola, and Mozambique among others. There is not one indication of compassion for those who are under the Kremlin's heel whether within the Soviet Union, in its satellites, or in countries confronted by Soviet aggression.

Mr. President, I ask unanimous consent that the report that Mr. Verity made as cochairman to the May 1984 meeting of the U.S.-U.S.S.R. Trade and Economic Council be printed in the RECORD at the end of my remarks as exhibit 13.

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

(See exhibit 13.)

Mr. HELMS. Mr. President, in the globalist point of view, the deep spiritual values of Judeo-Christian Western civilization and commitment to individual freedom and to liberty are sentimental relics of the past. What becomes important is short term profiteering from the Soviet trade which itself is subsidized by the American taxpaper. Of course, this trade builds communism and takes jobs away from the American worker.

In the globalist point of view, the movement of history is conceived of as leading to the erection of a uniform global technological civilization devoid of spiritual content and based upon materialist and rationalist ideologies. Such a system would ultimately be dominated and managed by the international banking structure and the multinational corporations under its sphere of influence. The governments of nation-states would merely take their cue from these economic interests which have such tremendous influence over these governments. Such a system of global organization is conceived by the one-worlders as the most rational way to run the world.

In the globalist point of view, there is no conflict in the relationship with the Communist world that cannot be overcome through negotiating processes. Trade is seen as an instrument to create so-called interdependence. Indeed, the masters of the Kremlin are to become copartners in global management with Western banking and multinational corporate interests in a condominium arrangement. In this way, the Soviets can build a strong constituency for destroying the integrity of our sovereignty and independence.

The Soviet First Deputy Minister of Foreign Trade, V. Malkevich, in describing the purpose of the nine-page Special Advertising Section of the Wall Street Journal of August 24, 1987, which I alluded to earlier stated that:

> The purpose of this supplement, as we see it, is to help improve contacts between business circles of our two countries, which in turn, would promote a rapprochement between our two countries.

In this thinking, détente leads to rapprochement which leads to cooperation and finally to condominium.

As I described in some detail on February 29, 1984 in a speech before this body, Western financial and business interests assisted in the coup d'etat which brought the Communists to power in the Soviet Union in 1917. Prof. Anthony Sutton, a leading economic historian formerly associated with Stanford University, has characterized the activity on the part of these interests in the following words:

> The gigantic Russian market was to be converted into a captive market and a technical colony to be exploited by a few high-powered American financiers and corporations under their control.

In the globalist point of view, individual nation-states and their governments merely get in the way of the cosmopolitan economic forces which seek to organize and dominate life around the globe. From their point of view, it is necessary for these economic forces to create political lobbies strong enough to neutralize and to overcome resistance to such issues as the Soviet trade by security-minded government officials and parliamentarians in executive and legislative branches in Western countries.

Such is the globalist view and its political strategy. Such is the view of Mr. Verity and his associates involved in promoting the Soviet trade. In the cochairman's report which I noted above, Mr. Verity stated:

> Our job, in this council, is to build a climate of trust and friendship between our two countries so that our governments can again sit down at the negotiating table.

Mr. President, it is certainly clear to this Senator that the bottom line of this nomination is an economic bailout for the Soviet Union and its satellites and a sell out of our national security. Mr. Verity is committed, and his record shows it, to the building of communism through the expansion of financial and commercial relations between the Soviet Union and the West.

Mr. President, this is not the type of record suitable for a Cabinet position. A member of our Cabinet must place the long-range national security interests of the United States and the maintenance of our constitutional system above and beyond short-term profiteering off of the Soviet trade. The nomination of a leading member

of the lobby for the Soviet trade for the position of Secretary of Commerce is not only ill-advised, it is downright dangerous.

Mr. President, I hope that Senators consider very carefully all of the issues involved in the Verity nomination and the long-term consequences for these United States should Mr. Verity be confirmed by the Senate. I would emphasize to Senators that these consequences involve the survival of our Constitution and our way of life.

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

EXHIBIT 1

JOURNAL OF THE US-USSR TRADE AND ECONOMIC COUNCIL

CHASE MANHATTAN'S TRANSACTIONS IN THE U.S.S.R.

(By David Rockefeller)

(David Rockefeller, chairman of the Chase Manhattan Bank and a Director of the US-USSR Trade and Economic Council, recalls his bank's activities in the Soviet Union from the early 1920s, some of its earliest business transactions with Soviet enterprises and how, despite non-trade related impediments, the relationship has been uninterrupted.)

At this juncture in U.S.-Soviet governmental relations which, of course, have always had their litmus effect on business and trade, it is of interest to recall that at The Chase Manhattan Bank we can look back to an unbroken relationship with Russian financial institutions that straddles well over 50 years. In fact, one of my older Chase colleagues, now retired, recently reminded me that although the U.S. Export-Import Bank was not able to carry out its original mandate of financing U.S. exports to the Soviet Union in the 1930s, the commercial banking relationship of our institution was never interrupted even in the darkest days.

When, in the early 1920s, the Soviet Union set about to rebuild its textile industry, representatives of the All-Russian Textile Syndicate approached Chase, then known as Chase National Bank, and obtained the credits necessary to pay for their first imports of U.S. cotton. And in 1924, when the Amtorg Trading Corp. was incorporated as the Soviet Union's sole export-import agency in New York, Chase National agreed to handle its promissory notes as the "paying agent" for the Soviet Foreign Trade Bank. To facilitate Soviet exports of fur, timber, and precious metals purchasers' letters of credit were opened, with Chase National assuming some of the risk that these goods would reach their destination. They always did.

Furthermore, although Amtorg trade paper was sold at substantial discounts on the secondary market in New York for a time, Chase, as the paying agent, was witness to the punctiliousness with which the Soviet Foreign Trade Bank honored its commitments. During World War II, Chase became Amtorg Trading Corp.'s principal U.S. bank. By then, the U.S. government's lend-lease program was launched, and Amtorg's staff, both Soviet and American, was increased to 800 people.

I have a very personal memory of all this. When I started in Chase's International Department, John McLean, who was in charge of the Amtorg relationship, occupied the desk in front of mine. After the war, when the Soviet Union found it necessary to purchase grain from abroad, Chase offered to finance purchases in the United States, an offer not yet taken up. Then, in 1960, James Bergford, who today coordinates all of Chase's lending activities in Europe and the Middle East, as well as in the Soviet Union and Eastern Europe, traveled to Moscow to establish personal contact with the new administration at Gosbank. As he and his travel companion, Crawford Wheeler, recall, they arrived at a particularly propitious moment. A U.S. aircraft carrier had just plucked the last survivor of a Soviet shipwreck out of the Pacific, ushering in one of those periods of transcending goodwill between our two countries. But as so frequently happens, this goodwill was soon dashed by another unforeseen political development; the U-2 incident.

Almost on the heels of this came the Cuban missile crisis of 1962, which threatened to bring to an abrupt conclusion the Third Dartmouth Conference of prominent U.S. and Soviet citizens. Happily, this worthwhile effort to search for a common ground through private dialogue weathered even that storm. We went ahead anyway. And it was at the seventh session of the Dartmouth Conference in Hanover in 1972 that the idea of forming a joint high-level Trade and Economic Council was first proposed. This in turn led me to think that we ought to be doing something more at Chase and to establish a unit specifically to deal with the Soviet Union. The Chase representative office in Moscow, the first to be opened by a U.S. banking institution after World War II, grew out of this as did our first major postwar credit to the Soviet Union.

This credit opportunity developed out of the gigantic undertaking by the Soviet Union to build the world's largest truck plant on the Kama River at Naberezhnye Chelny, or KamAZ. The $86.5 million credit Chase agreed to extend for this project was matched by the U.S. Export-import Bank, which was finally allowed to open its doors to the Soviet Union under the 1972 Trade Agreement. Vladimir Alkhimov, then Deputy Minister of Foreign Trade and today chairman of the State Bank, commented at the time that it had taken Soviet bankers 34 years to be allowed through the doors of an institution originally set up to further U.S.-Soviet trade. So much for the vagaries of politics.

At Chase we felt that 'Kama I' was only our first step to a long and expanding relationship in financing trade with the Soviet Union. As the main U.S. bank for KamAZ, we were again selected by Vneshtorgbank (The Bank for Foreign Trade) in 1974 to head a syndicate of banks that put together 'Kama II' for $67.5 million, again matched with Exim Bank funds. About 100 American companies, many of them small machine tool makers, made deliveries under thse credits. Despite this, the misconception seems to persist that trade with the Soviet Union is restricted only to large companies.

To raise another $36 million credit to finance U.S. purchases for Moscow's International Trade Center, we sought the participation of European banks. However, all three loans were funded from the United States at terms and conditions adjusted to the prime borrowing rates applicable to our very best customers. So far, the Soviet foreign trade organization, Prommashimport, has awarded 42 contracts worth $70 million to large, small and medium-size U.S. companies under these and matching Eximbank facilities. With deliveries stretching to the middle of next year the list of U.S. suppliers to this very visible project, which is bound to facilitate our trade relationship, is still not complete.

Through participation in international banking consortia Chase has also participated in all three branches of the credits raised by the International Investment Bank in Moscow to finance purchases in the U.S. and elsewhere of equipment for the joint CMEA project of a natural gas pipeline connecting the Orenburg fields with terminals in Eastern and Western Europe.

On still another front, to assist corporations (particularly U.S. companies) in what was to many a new and unfamiliar market, and to help Soviet organizations in a similar way in the U.S., we launched Chase World Information Corp. It has signed an agreement with Licensintorg to market Soviet technology in the United States and has helped more than 20 U.S. companies develop permanent business relationships of their own with the Soviet Union. A periodical survey of business news, Eastwest Markets, published by C.W.I.C. every other week, has kept its subscribers abreast of business developments. Many of our customers are active members of the Council.

Beyond my involvement in Chase's banking relations with the Soviet Union, I have continued to participate in the work of the Dartmouth Conference. In August this Conference met for the eleventh session, this time at Jurmala, near Riga, at which I had the privilege to co-chair a working group concerned with enlarging economic relations between our two countries.

At this Conference it was generally agreed that the Carter Administration should initiate action in Congress to remove discriminatory tariff treatment by the U.S. on Soviet exports; the limitation of Export-Import Bank credits to the Soviet Union and the linkage of trade and economic matters to other aspects of the Soviet-American relations. We also found that notwithstanding the current constraints on U.S.-Soviet trade, both countries have an interest in the development of new energy resources, and agreed that the possibility of cooperation in the development of certain Soviet energy resources (a part of which would be exported) should be studied.

With respect to banking, the communique issued at the close of the Conference stated: "It would be useful to examine how the technical obstacles associated with the 10 percent of capital limitation of loans to a single obligor by U.S. banks could be resolved."

While Chase has not yet reached its legal lending limit to Vneshtorgbank, it would certainly enhance our ability to offer more credits, if selected foreign trade organizations with substantial hard currency cash flow could begin to arrange for U.S. banking credits on their own account. I also suggested that, if the Soviet Union intends to play as large a role in international trade as its size, resources and state of economic development warrant, it would be well to increase the extent to which the ruble can serve as a convertible currency. Moreover, it hardly needs to be said that if more were known about the level of the country's reserve assets, including its holdings and production of gold, it would help to silence a lot of unjustified criticism of U.S. private lenders' exposure with the Soviet Union. Certainly if the full facts were available, in all probability there would be less criticism because the magnitude of the Soviet economy and its

large export potential clearly can support a very sizable international debt.

Much remains to be done on both sides before trade can be truly normalized. In the meantime, I believe the US-USSR Trade and Economic Council continues to serve as an excellent channel for American business to communicate with Soviet foreign trade officials. Today, while to some extent we are again marketing time, it is important to keep this organization active. Certainly Chase's experience during the past 50 years and more has shown that trade has a way of maintaining ties between our two countries even at times of political disagreement.

EXHIBIT 2

[From the Washington Post, Aug. 26, 1987]

A DÉTENTIST AT COMMERCE

(By Rowland Evans and Robert Novak)

Although C. William Verity's enthusiasm for U.S.-Soviet trade was known at the White House before he was named secretary of commerce, nobody there seems to have read his past comments that American Jewish demands for Soviet emigration "can never be satisfied" and are regarded by the Kremlin as "interference with domestic affairs."

Those eight-year-old comments suggest the retired industrialist's Senate confirmation may not be so smooth as advertised. While the organized Jewish community is not opposing him, the Union of Councils for Soviet Jews is. Add in right-wing hostility, and Verity could be eating past words before his inevitable confirmation.

Picking the former head of Armco Steel points to what's afoot in the Reagan administration's fading months. His appointment fits the new primacy of improved U.S.-Soviet relations. Not only has Verity plugged ceaselessly for détente, but he has rejected the administration's policy of linkage between trade and Soviet behavior.

In fact, he weighed in against linkage when that issue split the Carter administration. He said the Soviets were "offended" by the Jackson-Vanik amendment's restrictions on U.S.-Soviet trade linked to Jewish emigration, and he called for their removal. "Let us also remember that they regard such efforts as interference with domestic affairs," Verity wrote.

In a 1979 interview with The Washington Star noting that year's record high of 50,000 Jews permitted to leave the Soviet Union, he contended the United States bowed to Jewish pressure linking emigration to trade. "The American Jewish community can never be satisfied on this matter," he said. "Their desires will ever be escalating." Soon after, the Kremlin closed the doors. Jewish emigration dropped to 914 in 1986, and under Mikhail Gorbachev's *glasnost* it has risen to 4,218 this year.

If the White House staff was unaware of Verity's words, it is understandable. Verity did not appear on the commerce secretary short list compiled by Robert Tuttle's personnel office. His name came from the White House East Wing—from Nancy Reagan, who has become the archangel of détente. In turn, according to one administration official, the suggestion to the first lady was made by her friend and former aide, Michael Deaver.

Advocates of controlling export of technology to the Soviet Union were appalled. "I find it a very strange appointment," Zbigniew Brzezinski told us—his views as President Carter's national security adviser were opposed by Verity a decade ago.

Verity, former head of the U.S.-Soviet Trade Council, belongs to the détente-minded American Committee on U.S.-Soviet Relations. Harvard Professor Marshall Goldman, a leading détentist, says Verity "has a fetish for Soviet trade." Fetish or not, his views are economically grounded. Armco's multibillion-dollar plans in the Soviet Union were killed by the Carter administration after the invasion of Afghanistan.

Amid current assaults on "privatized" diplomacy, Verity fits the tradition of American entrepreneurs from Armand Hammer to Dwayne Andreas in dealing directly with the Kremlin's masters. In 1984, after meeting with senior Soviet officials including Prime Minister Nikolai Tikhonov, Verity returned to Washington to submit Soviet "suggestions" to Robert McFarlane.

While Verity's trade delegation was in Moscow, ex-NSC director Brent Snowcroft—carrying a secret Reagan letter to Soviet leader Konstantin Chernenko—was left cooling his heels in a hotel. "That was their way of telling the president he's just bad news," Verity said upon returning. Actually, the attempt to establish another Soviet channel was scotched by the State Department.

A month later, Verity was one of the American industrialists rubbing shoulders with Soviet trade bureaucrats on the dais at Manhattan's Waldorf-Astoria Hotel. When a State Department official blamed the Kremlin for deteriorated U.S.-Soviet relations, Verity accused him of "very poor judgment" and praised the Russians for not responding.

The record is so full that even administration officials wonder how the president could appoint him. The answer is that Reagan probably sees Verity as a fellow septuagenarian, who frequently appeared on guest lists for White House state dinners put together by Deaver and who headed the commission on private initiative that tickled the president's fancy.

Sooner or later, the gap on linkage must be resolved. Verity could truly eat his words, or the administration might buy his dictum that "trade is trade." If neither happens and the old industrialists goes his own way out of control, the president can repent in leisure his hasty appointment.

VERITY'S VIEWS ON SOVIET TRADE SETTING OFF A FEW FIREWORKS

(Summary: Some hail C. William Verity for his dedication to free enterprise. Others are alarmed by his efforts to increase trade with the Soviet bloc. The former steel company executive's nomination as commerce secretary came as a surprise. If confirmed, he will join the Cabinet too late to influence a pending trade bill greatly, and he may be unable to steer the nation on a less protectionist course.)

A favorite motto of the late Secretary of Commerce Malcolm Baldrige was "underpromise and overdeliver." It was one of those American virtues thought extinct, and it earned him the respect of most of official Washington as a man of substance with a refreshingly low profile. The man named to replace him, C. William Verity, 70, will find himself trying to fill the boots of one of the best-liked and most politically effective Cabinet officials in the Reagan administration.

The appointment of Verity, former chairman of Armco Inc., a steel maker headquartered in Middletown, Ohio, and former chairman of the U.S. Chamber of Commerce, came as something of a surprise. He was reportedly not on a list of possible candidates that had been prepared by White House staff for President Reagan's approval and was said to have been picked personally by Reagan as the result of the good impression he made when he headed the President's Task Force on Private Sector Initiatives, a panel set up in the early 1980s to encourage corporations, nonprofit organizations and individual donors to tackle major social problems.

But some insiders have hinted the appointment came via a suggestion from Nancy Reagan, who is said to have picked up the idea from former White House aide Michael K. Deaver. Deaver and Verity share an influential acquaintance, the industrialist Armand Hammer, who is perhaps the best-known and most important advocate in the United States of expanded trade with and closer ties to the Soviet Union. Verity, though, may run a close second, and this could provide the only fireworks in his confirmation hearings.

Defense Department sources say Verity may want to remove some of the security restrictions that keep sensitive technology out of the hands of the Soviets and intermediary nations that might serve as conduits to the Soviet bloc. Verity was cochairman of the US-USSR Trade and Economic Council from 1977 to 1984, and he handpicked current council President James H. Giffen, a former Armco vice president.

Verity has said that the United States "is shooting itself in the foot" with export controls and embargoes against the Soviet bloc. He believes the Soviet Union should have most-favored-nation trading status and presumably would favor rescinding the Jackson-Vanik amendment to the Trade Act of 1974, which bars such status for communist countries that do not, in the president's view, allow those who want to leave the country to do so. Some trace Verity's interest in opening Soviet trade to the fact that his steel firm reportedly lost a $353 million contract to build a steel mill in the Soviet Union after the U.S. government canceled the licenses in reaction to the Soviet invasion of Afghanistan in 1979.

As a result of Verity's past statements on U.S.-Soviet trade, the United States Business and Industrial Council has already spoken out against the nomination. The council's president, Anthony Harrigan, says that Verity is "unsuitable" to hold the title of secretary of commerce. Says Harrigan: "It's just completely out of character for the Reagan administration to name someone so closely identified with the effort to cut back on export controls to the Soviet Union." Harrigan claims the public does not understand the true nature and character of the US-USSR Trade and Economic Council, which, he says, is not simply a trade facilitator like similar organizations between Western nations, although it may be viewed that way by the American companies that participate. The State Department lends considerable support to Harrigan's claim in an intelligence report released earlier this year.

The report was taken from declassified portions of an investigation of the USSR Chamber of Commerce and Industry conducted by the Central Intelligence Agency and released to the State Department. It says the Soviet chamber is, in fact, a hotbed of industrial espionage and recruitment of Soviet agents in Western countries and notes that fully one-third of its members have been identified as known or suspected KGB agents. The State Department says there are probably KGB agents not yet

identified, as well as agents for the Soviets' military intelligence agency, the GRU. The chamber is believed to use these agents as counterparts to Western businessmen in bilateral organizations such as the US-USSR Trade and Economic Council.

The report identifies a Soviet member of the economic council's executive committee as a top official in the KGB: Yevgeny Petrovich Pitovranov, a reserve lieutenant general. Once jailed during a Stalin purge of intelligence officers, Pitovranov, 71, was head of the KGB training school from 1962 to 1964. He is chairman of the Soviet chamber of commerce.

Council chief Giffen has in the past denied that his organization in any way supports Soviet causes. The council in July sent Mailgrams to members asking them to press senators to oppose an amendment to the proposed trade bill that would bar imports from nations (such as the Soviet Union) that use convict or slave labor. It was proposed by Republican Sen. William L. Armstrong of Colorado and passed.

While Verity and other critics have tried to portray U.S. bans on exports as frivolous, such efforts as the Kama River truck factory in the Soviet Union, built by a West European and U.S. consortium, showed the military application of apparently innocent projects. Trucks made there helped the Soviets invade Afghanistan.

The battle to stop the transfer of security-sensitive technology has been a hallmark of the Reagan administration, pursued with increasing vigor since 1981. In 1985, the process of review was incorporated in the newly created Defense Technology Security Administration. Sources at the agency voice concern about Verity's support of Soviet trade. They fear the Commerce Department, which they say is already too lax, may become even more so.

They cite examples of past Commerce errors: approval for the sale of 200 military radios to a Libyan fig farm, the sale of a material used in bulletproof vests to West Germany for reexport to Syria, the approval of 1,300 IBM System 2 desktop computers to a tiny florist in Hong Kong (for Star & Twinkle, a front company whose ties were not identified), the sale of ruggedized computers (that could be used in remote outdoor locations) to a Singapore company for reexport to Bulgaria and the sale of computers to the Islamic News Agency in Iran, where they could aid Ayatollah Ruhollah Khomeini's propaganda efforts in the Persian Gulf. In all these cases, the security agency intervened, stopping the sales.

A 1985 pilot study by the agency claimed that in 1983 and 1984 export controls saved the West $7.3 billion to $14.6 billion it would have needed to spend to counter improved Soviet military capability from such sales. Verity has claimed that the United States has lost as much as $10 billion a year in sales to the Soviet bloc due to export restrictions, but a Defense spokesman questions this: "We don't believe the Soviet Union has $10 billion to spend."

Because the Defense Department has institutionalized its review of many sales, some think Verity could not make any dramatic rollback in export controls. Acquisition of Western technology is often said to be the driving force behind Soviet leader Mikhail Gorbachev's *glasnost* and arms control initiatives, because the East Bloc has fallen farther and farther behind the West in technological prowess. A source in the review agency adds, "We had a lot to do with increasing the gap."

The appointment of Verity comes at a time when more and more observers believe that President Reagan, long a purveyor of free trade rhetoric, is moving close to, if not embracing, the so-called fair trade position of Baldrige as a political expedient to forestall a wholesale abandonment of free trade principles by an increasingly protectionist Congress. It is expected that Verity will reinforce this trend, and the U.S. Chamber of Commerce is already singing his praises. "He's not a protectionist at all," according to Richard Breault, group vice president. "He's a strong international trade enthusiast, even though his industry has been hit to a great extent." He insists, "Bill Verity is steeped in the American enterprise system." Verity has avoided interviews with the press before his confirmation hearings.

On Capitol Hill, protectionist pressure has gained momentum over the past three years as the trade deficit has grown to staggering levels. It reached a full head of steam this year, as the deficit continued to be high despite a two-year effort to reduce it by lowering the value of the dollar relative to the currencies of U.S. trading partners. (In terms of volume, the U.S. export sector is making dramatic gains, even as imports are beginning to be pinched, but the falling dollar increases the value of imports as it reduces the value of exports.)

Increasingly dominated by pragmatic insiders such as Treasury Secretary James A. Baker III and White House Chief of Staff Howard H. Baker Jr., the administration appears to have abandoned any idea of defeating a new trade bill with a presidential veto—despite warnings by administration officials that many of its provisions are "veto bait." Instead, it seems likely that there will be a concerted behind-the-scenes effort to remove from both the House and Senate versions of a sweeping omnibus trade bill hundreds of provisions that could damage trade, according to Jeffrey Schott, research fellow at the Institute for International Economics. Among these are provisions that would remove presidential discretion in enforcing trade laws and would make retaliation mandatory against trade practices deemed unfair.

Two very different trade bills enter a politically vulnerable phase known as the conference committee Sept. 14, when House and Senate panels negotiate compromises. With 52 senators and 37 representatives already appointed to the committee, the conference could be one of the largest in Congress's history. It may also be lengthy. Says William T. Archey, vice president of the U.S. Chamber of Commerce: "My hunch is you won't get a bill until October or November."

Assistant U.S. Trade Representative Roger Bolton is hopeful the administration can prevail and remove hundreds of bothersome provisions in the final bill. Some political economists speculate that Congress may have vented its spleen on the two early versions and may resort to a more responsible position on trade in the conference. Many congressmen recognized in private that the bill will not solve the trade deficit problem but for political reasons must toe an increasingly protectionist line.

Free traders think the whole administration strategy is flawed. "The trade bills are an abomination," says Fred Smith, president of the Competitive Enterprise Institute. "The president should work to sustain a veto because there's no way you can work to turn this frog into a prince." He believes the repeated efforts of the administration to conciliate protectionists have only emboldened them: "It's made it logical to be a protectionist." Smith argues that a new trade bill will add even more to the "protectionist tax" on consumers in the form of higher prices on imported goods to protect American producers. He estimates consumers already pay a "tax" of $55 billion to $60 billion a year and warns that Reagan could earn the title of "Herbert Hoover II" while the Democrats "will get all the credit for protecting American industry."

A commerce secretary who is strong on free trade could have sent a signal that the administration was prepared to fight to maintain the moral high ground and world leadership in free trade, according to Sven W. Arndt, an economist at the University of California at Santa Cruz and head of the independent and newly established Commons Institute for International Economic Studies in Santa Cruz. "But even the best of commerce secretaries won't be enough" to stop Congress's headlong rush into protectionism, he says, adding that "even Baldrige" would not have succeeded.

Arndt says the real problem is that the United States "is becoming one of the major offenders of the principles of free trade." He chides Reagan for failing to speak out against "the pretty disastrous provisions" of the two trade bills. "The president doesn't appear to care," he says. "Therefore the country believes there's not a whole lot to worry about." The end result, he says, is that "those in Congress who could be persuaded won't be persuaded" to dump the bill's many protectionist provisions.

The conference committee will be chaired on the Senate side by Texan Lloyd Bentsen, a Democrat and chairman of the Finance Committee, and on the House side by Dan Rostenkowski, an Illinois Democrat and chairman of the Ways and Means Committee.

Congress is where Baldrige's magic could have worked best—but the rodeo enthusiast's fatal accident in July, in which he was crushed by his horse while trying to rope a calf, has deprived the administration of perhaps its best trade asset. In spite of his fair trade preachments, Baldrige was ultimately committed to free trade. The burden of influencing Congress's final trade bill will now fall more heavily on Treasury Secretary Baker, U.S. Trade Representative Clayton Yeutter and Commerce Under Secretary Bruce Smart Jr.

Assuming his nomination is approved, Verity may get in on the tail end of the process, but most Washington insiders doubt he will have any real impact. Senate Commerce Committee Chairman Ernest F. Hollings, a South Carolina Democrat, was expected to begin confirmation hearings Sept. 10. With no Democratic opposition on the horizon, the controversy surrounding Verity's positions on trade with the Soviet Union is not expected to impede Senate approval, and Hollings will likely expedite the confirmation hearing because it is for a Cabinet-level position—*Robert England*

STATEMENT BY ANTHONY HARRIGAN, PRESIDENT, U.S. BUSINESS AND INDUSTRIAL COUNCIL

Ladies and Gentlemen: I am Anthony Harrigan, president of the United States Business and Industrial Council.

Our organization, which represents approximately 1,500 member companies, is opposed to strategic trade with the Soviet Union and the conferring of most-favored-

nation trade status on Marxist countries. We also are deeply concerned about technology transfers to the Soviets.

Therefore, we oppose the nomination of C. William Verity, Jr., as Secretary of Commerce. Next to Armand Hammer, he is the American businessman most closely identified with the efforts to expand trade with the Soviets, to weaken export licensing requirements, and to eliminate strategic and human rights considerations in making trade deals with the Soviet regime.

We believe it is completely inappropriate—indeed shocking—that the next Secretary of Commerce be the former co-chairman and, for seven years, a member of the Executive Committee of the US-USSR Trade and Economic Council (USTEC), an organization set up to promote most-favored-nation status for the Soviet Union. We don't believe that the American people or the Congress would approve of Mr. Verity's ideas and activities if they knew what they were.

Indeed, in the light of the Toshiba-Kongsberg case, which involved the sale of technology to the Soviet Union that has placed America's undersea warfare forces at a great disadvantage, it strikes us as incredible that someone should be nominated for Secretary of Commerce—for oversight of hardware sales and technology transfers—who wants to relax export controls. It's a case of putting the fox in charge of the chicken house.

Let me add that I don't believe the Senate would aprove this nomination if the senators were fully briefed on the US-USSR Trade and Economic Council, and Mr. Verity's statements in its Journal.

One wonders how many members of the Senate are aware of the 1987 U.S. State Department report entitled "Intelligence Collection in the USSR Chamber of Commerce and Industry." This is an organization that plays a major role in USTEC meetings. The State Department report says it collects intelligence information "while acting as a trade promoter and facilitator of excellent access to Western firms."

One also wonders whether the members of the Commerce Committee have looked at this State Department report and noted that one of the Soviet board members of the US-USSR Trade and Economic Council, Mr. Verity's organization, is KGB Lt. Gen. Yevgeniy Pitovravnov. That's on page 2 of the report.

I wonder whether Dr. Richard Lesher, president of the U.S. Chamber of Commerce, and Mr. Alexander Trowbridge, president of the National Association of Manufacturers—both permanent directors of USTEC—realize that they are sitting down with a KGB general at USTEC board meetings.

Our Council believes the U.S. Senate should be concerned with Mr. Verity's insistence that US-USSR trade is a "vital need." That's from his report to USTEC. Is the Senate in agreement with Mr. Verity that "U.S. administrations have hurt trade relationships by linking political considerations with crucial trade matters." That's a direct quote—page 13 of the Verity speech to his board. I don't believe the U.S. Senate agrees with Mr. Verity at all. The Senate believes that the U.S. should be concerned about human rights violations by the Soviets, including the war against Afghanistan and the oppression of Jews in the Soviet Union. If the Senate remains true to that concern, it will reject the Verity nomination. With Mr. Verity at Commerce, one can be sure that the Soviet's won't have to worry about fresh U.S. objections to barriers against Jewish immigration.

The Senate also should take into consideration that, according to the U.S. Defense Department, 5,000 Soviet military research projects depend on acquisitions of U.S. and NATO hardware and technology. The U.S. government has stated that "The assimilation of Western technology is so broad that the United States and other Western nations are thus subsidizing the Soviet military buildup." This technology acquisition program is the most extensive in the history of the Soviet Union.

The only way to prevent a flow of sensitive hardware and technology is to be very strict in connection with export licenses. Time and again in the USTEC Journal, Mr. Verity has urged relaxation of controls, saying "We should take a more reasoned approach to the whole subject." (USTECH Journal, 1983)

Mr. Verity says that 'there is plenty of trade that is not strategic.' But everyone knows that the Soviets aren't interested in buying washing machines and refrigerators. They want computers, computer-controlled milling machines, sensors with applications for submarine warfare and new optic equipment. Mr. Verity's record gives no one confidence that he will oppose trade in high-tech equipment with a dual-use military capability. On the contrary, he says he sees the Soviet Union as a huge market. Yes, but it is a market for goods and services that will enhance the USSR's military machine.

Mr. Verity doesn't want to offend the Soviets. He is on record as complaining that the Jackson-Vanik amendment "offended the Soviet Union" and was regarded by them as "meddling in their internal affairs." Mr. Verity is too sensitive to Soviet objections and too insensitive to the beliefs of Americans who are concerned about human rights in the Soviet Union.

Therefore, we hope that the U.S. Senate will listen to the organizations and publications that are objecting to the appointment and refuse to confirm C. William Verity, Jr., as Secretary of Commerce. The U.S. Senate has a duty to withhold consent from a Cabinet nominee who holds view hurtful to the national interest.

EXHIBIT 3

[From the Journal, United States-U.S.S.R. Trade and Economic Council]

UNITED STATES-U.S.S.R. TRADE: A VITAL NEED?

(C. William Verity, Jr., Cochairman of the United States-U.S.S.R. Trade and Economic Council and Chairman of the Executive Committee, Armco Inc., explains why the trade is important to both countries)

Is US-USSR trade a vital need?

The short answer is yes.

But so large an issue as U.S.-Soviet trade never lends itself to a short answer. There are other considerations.

To truly answer the question, it is necessary to go back over the complicated, controversial history of U.S.-Soviet trade.

In the early 1970's trade—the mechanism for mutual exchange based on mutual benefit—was singled out in the new Nixon administration policy of détente as an area of development that offered tangible evidence that the United States and the Soviet Union could work together. Both Presidents Nixon and Brezhnev agreed that détente was a sensible goal and one of the principal means would be increased trade.

It was a timely idea. The Soviet Union, in the implementation of its 9th Five Year Plan, sought from Western suppliers an increasing number of goods and technology. And American business, feeding its voracious appetite for new markets, recognized clearly that the Soviet Union was a market of enormous potential.

It was at this time, as we moved out of the Cold War toward a more stable relationship with the Soviet Union, that the US-USSR Trade and Economic Council was formed—the result of a Protocol signed in 1973 by then-US Secretary of the Treasury George Shultz, and Nikolai S. Patolichev, the Minister of Foreign Trade of the USSR.

The Council, formed as a private organization with a binational Board of Directors that included 30 Chief Executive Officers of major U.S. corporations and an equal number of officials of Soviet foreign trade enterprises, opened for business in New York and Moscow. It had one clear objective: Provide a bridge between the different ideological systems that would help facilitate the rapid expansion of trade between the two countries. Such trade would, of course, provide stimulus to the U.S. domestic economy:

From the beginning the problems were many. Trade all too often was used as a foreign policy lever. The Trade Agreement between the US and USSR was never signed because of the Jackson-Vanik Amendment, which offended the Soviets because they viewed this as the United States meddling in their internal affairs. Since then, there have been at one time or another restrictions on technology exchanges . . . an Olympic boycott . . . a grain embargo that had a devasting effect on US grain sales to the Soviet Union . . . extraterritoriality claims on the transfer of US technology to the Soviet Union . . . the list goes on and on.

I don't want to argue the wisdom—or lack of wisdom—of using the denial of trade as an instrument of foreign policy, although I can't let the subject pass without saying that I have yet to see it work successfully. Rather, I wish to address myself to the subject at hand—the vital nature of US-Soviet trade.

Everyone here knows the importance of foreign trade to the US economy. Eighty percent of all new manufacturing jobs are dependent on overseas sales and one of every three farms acres produces crops for export. Trade means jobs. It means a positive balance of payments that contributes to monetary stability. It enhances capital formation. It allows us to meet our financial commitments around the world.

But Soviet trade? How important is Soviet trade?

Ask the American farmer and he'll tell you it is very important. And his reaction is understandable. Prior to the 1980 grain embargo, US farmers accounted for close to 80 percent of Soviet grain purchases. Today that figure comes in about 19 percent.

It is a market that, despite the new grain agreement, is now lost in large measure to foreign competitors—Argentina, Canada and others. Still, it is a market important to American farmers—for some critically important, the difference between profit and loss.

And it's more than just grain sales. There is the ripple effect that spreads quickly through the interdependent agribusiness economy. Cut production because of decreased sales or income because of depressed prices, and you also cut back on farmers purchases—chemicals, equipment and relat-

ed farm technology, not to mention cars, refrigerators and such.

Add this to a domestic market in deep recession and you come up with an even more damaging impact on the economy.

I can't put too much emphasis on the agricultural sector of US-Soviet trade. Right now it totals nearly 75 percent of export sales. It's the reason why the US-USSR Trade and Economic Council devoted so much of its activity this past year to the development of the agribusiness market in the Soviet Union.

The Council last month provided a rather dramatic vehicle for potential trade and proved to be—as it had on other occasions in the past—a sea-anchor in troubled waters—at times indeed virtually the only clear channel for positive dialogue that had the support of both governments. The Council sponsored in Moscow an Agribusiness Exhibition that was the first all-American exhibition in the Soviet Union since 1978 and the first US agribusiness fair ever.

And it was a great success!

The participants included companies like John Deere which wanted to sell huge sophisticated combines and powerful tractors: International Harvester that wanted to demonstrate a new rotary combine; Caterpillar that wanted to sell some new earthmoving equipment.

There were chemical companies, such as Stauffer, Du Pont, Dow and many others, selling a broad spectrum of agricultural chemical products. Ralston Purina was selling soybean products. There were grain, dairy and food-processing companies who went to Moscow to sell a range of diverse products, equipment and technology. There was even a small Brooklyn, New York company selling pasta-making equipment and a blini machine that turns out more than 600 of the small pancakes every hour.

In total 109 American companies, with about $5 million in equipment went to Moscow to participate in that show. And they all report that the show was well worth their time and investment.

The reasons are many. But key to it all was the enthusiastic response from the Soviets, who showed a great interest in the equipment and technology on display at Agribusiness U.S.A. One barometer of success was the unusually high level of visitors who came to the show—Nikolai Baibakov, the First Deputy Prime Minister and Chairman of Gosplan, to Ministers and Deputy Ministers of the most important segments of the agribusiness industry in the Soviet economy. The presence at the show of these officials, and the thousands of end-users and decision-makers who make the purchasing decisions, reflected the Soviet interest in what the American companies had to offer.

I don't yet have the totals on sales, but we do know that more than 90 percent of the exhibited equipment was bought off the floor. Equally significant, there were contacts made that I'm sure will lead to additional contracts, generating considerable optimism about the possibility of future sales.

The exhibition was a major success. It coincided—by no coincidence—with a ten-year food industry development program now being implemented by the Soviets to increase their agricultural productivity and crop yields. Hundreds of billions of rubles have been allocated to fund this program, which ranges from the farm to the table. So the market for Western and American products met a ready and interested audience. American companies by their presence demonstrated they were ready and willing to sell their products to the Soviet market. It was clearly by the Soviet attendance and purchases that the interest was mutual.

Trade, independent of the political turbulence, can be a success—it can make a difference. In the past, US Administrations have hurt trade relationships by linking political consideration with crucial trade matters. Just one personal experience:

This year, the President decided not to use economic sanctions. He allowed our exhibition to go ahead—and the Department of Commerce endorsed the exhibition—and continued to endorse it as consistent with US trade policy with the Soviet Union after the September 1 incident. The Ambassador to the Soviet Union—Arthur Hartman—attended the opening ceremonies of the exhibition and reaffirmed the US interest in pursuing nonstrategic trade with the Soviet Union.

Agribusiness, of course, is only a part—now a large part—of the total US exports to the Soviet Union. Let me give you just a few statistics.

Exports for 1982 totalled $2.5 billion, of which $1.8 billion was agricultural and $733 million nonagricultural. Without a doubt, and despite a general decline for the first half of 1983, these figures are certain to increase as a result of the recently-signed grain agreement that calls for sales of nine to twelve million tons of grain annually over the next five years.

But the potential for trade is not limited just to agriculture. Deputy Foreign Trade Minister Sushkov told a press conference in Moscow during the exhibit that the top Soviet economic priority is energy, followed by agriculture and consumer products.

So, there is a large market out there, largely untapped. The potential is very real. As difficult as the times seem, the US and the Soviet Union continue to be natural trading partners. We both have large economies with similar demands—what works in one all too often is a natural fit for the other.

EXHIBIT 4

[From the Washington Times, Sept. 15, 1987]

REAGAN AFFIRMS LINKS BETWEEN SOVIET TRADE, EMIGRATION

(By Bill Gertz)

President Reagan attacked growing anti-Semitism in the Soviet Union yesterday and said his administration remains firmly committed to laws curbing trade with Moscow until free emigration is permitted.

Mr. Reagan's statement contrasted markedly with testimony last week by C. William Verity, his nominee to head the Commerce Department.

In a letter to an American Jewish group, Mr. Reagan acknowledged recent progress by the Soviets in loosening restrictions on Jewish emigration.

But in some of the harshest rhetoric from the the White House in recent months, the president said the Soviets' release of a small number of Jewish dissidents appeared to be a propaganda gesture.

"These positive steps are not only far from enough, their timing and nature suggest a quest for diplomatic effect, not justice," Mr. Reagan told the Union of Councils for Soviet Jews. "And they coexist with ominous indicators of possible future tightening on emigration and of a growth in anti-Semitism in some Soviet quarters."

Mr. Reagan also said the administration will not waver in its support of the Jackson-Vanik and Stevenson amendments linking U.S. trade benefits with Soviet emigration policies.

"Let me assure you that I and the whole of my administration support the continuation of the Jackson-Vanik and Stevenson amendments and shall scrupulously abide by their provisions," Mr. Reagan said.

Mr. Verity, in testimony at his Senate confirmation hearing Thursday, said he would uphold the law but called the Jackson-Vanik restrictions "counterproductive."

The Jackson-Vanik amendment to a 1974 trade bill banned nations that placed restrictions on emigration from receiving most-favored-nation trade relations with the United States. It was named after its sponsors, the later Sen. Henry M. Jackson, Washington, Democrat, and former Rep. Charles Vanik, Ohio Republican.

The 1974 Stevenson amendment, which linked limits on U.S. bank credits with Soviet emigration, was named after its sponsor, former Sen. Adlai Stevenson III, Illinois Democrat.

The President's letter was delivered to the Union of Councils for Soviet Jews yesterday by Fritz Ermarth, the National Security Council staff director for Soviet affairs.

Calling for "justice, not gestures," Mr. Ermath said in a speech to the group that the modest relation of Soviet emigration controls was "a transparent and manipulative policy" that could be reversed.

Mr. Verity testified Thursday that he believed emigration levels of between 15,000 and 25,000 per year would be enough for him to consider lifting the ban on granting the Soviets most-favored-nation status.

Asked about Mr. Verity's position, Mr. Ermath dismissed such suggestions and said, "It's morally repugnant to get into the body-bargaining business."

Mr. Ermath said he believed Soviet glasnost and "restructuring" policies will lead to economic, social and political turbulence posing "dangers and perils" for Soviet Jews.

Soviet Jews are "vulnerable to popular anti-Semitism, vulnerable to official, if sub rosa, victimization and scapegoating," he said.

"We already see some of this; it's hard to measure its extent," Mr. Ermath said. "It is unfortunately more apparent, however, that there is a rising trend of popular anti-Semitism in Soviet society."

Natan Sharansky, the Jewish activist who was imprisoned by the Soviets and released last year, told The Washington Times this week that a neo-fascist group called the Memory Society, which advocates anti-Semitism, has prospered under Mikhail Gorbachev's policies.

Also, Mr. Sharansky said the Soviets recently imposed a new emigration law that make about 90 percent of the 400,000 Jews wishing to emigrate ineligible to do so.

About 1.8 million Jews live in the Soviet Union. Jewish emigration levels reached 50,000 per year in 1979 and then dropped dramatically in the early 1980s. Some 970 Jews were permitted to emigrate last year.

EXHIBIT 5

[From the Wall Street Journal, Aug. 24, 1987]

COOPERATION WITH U.S. BANKS: PROSPECTS FOR THE FUTURE

(By Victor Gerashchenko)

The present-day network of correspondents of the U.S.S.R. Vneshtorgbank in the U.S. includes major commercial banks such as Citibank, Chase Manhattan Bank, Bank-

ers' Trust, First National Bank of Chicago, Manufacturers Hanover, Chemical Bank, Morgan Guaranty and others, as well as medium-sized and small regional banks. In addition, among the U.S.S.R. Vneshtorgbank correspondents are many branches and subsidiaries of U.S. banks in third countries.

The system of relations between the U.S.S.R. Vneshtorgbank and U.S. banks is based on a whole set of correspondence relations, various payments, currency and financial operations, among others, which reflect the conjuncture and specific features of the international banking business today. Through joint efforts a mechanism of interbanking relations has been created and is now in operation. This mechanism brings first-rate services to trade, economic, currency and financial relations between the U.S.S.R. and the U.S. At present, however, this mechanism is not utilized to the full.

WHAT IS THE REASON FOR THAT?

The mechanism of interbank relations can and must operate effectively on the basis of a large volume of trade and stable relations between countries. However, such a basis in the relations between U.S. and Soviet banks is clearly inadequate. The level of currency and financial relations exerts an important influence on the development of trade and economic cooperation, serving as the wheels for the accelerating train of international trade. This pertains, above all, to the relations between nations in the area of financing and mutual trade in machinery, equipment, and other investment goods.

It is safe to say, I believe, that in recent years, American and Soviet business partners have shown a growing interest in the promotion of trade ties and are actively considering a number of projects to boost cooperation in the engineering, power, chemical and petrochemical, medical industries, as well as in the agro-industrial complex. However, certain factors are blocking the conclusion of a large number of deals. One of the most important factors is that the American side is not yet prepared to offer competitive terms of financing these projects under study.

This situation is quite different as regards other Western nations, especially in Europe. Trade and financial relations with many of these countries are based on a long-term and stable foundation, independent of the present political structure. Governments promote these mutually beneficial relations in every way. It is indicative that many U.S. banks understand this situation clearly, and compete with their West European counterparts in striving to make good use of the business advantages offered by the level of trade and financial cooperation between the U.S.S.R. and those countries. Through their European branches and subsidiaries, a number of U.S. based banks actively seek oppportunities, and often find them, for participating in financing Soviet trade with countries such as Italy, the U.K., the F.R.G., and others.

CERTAIN HEADWAY HAS BEEN MADE

Despite the quite inadequate level of relations in the long-term and medium-term financing of trade, interbank cooperation has developed in a number of other areas of banking activity. The international banking industry has at its disposal a big arsenal of various payments (for commercial as well as non-commercial dealings), currency, financial and other transactions which are used to a varying degree in the relations between U.S. and Soviet banks. It is gratifying to note that certain positive changes have recently become evident in this area.

Operations involving U.S. banks in the bank acceptance market have been developing since 1984. Corresponding agreements have been signed with 11 American banks to date, involving considerable sums. Given favorable conditions in the U.S. money market as compared to the Eurodeposit market, good use is made of these credits.

FOREIGN EXCHANGE OPERATIONS, DEPOSIT TRADING

Conversion operations and, to a lesser extent, deposit of money are conducted with a number of banks. These operations can be promoted on the basis of reciprocity and competitiveness of the conditions of the deal offered. For its part, the U.S.S.R. Vneshtorgbank is ready to expand cooperation in this area.

In recent years, a number of agreements on medium-term financial credits have been concluded.

There are opportunities for developing relations with banks and other financial institutions in the area of international capital markets, including the new instruments of these markets. It goes without saying that due to the relative novelty for the U.S.S.R. of such operations, the U.S.S.R. Vneshtorgbank is cautious in developing them. However, there is potential for cooperation in this field.

At present, a number of U.S. firms are discussing possible joint enterprises with Soviet organizations. I feel certain that in this area we also have some interesting opportunities for interbank cooperation.

ANALYSIS AND FEASIBILITY STUDY OF PROJECTS

American banks have a good deal of expertise and skill in the financial analysis of projects for joint enterprises, including those with socialist countries, and in developing and realizing methods for their financing. This expertise would be very useful in formulating projects for joint Soviet-American enterprises. The U.S.S.R. Vneshtorgbank will give careful consideration to any relevant proposals by American banks.

The more active Soviet external economic policy and its orientation towards developing new markets opens up good prospects for cooperation in financing economic cooperation projects in third countries, including those with the participation of U.S. companies. Some such projects are already being discussed.

Unfortunately, it should be noted that efforts to put up additonal artificial obstacles in the way of cooperation are continuing in the U.S. Various political discrimination measures directed against the U.S.S.R. (the Garn-Proxmire bill, recent proposals put forward by a group of Congressmen headed by Jack Kemp) seriously undermine the basis for promoting businesslike relations, and introduce an additional element of instability.

BLOCKING OF ASSETS

Much damage to interbank cooperation is done by moves such as the one late last year aimed at illegally blocking the assets of the U.S.S.R. Vneshtorgbank held in accounts in an American bank. Improved relations between our countries depend in no small measure on whether it will prove possible to overcome the unconstructive attitude of certain U.S. political circles regarding cooperation with the U.S.S.R., and whether it will prove possible to overcome the lack of more open political thinking.

ROLE OF THE ASTEC FINANCE COMMITTEE

In conclusion, I would like to emphasize the important role in developing currency and financial cooperation between the U.S.S.R. and the U.S. that has been played by the ASTEC Finance Committee, the executive organ of the Council comprising the banking and financial organizations of the two countries. The Finance Committee includes as its members the largest U.S. banks and financial institutions, among them Citibank, Chase Manhattan, First National Bank of Chicago, Bankers Trust, Salomon Brothers and others.

It should be recognized that the operation of the Committee is hampered by inadequate Soviet-U.S. trade and economic relations. At the same time, the Finance Committee has helped to develop busineslike cooperation between U.S. and Soviet banks. At present, its role in the framework of Soviet-U.S. trade and economic relations is growing, along with the practical orientation of its work.

Regular business contacts within the Finance Committee will enable representatives of American banks to get a better insight into the economic transformations now underway in the U.S.S.R., and to find new areas of mutually beneficial cooperation. For our part, we will be glad to welcome, as members of the U.S.-U.S.S.R. Trade and Economic Council and its Finance Committee, American banks and financial companies. We are ready to promote the active development of mutually profitable relations with them in diverse fields.

EXHIBIT 6

THE PRESIDENT'S TASK FORCE ON INTERNATIONAL PRIVATE ENTERPRISE: REPORT TO THE PRESIDENT

ESTABLISHING AN ECONOMIC SECURITY COUNCIL

During the course of our work it became clear that any efforts by the U.S. Government to specifically encourage the growth of private enterprise for development, particularly through our foreign assistance programs, will be hampered if other U.S. economic policies are askew or contradictory. The interconnection of so many aspects of government policy—such as trade, finance, agriculture, foreign relations—as well as the need to enhance the way we organize U.S. Government resources, gave rise to our analysis of the U.S. economic policy formulation process. As a result of these deliberations, we recommend establishment of a new mechanism of the White House, namely the Economic Security Council, and the creation of the position of Assistant to the President for Economic Affairs.

Finding

In order to cope with the new and changing circumstances, a new institutional structure is needed to ensure better formulation and coordination of U.S. international and domestic economic policy.

Overview: High stakes are involved in the integration of U.S. domestic and international economic policies. The executive branch must be structured so that those decisions that are crucial to our economic future are given thorough and fully coordinated consideration.

Recommendation

The President should establish an Economic Security Council (ESC) to formulate and coordinate domestic and international economic policy.

Discussion: As the world's markets grow more internationalized, other nations in-

creasingly approach international policies as, to paraphrase Clausewitz, an extension of economic policy by other means. Our government institutional arrangements should reflect this new reality.

The increasing complexity of international economic problems, cutting as they do across the jurisdictions of the individual cabinet departments, makes the need for a coordinating point within the Executive Office of the President almost self-evident.

We propose that the President establish, initially by Executive Order, a White House council called the Economic Security Council. This council would be chaired by the President and include those cabinet rank officials needed to fulfill the ESC mandate.

The ESC would parallel the NSC in its advisory and operating capacities, raising economic policy issues to a level comparable to that of international political issues. Ultimately, legislation should be proposed to institutionalize the ESC structure and thus to assure its permanence and the development of an institutional memory and appropriate linkages among various cabinet departments. The ESC would advise the President on all aspects of domestic and international economic policy; oversee the formulation, coordination, and implementation of U.S. economic policy; and serve as the focal point for economic policy decision making.

Among other functions, we would expect the ESC to:

Examine the domestic, foreign policy, and national security implications of international economic policy issues.

Identify ways in which the various U.S. Government resources can be used to increase U.S. trade with developing countries and strengthen their economies.

Develop common priorities and government-wide guidelines for specific agency actions affecting international economic policy.

Insure that international economic considerations are brought to bear in the development of domestic policy.

Coordinate preparations for international economic summit conferences; and

Assure the consideration of developing country issues in the policy deliberation process.

With the Economic Security Council in place, it should be possible to streamline the present cabinet council structure. The ESC would need a minimum staff to provide, within the White House, an interdisciplinary reservoir of those skills and backgrounds necessary to the analysis of economic issues and their wide-ranging impacts. It would maintain close liaison with the various departments and agencies, ensuring that issues needing ESC attention received that attention. It would also provide an institutional memory through which past experience could be readily brought to bear on current issues.

The ESC, thus structured, would be in a position to analyze such questions as, for example, the effect of economic sanctions against another country on U.S. industry and agriculture, the trade implications of U.S. Monetary policy, or the impact of pollution or anti-trust regulations on U.S. productivity and international competitiveness. Issues addressed elsewhere in this report, such as those related to the foreign assistance budget, trade policies, and P.L. 480 funding levels would, of course, be within the province of the ESC.

Recommendation

The President should designate an Assistant to the President for Economic Affairs who would participate in the Economic Security Council.

Discussion: An organizational structure, a set of principles, and a system cannot assure the necessary level of attention to a multitude of policy issues. The way in which a policymaking system operates also depends on the people involved. Presidential decisions are often influenced by the personal and professional relationships that exist between the President and his chief advisers and agency heads. A point of contact and coordination in the person of a close trusted expert adviser who would have the President's ear is needed to insure that the economic dimensions—both domestic and international—of pending issues are taken fully into account in the presidential decisionmaking process and that this is done early enough in the process to let the economic considerations work their way through it. The Assistant to the President for Economic Affairs must be such an individual.

The assistant to the President would be unconstrained by departmental jurisdiction boundaries and constituency interests and would have a "presidential" perspective. The assistant could identify for the President points of view that might not otherwise be adequately represented within existing policy coordinating groups. This official could also call attention to emerging issues that might not, at the time, seem important to any single department or agency, but that could offer prospects for positive action or pose serious problems if not dealt with.

Such a senior adviser to the President would insure that linkages between domestic and international economic concerns, including those linkages that deal with developing nations, are adequately factored into presidential decision making.

Not long ago, it was common in government circles for international economics to be consigned, like other arcane matters, to the specialists with the hope that it would intrude as little as possible on the consciousness of those charged with the more "glamorous" work of looking after the nation's political relationships. But economic concerns can no longer be separated from political concerns. Economic welfare can no longer be separated from human welfare. The structure of the executive branch must reflect this interweaving of economic considerations through the whole fabric of domestic and international politics.

In the advanced technological age we are now entering, the changing dynamics of the world's interlocking economies will hold the key to the future for the next generation. This is true of the developing and developed nations alike. We believe that these organizational changes—the creation of an Economic Security Council and designation of an Assistant to the President for Economic Affairs—taken together, will equip the executive branch with the means to give economic issues the quality and degree of attention they will need if we are to master that future.

EXHIBIT 7

ECONOMIC POLICY COUNCIL AND DOMESTIC POLICY COUNCIL

STATEMENT ON THE CREATION OF TWO CABINET-LEVEL BODIES, APRIL 11, 1985

Today I am announcing the creation of two Cabinet-level bodies—the Economic Policy Council and the Domestic Policy Council—to assist me in the formulation and execution of domestic and economic policy. I will chair both Councils. These two Councils will replace the seven existing Cabinet Councils and the Senior Interagency Group-International Economic Policy. The new entities will streamline policy development and decisionmaking. Together with the National Security Council, they will serve as the primary channels for advising me on policy matters.

The Economic Policy Council will be composed of the Secretaries of State, Treasury, Agriculture, Commerce, and Labor, the Director of Office of Management and Budget, the United States Trade Representative, and the Chairman of the Council of Economic Advisers. It will provide advice to me concerning all aspects of national and international economic policy. The heads of the national security community departments and agencies and the Assistant to the President for National Security Affairs will participate in Council meetings whenever international policy or budget matters are discussed. In my absence the Secretary of the Treasury will serve as Chairman pro tempore.

The Domestic Policy Council will be composed of the Attorney General, the Secretaries of the Interior, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Education, and the Director of the Office of Management and Budget. It will provide advice to me on domestic and social policy. In my absence the Attorney General will serve as Chairman pro tempore.

The heads of nonmember departments and agencies will be invited to participate in either Council's deliberations whenever matters affecting their organizations are on the agenda. The Vice President and Chief of Staff will serve as ex officio members of both Councils.

The new, streamlined decisionmaking process enhances my commitment to Cabinet government. It will provide for added accountability and efficiency in formulating and implementing policy.

EXHIBIT 8

PROTOCOL

Considering the interest expressed by Soviet foreign trade organizations and United States companies in the development of organizational arrangements for increased cooperation, and

Recognizing that such increased cooperation would contribute to the promotion of contacts between businessmen of the USSR and the USA, which in turn would assist in the development of mutually beneficial trade between the two countries,

The Secretary of Commerce of the USA will meet at an early date with members of the United States business and financial community to discuss the desirability of establishing in the United States private sector a USSR-US Chamber of Commerce. The Minister of Foreign Trade of the USSR will continue similar consultations with Soviet foreign trade and other organizations.

The results of these consultations shall be reported promptly to the Joint USSR-US Commercial Commission.

Done this 22nd day of June, 1973, at Washington, in duplicate, in the Russian and English languages, both texts being equally authentic.

For the Government of the Union of Soviet Socialist Republics: Nikolai S. Patolichev, Minister of Foreign Trade.

For the Government of the United States of America: George P. Shultz, Secretary of the Treasury.

EXHIBIT 9

COMMERCE SECRETARY HOSTS MEETING TO DISCUSS FORMATION OF U.S.-U.S.S.R. CHAMBER OF COMMERCE

In a move to strengthen trade ties and economic relations between American businessmen and the Soviet Union, Secretary of Commerce Frederick B. Dent met today with 24 U.S. business and financial leaders to discuss formation of a "U.S.-U.S.S.R. Chamber of Commerce."

The meeting is an outgrowth of the summit talks of President Nixon and Secretary Brezhnev in which a Protocol was signed June 22 directing the Secretary of Commerce to discuss the desirability of establishing such an organization in the United States private sector.

The U.S.S.R. Minister of Foreign Trade is to pursue similar consultations with Soviet foreign trade and other organizations, according to terms of the Protocol, with the view of forming a comparable group in the Soviet Union.

Noting that U.S. trade with the Soviet Union has shown significant growth in the last two years as a result of President Nixon's initiatives in going to Moscow, Secretary Dent said, "A U.S.-U.S.S.R. Chamber of Commerce, privately financed and operated by American businessmen, can assist American companies and Soviet trade organizations in doing increased business with each other."

In addition to Secretary Dent, the business group was also addressed by Soviet Ambassador Anatoly F. Dobrynin during the meeting at the Commerce Department Building.

As envisioned, Dent said, a U.S.-U.S.S.R. Chamber of Commerce would have offices both in this country and the Soviet Union. Once formed, the group would function as a non-profit corporation.

Some of the duties it could perform, Dent added, would be to provide information on economic developments in both countries, collect statistical data on member firms, disseminate information on market potential and business opportunities, on foreign exchange and customs regulations, on legislation governing the protection of industrial property, and on transportation, insurance, tourism, exhibits, and trade fairs. "In short, such a Chamber could be the focal point to which American business could turn in its pursuit of commercial dealings with the Soviet Union," the Secretary said.

Invited to today's meeting were:

Donald M. Kendall, Chairman of Pepsico; Howard L. Clark, Chairman of American Express Company; C. William Verity, Chairman of Armco Steel Company; Stephen D. Bechtel, Jr., President of Bechtel Corporation; William H. Franklin, Chairman of Caterpillar Tractor Company; Arthur J. Santry, Jr., President of Combustion Engineering, Inc.; Michel Fribourg, President of Continental Grain Company; C. B. McCoy, Chairman of E. I. du Pont de Nemours and Company; Milton F. Rosenthal, President of Engelhard Minerals and Chemicals Corporation; Reginald H. Jones, Chairman of General Electric Company; Richard C. Gerstenberg, Chairman of General Motors Corporation; Frank T. Cary, Chairman of IBM Corporation; Edgar F. Kaiser, Chairman of Kaiser Industries Corporation.

Also, Harry Heltzer, Chairman of Minnesota Mining and Manufacturing Company; Dr. Armand Hammer, Chairman of Occidental Petroleum Corporation; William T. Seawell, Chairman of Pan American World Airways; Samuel B. Casey, Jr., President of Pullman Incorporated; Willard F. Rockwell, Jr., Chairman of Rockwell International; Donald P. Kircher, President of the Singer Company; G. William Miller, President of Textron, Incorporated; C. Peter McColough, Chairman of Xerox Corporation; A. W. Clausen, President, Bank of America; Benjamin F. Crane, Partner, Cravath, Swaine and Moore; Philip O. Geier, Jr., Chairman of Cincinnati Milacron, Inc.

Representatives of the National Association of Manufacturers and the Chamber of Commerce of the United States attended as observers.

STATEMENT BY SECRETARY DENT AT MEETING ESTABLISHING U.S.S.R.-U.S. CHAMBER OF COMMERCE, WASHINGTON, JULY 12, 1973

One of the most important agreements signed during the recent meeting in Washington of President Nixon and Secretary Brezhnev relates to the creation of a U.S.S.R.-U.S. Chamber of Commerce in the United States. This organization can make a major contribution toward broadening commercial contacts between our countries.

Today we welcome an action group of 24 American business and financial leaders who will carry forward with the agreement made by President Nixon and Secretary Brezhnev to build stronger economic ties between the United States and the Soviet Union.

To have real meaning, an agreement between nations requires that life be breathed into it at many levels. Public and private institutions and individuals all down the line must help fulfill it; otherwise it will remain only a dream.

The leaders from America's private sector who have helped form the U.S.S.R.-U.S. Chamber of Commerce symbolize the support being given by Americans generally to President Nixon's initiatives for peaceful expansion of our trade ties with the rest of the world.

On the President's behalf, I welcome their interest and support, as well as that of everyone in the United States who will benefit from the new job opportunities for American workers that will flow from the increased exports resulting from the agreement.

EXHIBIT 10

BACKGROUND PAPER ON THE U.S.-U.S.S.R. TRADE AND ECONOMIC COUNCIL, INC.

MISSION

The U.S.-U.S.S.R. Trade and Economic Council was formed to accelerate the free flow of commerce between two divergent government and economic systems. A new and unique organization, the Council is a product of detente, the result of a protocol signed during the summit meeting between President Nixon and Secretary General Breshnev held in Washington in June, 1973. Its mission is to bring together American businessmen and Soviet government officials so that they can develop and implement expanded trade between their respective countries in a climate of mutual trust and understanding.

HELPING THE BUSINESSMEN

The U.S.-U.S.S.R. Trade and Economic Council is uniquely qualified to assist new business in the Soviet Union. The Council maintains offices in the U.S.S.R. (Moscow) and the U.S. (New York) that are staffed with a mix of American and Soviet professionals thoroughly experienced in the techniques of conducting business in both countries. The Council can assist a prospective U.S. businessman through all phases of selling his product or technology to the Soviet Union.

For example. A medium-sized company in Columbus, Ohio, manufactures a range of heavy earth-moving equipment which it has been successfully marketing in major markets in Europe and South America for the past eight years. The company wants to expand its overseas sales and feels there is good sales potential in the U.S.S.R. for its product line. But no one in the company knows how to go about selling in the Soviet Union.

When the company first began to look into overseas sales in Europe and South America, it conducted some preliminary research and found an abundance of reliable market intelligence on its overall product line in established major overseas markets. The company also found a number of reputable international sales organizations and exhibition platforms ready and willing to help it get started, if it decided not to build its own "in-house" export marketing organization.

Selling a product in the Soviet Union, however, presents an entirely different set of marketing circumstances. The Columbus marketing manager learned (quite rightly) that there is a growing market for heavy machinery in the U.S.S.R. But beyond that, he has had little access to additional information; and, he is not really in much of a position to search it out—even with a trip to Moscow. Trying to handle that on his own, he would quickly find out that a sales trip to Moscow, if it is not carefully planned and meticulously scheduled, can be a complete waste of time. For the American businessman. And, for the Soviet official he might try to contact.

The U.S.-U.S.S.R. Trade and Economic Council was formed to handle just such a prospective sales situation. As a member company of the Council, that Columbus machinery company would have available to it a range of services tailored to its specific product and marketing needs.

For example. A Council project officer in New York would be assigned to review and analyze the company's basic sales proposal. The project officer, as a first step, would determine the overall marketability of the product in the Soviet Union. Calling upon appropriate resources at the Council offices in New York and Moscow, he would see if there is a specific need for such a product in the U.S.S.R. The project officer might even request his Moscow counterpart to make preliminary inquiry at the Soviet Foreign Trade Ministry to find out if there would be specific interest in buying that particular type of equipment. In addition, he would provide detailed counsel on exporting to the Soviet Union, such as advice on what financing is available, if the product is affected by U.S. export controls (few are), and basic information on such subjects as documentation, insurance and shipping procedures.

The Council project officer in the U.S.S.R. would make the necessary appointments in Moscow if the prospects for selling the product warranted a trip to the Soviet Union by a representative of the company. The Moscow project officer would schedule the appointments and accompany the U.S. visitor during his government contacts, providing appropriate counsel, office, telex, secretarial and translation services as required. And, after the visit, the Council project officers would continue to serve as a liaison between the government ministry and the company, helping to maintain a smooth

flow of communication—always difficult—between the buyer and the seller until the transaction is completed.

THE COUNCIL ROLE

The Council has, as its broad mandate, the promotion of a greatly expanded U.S.-U.S.S.R. trade. In line with this, the Council has created a service-oriented organization with a practical and operational program designed to render meaningful assistance to U.S. businessmen seeking trade opportunities in the Soviet Union. Equally, it offers a similar service for Soviet business men seeking an outlet for their products in the United States.

These services include:

A full range of economic and statistical information on the levels and patterns of trade between the U.S. and the U.S.S.R., as well as comparative data with other major world trading partners for each of these countries.

Identify trade opportunities for Council membership in the U.S. and U.S.S.R. in specific product categories by reporting expressions of interest of business/government contacts and the results of independent research.

Counseling for member companies on the best methods of presenting sales proposals in the United States or the Soviet Union.

Setting up business meetings and appointments in both countries and counseling U.S. and Soviet businessmen on procedures and policies appropriate for the conduct of these meetings.

Logistical support for traveling businessmen in Moscow and New York, including office space, telex and secretarial facilities, translators, press relations, statistical data, and professional consultation as required.

Monitoring each potential transaction until it reaches fruition or fails and providing such continuing service as requested by members to complete negotiations.

Advise member companies on necessary procedures when prospective transactions have real or potential governmental involvement (Export-Import Bank participation, export controls or regulatory agency involvement); and, if desired, arrange discussions with appropriate government officials.

Assist in the execution of agreements leading to exchanges of science and technology.

Set up an early warning system for Council membership on possible trade deterrents.

The Council will maintain close relations with both governments to perform these functions. The Council, however, is not a political body and cannot engage in any political or non-commercial activities in either country.

ORIGIN OF THE COUNCIL

The idea for the Council took shape at the Washington summit meeting between President Nixon and Secretary General Breshnev in June, 1973. Both governments recognized the benefits from an expanded economic relationship and the need for a specialized organization to deal with the problems of trade development between the two countries.

Other developed nations have been doing business with the Soviet Union for many years, but, as a result of more than a quarter-century of Cold War, U.S.-Soviet trade has been at a very low level. And, while the potential for trade expansion is large—many American and Soviet business interests are now anxious to explore trade opportunities in the other's country—the problems are many. Few American businessmen have any clear understanding of how foreign trade is conducted by state trading monopolies, nor do the Soviets who want to export to the United States really know how to go about doing it.

Against this backdrop, the Council was viewed as an organization that could serve the multiple business interests of its members and, at the same time, strengthen the economic ties between the two nations. With this view in mind, Secretary General Breshnev committed the Soviet Union to cooperate in the development of the Trade and Economic Council and President Nixon pledged the best efforts of his government to urge American business to cooperate in the venture.

Secretary of the Treasury George P. Shultz and Soviet Minister of Foreign Trade Nikolay S. Patolichev signed a protocol reflecting this view and the Council began to take shape. Acting on behalf of the United States, Secretary of Commerce Frederick B. Dent convened a group of 26 chief executive officers of major U.S. corporations having a direct interest in expanding U.S. Soviet trade. The group was given a mandate to work with the Soviets in developing an organization responsive to the protocol. Donald M. Kendall, Chairman of the Board of PepsiCo, was designated Chairman of the organizing Board.

Following a series of conversations with the Soviets, the U.S.-U.S.S.R. Trade and Economic Council, Inc., was legally constituted in October of 1973. A Board of Directors consisting of the 26 organizing U.S. directors and 26 Soviet economic officials was named and the Council's mission, organization budget and objectives were confirmed in principal. The Council formally opened for business at its permanent offices in New York City on December 26, 1973.

THE STRUCTURE OF THE COUNCIL

To effectively develop the Council's programs and objectives, the Board of Directors has provided for a mixed U.S.-Soviet staff organized on a highly functionalized basis. There is one President who is the chief executive officer responsible to the Board through an Executive Committee. Under the President (a U.S. national), the Council is staffed with competent professionals from both countries with specialized skills and business experience. The headquarters of the Council is New York City, where the staff will assist and advise member companies and carry forward a program of trade promotion. A comparable officer will be opened in Moscow early in 1974, managed by a Senior Vice President (a U.S. national) and staffed by U.S. and Soviet professionals. The Moscow office will provide the consulting and logistic support necessary to U.S. business needs in Moscow.

MEMBERSHIP

The Council seeks the broadest possible base of U.S. membership. Any company or individual with a direct or indirect interest in U.S.-Soviet trade, is eligible for Council membership. All Soviet enterprises having export potential will be Council members. The Council will assist all members equally. There will be no discrimination based on the size of the particular company or the present or potential level of business. It is the firm conviction of the Council that expanded trade depends as much on increasing the number of companies engaged in U.S.-Soviet trade as in the volume of trade.

COST OF MEMBERSHIP

The Council is not-for-profit organization. Its expenses will be met by annual dues paid by member companies. The Soviet Union will contribute 50% of Council costs during the first year. Thereafter, the Soviet contribution will be based on comparative work load. U.S. members paying dues will also contribute 50% of the costs. The Board of Directors has established the following dues structure:

Annual sales:	*Annual Dues*
Over $1 billion	$10,000
$500 million to $1 billion	5,000
100-500 billion	2,500
$100 million	1,000

(Dues structure for service organization to be included later.)

There will be no initiation fee, nor will there be any charge for the use of regular Council Services.

BOARD OF DIRECTORS

Honorary Directors.

George P. Shultz, U.S. Secretary of the Treasury.

Nikolay S. Patolichev, U.S.S.R. Foreign Trade Minister.

U.S. Directors

Donald M. Kendall, Chairman of PepsiCo., Inc., (U.S. Co-Chairman).

Arch Booth, Chief Executive Officer, U.S. Chamber of Commerce.

Howard L. Clark, Chairman of American Express Company and Chairman of the Membership Committee.

A.W. Clausen, President, of the Bank of America and Chairman of the Finance Committee.

Frank T. Cary, Chairman of IBM Corporation.

Samuel B. Casey, Jr., President, of Pullman, Inc., and Chairman of the Program Committee.

Benjamin F. Crane, Partner; Cravath, Swaine and Moore.

William F. Franklin, Chairman of Caterpillar Tractor Company.

Michel Fribourg, President of Continental Grain Company.

Philip O. Geier, Jr., Chairman of Cincinnati Milacron, Inc.

Richard C. Gerstenberg, Chairman of General Motors Corporation.

Dr. Armand Hammer, Chairman of Occidental Petroleum Corporation.

Harry B. Heltzer, Chairman of Minnesota Mining and Manufacturing Co.

Reginald H. Jones, Chairman of General Electric Company.

Edgar F. Kaiser, Chairman of Kaiser Industries Corporation.

E. Douglas Kenna, President of National Association of Manufacturing.

Donald P. Kircher, President of the Singer Company.

C. Peter McColough, Chairman of Xerox Corporation.

G. William Miller, President of Textron, Inc.

David Rockefeller, Chairman of Chase Manhattan Bank.

Willard F. Rockwell, Jr., Chairman of Rockwell International.

Milton R. Rosenthal, President of Engelhard Minerals and Chemicals Corporation.

Arthur J. Santry, Jr., President of Combustion Engineering, Inc.

William T. Seawall, Chairman of Pan American World Airways.

Mr. Irving S. Shapiro, Chairman of E.I. duPont de Nemours and Co.

C. William Verity, Jr., Chairman of Armco Steel Corporation.

U.S.S.R. Directors.

Vladimir S. Alkhimov, Deputy Minister of Foreign Trade (Soviet Co-Chairman).

Nikolay G. Ospipov, Deputy Minister of Foreign Trade.

Boris A. Borisov, Chairman of USSR Chamber of Commerce and Industry.

Konstantin B. Aroutjunov, Deputy Minister of Ministry for Instrument Making, Automation and Control Systems.

Nikolay D. Maljtsev, Deputy Minister of Ministry for Energetics and Electrification.

Yuriy A. Ivanov, Chairman of the Board, Bank of Foreign Trade of the USSR.

Viktor K. Boichenko, Chairman of the Board, VAO "Intourist."

Nikolay V. Burov, Chief, Central Department of International Aerial Lines "Aeroflot."

Sergey G. Karpovich, Chairman of the Board, "Ingosstrakh."

Viktor I. Rodnov, Chief, Main Export Department for Industrial Equipment, Foreign Trade Ministry.

Vladimir N. Sushkov, Chief, Main Department of Imports of Machines and Equipment from Capitalist Countries.

Ivan M. Maslov, President, V/O Stankoimport.

Leonid K. Lukjanov, President, V/O Techmasimport.

Nikolay P. Maksimov, President, V/O Metallurgimport.

Georgiy A. Zarubkin, President, V/O Energomashexport.

Yevgeniy F. Manakhov, President, V/O Almazjuvelirexport.

Boris Z. Nikolaenko, Boris, V/O Sojuzpromexport.

Yuriy V. Branovsky, President, V/O Sojuzgazexport.

Vladimir A. Salimovsky, President, V/O Licensintorg.

Anatoliy M. Plakhov, Chief Engineer, Kamaz Plant.

Yevgeniy N. Altunin, Chief, Glavtjumengazprom.

Mikhail M. Berman, Director, Moscow Machinebuilding Plant of Automatic Lines.

Nikolay A. Turik, Director Voroshilovgrad Diesel Locomotive Building Plan.

Gennadiy A. Shishov, Director, Leningrad Metallic Plant.

Dmitriy A. Paramonov, Director, Second Moscow Watch Plant.

Sergei A. Mkrtumov, Trade Representative of the USSR in the USA.

EXHIBIT 11

INTELLIGENCE COLLECTION IN THE USSR CHAMBER OF COMMERCE AND INDUSTRY

INTELLIGENCE COLLECTION IN THE USSR CHAMBER OF COMMERCE AND INDUSTRY

The USSR Chamber of Commerce and Industry plays an important role in the Soviet effort to collect Western economic information of value to Soviet industry. It carries out that role while acting as a trade promoter and facilitator with excellent access to Western firms. Among other things, the chamber:

Introduces Western firms to Soviet foreign trade and industrial organizations.

Provides foreign trade data to Soviet agencies.

Carries out official trade functions, including hosting exhibitions and facilitating patent work.

Maintains representations in at least 14 countries.

Of the chamber's known staff of 140, about a third are KGB officers. The chamber also maintains ties to the GRU.

Some of the chamber's trade promotion activities involve exploiting or misleading Western business and government leaders by:

Systematically using international trade exhibitions and seminars for economic collection.

Falsifying end-user documentation during inspection of Western equipment coming into the USSR.

The chamber's collection priorities—if it has any—are unknown. However, since at least the 1960s, it has tried—often successfully—to collect information on a wide range of Western technology, including:

Robot technology.

Marine technology, including that dealing with submarines doing deep-sea research.

Industrial chemicals.

The chamber's contribution to the overall Soviet effort to collect information on Western technology is difficult to gauge. However, its trade promotion activities—hosting over 200 trade exhibitions and about 100 Western business delegations annually and inspecting thousands of goods each year—give its employees extraordinary access to imported equipment and uncounted contacts with foreign companies, particularly US or US-affiliated firms.

THE CHAIRMAN

KGB Lt. Gen. (Res.) Yevgeniy Petrovich Pitovranov has been an officer in the chamber since 1966. He is on the Executive Committee (governing board) of the US-USSR Trade and Economic Council.

Pitovranov has studied at the Moscow Electromechanical Institute for Railway Transport Engineers. He joined the Communist Party (CPSU) In 1938. From the late 1930s until 1951 he served in the People's Commissariat of Internal Affairs and successive intelligence organizations. In 1951 Pitovranov began an 18-month imprisonment during then General Secretary Josif Stalin's purge of intelligence officers who had associated with secret police chief Laverntiy Beriya. After the post-Stalin regime released him, Pitovranov served as Deputy High Commissioner in Berlin (1953-54), KGB resident in the Embassies in Berlin (1955-58) and Beijing (1959-61), and head of the KGB Training School (1962-64). He then attended the CPSU Higher Party School; upon graduation, he joined the chamber as a deputy chairman. He was promoted to first deputy chairman in 1972. His responsibilities in his first two chamber posts included supervising international exhibitions and registering patents and trademarks. Pitovranov, 71, speaks German. He is not believed to speak English. He and his wife, Yelizaveta Vasil'yevna, have three grown children.

INSPECTION OFFICIALS

Yurity Maksimovich Levin, Chamber Inspector, Nissho-Iwai, Japan.

Age 47 . . . serving for fifth time in same post with this firm (previous tours have been less than a year) . . . know KGB affiliation . . . uses State Committee for Science and Technological credentials . . . has often contacted Japanese manufacturers to request technical details on equipment Soviets purportedly interested in buying . . . has played on manufacturers' eagerness to make sales to obtain technical specifications and procedures.

Vladimir Ivanovich Gornostayev, Chief, Goods Inspection Administration (since about 1968).

Age 73 . . . possibly involved in GRU illegal operations . . . director of Soviet industrial and trade exhibitions in Australia 1961 and in Turkey 1963-65 . . . described as reserved, rather unsocial, difficult to influence, and ambitious but not conniving.

Gennadiy Fedorovich Solntsev, Chief, Fenno-Soviet Chamber of Commerce, Helsinki (since 1984).

Age 65 . . . affiliated with the KGB . . . 1949 graduate of Institute of Foreign Trade . . . first secretary in Embassy economic section in Austria 1956-60 . . . commercial attache, Soviet trade mission, Canada, 1967-71 . . . joined chamber in about 1976 as deputy chief of Foreign Exhibitions Department . . . deputy general director of V/O Ekspotsentr during 1977 and 1981-84 . . . worked in United States as deputy chairman of Kama River Purchasing Commission 1978-81 . . . low-key, polite, knowledgeable . . . described as effective with US businessmen . . . in late 1970s tried to coax US diplomat in Moscow into sending him technical literature from a seminar . . . speaks good English.

V/O SOVINTSENTR OFFICIALS

Aleksandr Fedorovich Khlystov, Deputy General Director, V/O Sovintsentr (since at least 1980).

Age 53 . . . administrator of International Trade Center . . . probably KGB colonel . . . translator at New York World's Fair in 1959 . . . foreign trade employee in London 1961-65 . . . adviser and counselor at Soviet pavillion at Expo-70 in Tokyo . . . deputy division chief in chamber in 1974 . . . drinks heavily.

Gennadiy Nikolayevich Tapeshko, Director, Firm Interkongress, V/O Sovintsentr (since April 1985).

Age 46 . . . suspected KGB officer . . . employee (non-diplomatic), Office of Commercial Counsel, Embassy, Colombo, 1963-64 . . . became Inturist representative in Trade Mission, New Delhi, 1968 . . . while driving an automobile in 1972, killed Indian bicyclist; lacked diplomatic immunity and left India abruptly . . . joined chamber in about 1976, probably as chief of protocol in V/O Ekspotsentr . . . served in Soviet-Belgian Chamber of Commerce, Brussels, from about 1977 until 1981 . . . became deputy director, Firm Interkongress, in about 1982.

PATENTING AND PUBLICATIONS OFFICIALS

Mikhail L'vovich Gorodisskiy, Chief, Patenting of Inventions Administration—now Soyuzpatent (since at least 1969).

Age 60 . . . has had extensive contact with Americans through international organizations dealing in trade and patents . . . has degree in international law from Institute of Foreign Trade . . . senior legal adviser in foreign trade organization V/O Mashinoimport 1957-63 . . . official in Main Engineering and Technical Administration of Foreign Trade Ministry from 1963 until about 1965, when he joined chamber . . . described as shrewd, amiable, and talkative . . . speaks English.

Svyatoslav Viktorovich Filippov, Deputy Chief, Patenting of Inventions Administration—now Soyuzpatent (since at least 1981).

Age 58 . . . KGB staff officer . . . doctor of juridical sciences and specialist on US legal system . . . served in Office of Legal Affairs of UN Secretariat in New York 1965-69 . . . analyst in Institute of the USA and Canada and consultant to USSR Supreme Soviet in late 1970s . . . described as good observer and judge of personalities . . . has good feel for arguments that will counter US positions . . . gives impression he is wheeler-dealer . . . visits high-level US Government and business officials during fre-

quent trips to United States to study and to attend conferences . . . speaks English.

Sergey Pavlovich Lyubimov, Chief, Information and Publications Administration (since at least 1978).

Age 68 . . . KGB agent or staff officer dealing with S&T . . . graduated from Tula Mechanical Institute in 1941 and Academy of Foreign Trade in 1952 . . . worked in Ministry of Foreign Trade in early 1950s . . . probably joined chamber in about 1957 . . . served in United States during 1963-66 as correspondent for TASS, where he concentrated on obtaining technical information on behalf of KGB residency in New York . . . identified as chief of chamber's Foreign Relations Department in 1966 . . . commercial counselor in Ethiopia from 1972 until about 1976 . . . speaks English and German.

EXHIBITIONS OFFICIALS

Marlen Khorenovich Akopov, Director of Soviet Exhibitions (since about 1976).

Age 46 . . . suspected KGB affiliation . . . served in Embassy in Nepal as interpreter during 1961-62 . . . joined chamber as translator in about 1971 . . . worked in Exhibitions Abroad and Foreign Relations Administrations . . . representative to Board of International Expositions in Paris since 1966 . . . has often traveled to United States for negotiations on exhibitions and 1982 World's Fair . . . friendly, gregarious, and able to draw people out . . . cultivates relationships with US officials who have high-level political contacts . . . described as shrewd and tough . . . speaks excellent English.

Konstantin Fedorovich Afanas'yev, Deputy General Director, V/O Ekspotsentr (since at least 1981); Director, Firm Inovystavka, Ekspotsentr (since at least 1983).

Age 66 . . . KGB colonel . . . probably responsible for S&T matters . . . served in trade mission in Cologne as staff employee during 1957-60 . . . was refused visa for second tour in 1962 because of prior activities and contacts . . . during 1964-68 was first secretary at trade mission in Vienna . . . joined chamber in about 1969 as deputy director of specialized foreign exhibits . . . speaks fluent German; good French and English.

Khachik Gevorkovich Oganesyan, Former Deputy General Director, V/O Ekspotsentr (1978-84).

Age 72 . . . retired in 1984 . . . supervised all Soviet agents in Tehran during 1946-50 as second secretary and consul . . assigned to Vienna as chief of an illegals section of Ministry of Internal Affairs (MVD) 1950-53 . . . deputy chief, MVD Counterintelligence Section, East Berlin, 1954-59; there he ran illegals and handled sabotage operations and for most of the time was attached as adviser to East German Ministry of State Security . . . first identified in chamber in 1969 as deputy chief of Foreign and International Exhibitions Department . . . advised US companies on types of equipment chamber wanted them to display . . . described as cordial and helpful on exhibition administrative details.

Ivan Luk'yanovich Rozhkov, Director, Firm Informreklama, V/O Ekspotsentr (since about 1983).

Age 67 . . . suspected GRU officer . . . was field army radio operator and then captain in engineer corps during World War II . . . foreign trade representatives in Italy 1964-67 . . . first secretary in Bolivia from 1970 until he was declared persona non grata in 1972.

EXHIBIT 12

[From the New York Times, May 24, 1984]

U.S.-SOVIET TRADE BARS SAID TO COST $10 BILLION

(By Raymond Bonner)

American companies are losing at least $10 billion a year in sales to the Soviet Union because of United States Government restrictions, C. Williams Verity Jr., the chairman of the executive committee of Armco, Inc., said yesterday.

Mr. Verity, who is co-chairman of the U.S.-U.S.S.R. Trade and Economic Council, a private organization of 220 American companies and 125 Soviet foreign trade enterprises, said "trade is trade" and should be separated from political issues.

Mr. Verity's remarks came during a news conference and interview yesterday at the conclusion of two days of meetings of the council in New York. The council, which was set up in 1973 as part of détente, last met in 1982.

Clarence J. Brown, Deputy Secretary of Commerce, told the council during a luncheon address that "trade cannot be separated from everything else." Export controls are needed for national security and foreign policy reasons, he said.

A high-level Soviet trade and economic delegation was headed by Vladimir N. Sushkov, the Deputy Minister of Foreign Trade and co-chairman of the trade council with Mr. Verity, and Nikolai N. Inozemtisev, the deputy chairman of Cosplan, the state planning committee. Anatoly F. Dorbynin, the Soviet Ambassdador to the United States, also attended.

That the Soviet Union went ahead with the meeting, in contrast with its cancellation of participation in the Olympics, suggests that the Russians view improved relations with the American business community as having political as well as economic benefits. Mr. Verity said the Soviet leaders had an inflated view of how much influence American business leaders have in Washington.

The business cameraderie that marked the council's meeting was reflected on the dais for yesterday's closing luncheon. David Rockefeller; Donald M. Kendall, chairman of Pepsico Inc.; Dwayne O. Andreas, chairman of the Archer-Daniels-Midland Company, and John J. Murphy, chairman of Dresser Industries, sat side by side with Communist leaders, including Mr. Dobrynin.

But the spirit of cooperation was marred by a speech Wednesday by Robie M. Palmer, Deputy Assistant Secretary of State for European Affairs. Mr. Palmer made only passing reference to trade and blamed the Soviet Union for the deterioration in relations between the two countries.

"It was very poor judgment," Mr. Verity said, reflecting the business leaders' widespread anger at Mr. Palmer's remarks. "Fortunately, no Soviet felt he had to respond."

Trade between the United States and the Soviet Union, which fell to $2.3 billion last year, from $4.5 billion in 1979, could be in the $22 bilion to $25 billion range, Mr. Sushkov said.

PROTESTS OF SOVIET ACTIONS

Many of the restrictions, usually in the form of export license denials, have been in protest of Soviet actions, such as the military intervention in Afghanistan and imposition of martial law in Poland. In addition, the Reagan Administration has sought to deny the Russians access to much of American technology.

Mr. Verity said yesterday that, in most instances, the Russians were able to purchase the technology elsewhere, and thus only American companies were being harmed.

James Giffen, who will leave his post as corporate vice president at Armco to become head of the council on June 1, described what he called a "classic case." In December 1979, Armco signed a $353 million agreement to build an electrical steel mill for the Russians.

But after the Russian intervention in Afghanistan, the export licenses were canceled and a French company took over the contract, Mr. Giffen said.

Last year, the Russians bought $40 billion in goods from Western Europe and Japan, Mr. Verity said yesterday. And Mr. Dobrynin noted in his luncheon address that nonagricultural imports from the United States were barely $500 million, about the same level of United States trade with Trinidad and Tobago.

EXHIBIT 13

[From the Journal, U.S.-U.S.S.R. Trade and Economic Council, Inc., Vol. 9, No. 3, 1984]

As all of us know, a great deal has happened since our last meeting which was in Moscow in November of 1982. All of us who were there will remember that that was one of the really memorable meetings of this Council. It occurred just at the time of a change of leadership in the Soviet Union. As you will recall, we were there just one week after President Brezhnev had died. And all of us recall the great hospitality that was accorded our group under those very difficult circumstances for our Soviet hosts. And I think we recall with pleasure in particular the hospitality of Prime Minister Tikhonov at the banquet in the Kremlin in the Faceted Palace. It is, I'm sure, something that each of us wishes to replicate here in New York to show our appreciation and our determination to press forward with the work of the Council.

All of us at the meeting particularly enjoyed hearing Foreign Trade Minister Patolichev. He is a remarkable man. It is he and Secretary of State George Shultz who signed the protocol for establishing our Council. George Shultz is still very much interested in the Council. He sent me a note regretting that he couldn't speak at our dinner tonight, but did send his best wishes for our success and a warm welcome to our Soviet guests.

If one theme pervades the 11-year history of the Council, it is that this organization, on both the American and Soviet sides, continues to demonstrate its true mettle during times of trouble and adversity, when relations between our two countries are cooled or strained by political posturing, and trade, a political hostage, is sadly below the great potential we all know exists. We urgently need to find a way to coexist on this small planet, in the absence of common institutions and similar approaches to an economic and political way of life, we must continue to reach out for ways and means that will bring us together. Calling each other names that only generate heat, heighten tensions and suspicions, is not conducive to establishing a satisfactory relationship. The nuclear threat dwarfs all other matters between our two countries. We must deal rationally with the arms race, first finding a way to reduce the number of warheads, and abolishing them completely. I look forward to the day when we acknowledge that nuclear weapons

are useless, because there can only be losers in a nuclear war.

What is needed now are ways to reduce tensions and to start rebuilding a relationship that can eventually lead to peace. And there are some bright spots. President Reagan, in his Jan. 16th speech, cited the need for improving relations. In that speech he outlined a new policy in regard to our relationship with the USSR. This is now United States policy Soviet General Secretary Chernenko has called for a return to the spirit of detente and for normalized relations. We have a grain agreement in place that does ensure at least an uninterrupted flow of a minimum of sales of grain. Last year, the Council sponsored an agribusiness exhibit in Moscow. Thanks to a lot of hard work on the part of Minister Sushkov and his associates in Moscow, and Dudley Miller and Yuri Legeev here in New York, it was highly successful. Bill Stiritz of Ralston Purina chaired this effort, and as a result of that there were 109 American companies that exhibited, displaying a range of agricultural equipment, technology and products valued at some $8 million. Just about everything exhibited in Moscow was sold. The U.S. companies are still talking about how pleased they were at attending the exhibition, and for some it has resulted in new business; for others, broader avenues of market penetration. Another positive result of the exhibit was that scores of officials and representatives, the decision makers and influencers of decisions in Moscow, came to the five-day exhibit. Among the official guests were Nikolia Baibakov, the Deputy Prime Minister of the USSR and Chairman of Gosplan, and other officials including the Mayor of Moscow. The US government also did its part. Secretary of Commerce Malcolm Baldrige gave the exhibit enthusiastic support. He provided the Council the full support of the Commerce Department's Office of Trade Assistance in promoting the show. Ambassador Arthur Hartman helped open the exhibit, along with Dwayne Andreas, who represented the US side of the Council.

Even the current US-Soviet trade statistics give some cause for optimism, at least in agriculture. Exports for 1983 totaled $2 billion, of which $1.4 million was agricultural and $540 million non-agricultural. Without a doubt, these figures are certain to increase as a result of the new grain agreement that calls for sales of 9-12 million tons of grain annually over the next five years. The first-quarter 1984 figures support this view, with a 10-percent increase in grain trade over 1983. US imports from the USSR in 1983 reached $341 million, a significant increase from the preceding year but still unrealistically low. The first-quarter 1984 figures are encouraging, moving up to $134 million. But, as we all know, these figures are ridiculously low and we all need to strive to increase them. As an example, contrast the US export statistics with Soviet trade figures with western Europe and Japan. Prime Minister Tikhonov just several months ago told me that that amounted to $40 billion in 1983. So there is great opportunity, but we need to find out how to increase our share.

The presence here today of Vladimir Sushkov and our other distinguished Soviet guests whom he has brought with him does indicate that the Soviet government is interested in doing business with the United States. And certainly the presence of such large numbers of American businessmen is ample evidence of American business interest in US-Soviet trade.

But it takes more than expressions of support and good will. There are problems, obstacles and impediments to trade that hopefully we, as a nation. can deal with. I do not intend to dwell on them. You know them too well—the need for contract sanctity, greater clarification on export control procedures, a more realistic view of the foreign availability of equipment and technology, a working relationship with the Administration and Congress to increase exports, and ways to improve America's image as a reliable trading partner.

Perhaps our governments should learn what we in the Council have learned through this past decade of practical experience. No matter how bad times get, we have to get together frequently to talk with each other. That's the essential step in building bridges of understanding between ourselves as human beings. After that, you then can get down to the serious business of negotiating differences.

I've been Cochairman of the Council now for seven years, and during that time I'm sure I've heard every difference that separates our two countries. I've also heard about every solution that's been suggested to solve the problems. I am sure of one thing. There are constructive approaches available and our Council can be a key factor in bringing them about.

Where today, outside of the Council, could you find scores of Soviets and Americans sitting down together—many old friends, many new friends in the making—for the purpose of deciding how to best achieve mutually-beneficial goals? The lesson in this, I think, is that we have to leave to others the things that we cannot do. Let us concentrate on what we can do, the changes we can bring about that will help improve relations and increase trade between our two countries. This is the primary mission of the Council.

To make our Council more effective, the Board of Directors yesterday afternoon approved some important measures. First we elected two Vice Chairmen on the US side, Dwayne Andreas, Chairman of Archer Daniels Midland and Jack Murphy, Chairman of Dresser Industries. Also they approved the restructuring of the internal organization of the Council to make it more responsive to the needs of members, to increase its communications, seminars, exhibits, relations with government and Congress, and others who can improve our performance. As of June 1st we will have a new president in Jim Giffen. His single most important function will be to develop programs and policies that will lead to increased trade between our two countries. Dudley Miller, who is up here on the podium, has done a fine job as president for the past three years. He will continue with the Council as vice president in charge of government liaison and will be stationed in Washington.

Jim Giffen and his Council staff have an operating plan approved by the Board of Directors that will increase substantially the activities of the Council. This plan was reviewed by the Executive Committee yesterday and by the Board. They must find ways to bring our membership to the direct attention to the foreign trade organizations in Moscow, so that US companies are given consideration and more inquiries. Mr. Sushkov has assured me that he will aggressively lead such an effort.

We are opening wide the doors of the Council to new membership, and are mounting a vigorous campaign using all of our resources—Soviets, Americans, directors and members—all aimed at adding new members to the Council. We are upgrading the quality of the Council Journal, including its advertising program, to bring information about American companies to greater numbers of Soviet decision makers, and to increase information with respect to US-Soviet transactions, inquiries or leads. With increased advertising and circulation, we expect the Journal to break even this year.

Of great importance to the work of the Council, of course, are our committees. Yesterday morning we had very, very good meetings of seven of our committees. I won't mention them all except to say that at the Small Business Committee meeting there were so many of you who wanted to sit in on it—110 people—that we had to find another room to hold the meeting. This, to me, is indicative of the tremendous interest on the part of smaller companies throughout our country in trying to find ways to trade with the Soviet Union.

A US exhibit on the environment, recycling and energy is being planned to be held in Moscow in late 1985. This is under the Science and Technology Committee. They will determine when it would be best to hold this exhibit, and we hope that it will be as successful as the agribusiness exhibit last October. This exhibit should open up opportunities for the sale of environmental control equipment, recycling equipment and energy projects. The Commerce Department has assured us that they will grant the necessary export licenses.

Also in your folders you have a new list from the Department of Commerce on products that can be exported to the Soviet Union. We first had such a list in Moscow in November of 1982. The Department of Commerce has now brought this up to date and added some new products and pieces of equipment.

The Council's Science and Technology Committee also has under consideration a technology exhibit of Soviet products and equipment. This exhibit could travel throughout the United States in 1986. Some of the Soviet technology being considered is a way of reprocessing rubber to make new rubber, cattle feed made from natural gas which is as rich in vitamins and proteins as soybeans, and the utilization of the residue from fruits after squeezing for food enrichment. The Soviets say they may exhibit another product, which I believe will be an instant success in the United States. They claim that they have an ingredient which, added to vodka, will eliminate hangovers. Chairman Baibakov told me about this, and told me that he personally had tried this—that he and an associate had gone to his dacha and consumed 120 grams of vodka. That is much more, he said, than he had ever had in his life, because he doesn't drink very much. And yet, the next morning, he woke up with no hangover. So I think this is good news to all of us, and we hope our Soviet friends are very successful with this new product.

We are also planning a series of regional meetings around the United States to make American businessmen more aware of trade opportunities in the Soviet Union. And, equally important, we are increasing the seminars by United States companies in Moscow, from 30 that were held in 1983 to 40-50 in 1984.

When I returned from Moscow in March of this year I reported to the President on my trip. I explained, thanks to Minister Sushkov, that I had visited with 10 Soviet ministers, that I had been received warmly,

that each minister I visited was concerned about our political relationship, that each thought steps could be taken to start normalization of relations. All of them thought that it was up to the United States to make the first move. I think many Americans are aware of the fact that some of us feel that it's up to the Soviets to make the first move. Our job, in this Council, is to build a climate of trust and friendship between our countries so that our governments can again sit down at the negotiating table.

President Reagan was most interested in my report. He said he appreciated the work of the Council. He wished us well for this meeting, and then he sent me this letter, which he asked that I read to you today:

"I appreciate the opportunity to welcome Soviet participants in the plenary session of the US-USSR Trade and Economic Council. It is encouraging that leading representatives of American industry and their Soviet counterparts can meet to discuss trade and economic issues of mutual interest. The US government supports mutually-beneficial, nonstrategic trade between our two countries. Your meeting, and the activities of the Council, including the Agribusiness 83 trade show in Moscow last October, demonstrate that a key element of the structure for trade between our two countries remains in place, and that we can build upon it if an improvement in international conditions permits. I look forward to hearing the results of your most important meeting."

Signed, Ronald Reagan.

We on the American side truly want to welcome our Soviet friends to this meeting in New York.

I also want to thank the United States companies that are represented here today and the large contingent of directors that we had yesterday, and our Executive Committee for their support for the Council's activities over the years.

We can build bridges between our two countries through our activities. We must keep the dialogue going between us. And, if we can, I think that we can reach the mission that I believe we have all set for ourselves—peaceful coexistence, reduced tensions, normalized relations and friendship.

And that, ladies and gentlemen, is what this Council is all about, and what is needed if we are going to increase trade.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, we are momentarily awaiting the attendance to the floor of the Senator from Colorado [Mr. ARMSTRONG], and the Senator from South Carolina [Mr. THURMOND].

Let me comment on a couple of points with respect to trade. Of course, the Congress itself compromises. We have the Afghanistan crisis. The Congress votes to cut off grain trade with the Soviets. Then, of course, the Congress comes back under this particular administration and votes to resume trade, particularly the grain. That could be a critical material. They say in the infantry, Senator, that the army marches on its stomach. If you feed them good, you will get a good march. If you do not, they are not going to march very far.

I am not trying to be supertechnical, and I think the Senator from North Carolina is right on target with his listing of the computerization and communcations material, and everything else which I am going to check into along with him. But on the subject of trade, there are those who believe that we shall not have any trade with the Soviet Union. They believe we ought to have a confrontational approach to this because even if you put up Pizza Huts over there, then you somehow have given the Communist system some viability, some sustainability, and a chance at success whereby if left alone, it is going to fall on its own record—die, drift away. I do not think so.

I think we have to bring out capital system right in contest with the Communists. I do not have any doubt which will prevail. So in addition to having music, sports events, cultural visits, everybody looking around and smiling and grinning, I think we ought to use trade as a weapon so long as we are not really advancing strategic materials to our Communist counterparts in the Soviet.

So believing in trade, I also believe in the matter of leverage. The Senator from New York was correct in his quotations. But it should have been in the context of what Mr. Verity was saying just a month ago, on September 10, when he appeared before our committee. Senator DANFORTH, our ranking member, was questioning him. And I quote Senator DANFORTH:

And I take it that your view is that while America is a country which should stand for principle, we also have commercial interests. We also have economic interests. And we have to be on the lookout for ways of taking a position as a country and standing strong as a country, but at the same time not always being the ones who are going to let somebody else have an advantage in international trade.

Mr. VERITY. I am afraid the situation has deteriorated to the point, Senator, that we can no longer afford that idea that we can let everybody else take our markets. We are really in not a war but close to it of trying to recapture markets that we have allowed to get away from us.

One of the problems with sanctions or other things is that you have made or we have made the American businessman unreliable in markets. He has made a deal, and then all of a sudden a sanction comes along and he has to abrogate that deal. And so then the next time you try to make a contract with whoever it is, they consider you an unreliable trading partner. We cannot afford to be unreliable trading partners.

That is not the full record. I am taking that out on page 91 and 92. I read on page 21 where Senator DANFORTH asked the distinguished nominee about his view on Jackson-Vanik, and I quote here:

Mr. Verity:

I think the easiest thing to do is for me to tell you my view on Jackson-Vanik. And it is an item that I have worked with for many years.

Jackson-Vanik is the law of the land, and I intend to uphold that. And that's exactly what Mac Baldrige did. And it seems to me that it is a well-founded position.

But in addition to all that, Jackson-Vanik was put on the books because of the concern for human rights that is peculiar to America. And it was put into a trade bill as a means of trying to get the Soviets to increase emigration of Jews from the Soviet Union. I have supported that. I believe that it is an important instrument for the Jewish community to have as a lever to try to encourage the Soviet government to increase their emigration so that I shall support Jackson-Vanik.

I would like to qualify that by saying that I do believe that if the Soviet government would be willing to increase emigration by some amount—and I don't know what that amount is—I believe that the Jewish community in this country would be willing to work with the Congress on some modification, a waiver perhaps, which would make it possible to increase trade between the Soviet Union and the United States.

So, I shall support Jackson-Vanik. I know why it was put there. I respect the reason it was put there. I believe that if we can get the Soviets' attention on this important subject, it would be possible to get a waiver which I think would be a very good thing.

But I think in fairness to the nominee that is equivocating. On Jackson-Vanik, we in the committee wanted to be assured; and that is why the gentleman received the 17-to-1 vote of approval.

Since I am commenting on trade, I ask unanimous consent at this point to put into the RECORD the "Agreed Report of the Eighth Session of the Joint U.S.-U.S.S.R. Commercial Commission". The delegation was headed by Macolm Baldrige, Secretary of the U.S. Department of Commerce. That was in 1985.

I ask unanimous consent to include that in the RECORD.

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

AGREED REPORT OF THE EIGHTH SESSION OF THE JOINT U.S.-U.S.S.R. COMMERCIAL COMMISSION

The eighth session of the Joint U.S.-U.S.S.R. Commercial Commission, established by a joint communique in May 1972, was held in Moscow on May 20-21, 1985. N.S. Patolichev, Minister of Foreign Trade of the U.S.S.R., headed the Soviet delegation and presided over the session. The U.S. delegation was headed by Malcolm Baldrige, Secretary of the United States Department of Commerce.

During the word of the Commission, Secretary Baldrige was received by the Secretary General of the Central Committee of the CPSU, Mr. M.S. Gorbachev, and had talked with Ministers A.A. Yezevskiy and V.P. Lein.

In opening the session, Minister N.S. Patolichev said that definite prospects exist for developing equitable and mutually beneficial Soviet-American trade. Secretary Baldrige stated that the United States wants to develop a more constructive working relationship with the U.S.S.R. The U.S. side is of the opinion that an expansion of trade can be part of such a relationship and believes that both sides should take concrete

steps to expand trade where that is now possible.

The U.S. side stated its belief that while useful steps to improve trade could be taken now, a fundamental change in trade relations could not take place without parallel improvements in other aspects of the bilateral relationship.

The Soviet side stated that it is opposed to tying trade to aspects of bilateral relations which in its view have no bearing on trade. It believes that the development of trade between the two countries can contribute to the improvement of bilateral relations as a whole.

The Commission adopted the following agenda:

1. Status and Prospects for Trade
2. Report of the Working Group of Experts
3. Trade Expansion Including Projects
4. Business Facilitation

STATUS AND PROSPECTS FOR TRADE

Assessing the statue of U.S.-Soviet trade, the Commission noted that although bilateral trade grew sharply in 1984 to $3.8 billion (3.1 billion rubles), the range of products traded continued to be limited.

The Commission agreed that an expansion in trade of mutual interest was desirable and possible and that it was the policy of each side to take steps to support such expansion.

The Commission noted that the potential for bilateral trade was not being utilized: Soviet exports to the United States remained at a low level, and U.S. manufactured goods exports were continuing to fall.

Both sides agreed that the main task of the Commission is to work toward elimination of obstacles to mutually-beneficial trade. They intend to provide assistance and support to the business communities of both countries in identifying areas of possible cooperation and concrete projects, and in restoring a climate of mutual confidence.

The Commission also discussed the current state of maritime and civil aviation relations. It agreed that progress toward the resolution of outstanding differences in these areas would contribute to further development of bilateral economic and trade relations. Both sides welcomed the resumption of bilateral exchanges of views on maritime and civil aviation questions and hoped that these would achieve concrete results.

REPORT OF THE WORKING GROUP OF EXPERTS

The Commission approved the reports of the heads of delegations to the fourth meeting of the Working Group of Experts held in Moscow Jan. 8-9, 1985, in accordance with the provisions of the long-term Agreement on Facilitation of Economic, Industrial and Technical Cooperation, which was extended for 10 years on June 29, 1984.

The Commission noted that it was the Working Group's frank exchange of views on the obstacles to trade, the steps each side sought for their resolution, and the prospects for expanding trade in various sectors, which laid the groundwork for a meeting of the Joint Commercial Commission.

The Commission agreed that the fifth meeting of the Experts Working Group would take place in Washington, D.C., in 1986, at a time to be agreed upon between the Cochairmen of the Commission before the end of 1985.

TRADE EXPANSION, INCLUDING PROJECTS

To aid trade expansion and the conclusion of mutually beneficial contracts, both sides agreed to assist in identifying appropriate sectors and projects which would be of interest both to U.S. firms and Soviet organizations.

The Commission analyzed the course of negotiations between U.S. firms and Soviet foreign trade organizations on a number of commercial projects and noted the interest of both sides in bringing them to a positive conclusion.

The Soviet side noted the absence of progress on questions of normalizing the conditions of mutual trade and providing export credits for the sale of American machinery and equipment to the U.S.S.R. It stated that U.S. firms had lost the reputation of being reliable suppliers in the Soviet market, and this had resulted in a reduction of orders for supplying machinery and equipment. The Soviet side believes that restoring this reputation is important for normalizing trade, and it will welcome appropriate steps by the Administration, Congress and the U.S. business community.

The U.S. side expressed its continued recognition of the importance of maintaining the reliability of our supplier relationship. It cited the Administration's support for new legislation which would provide a high degree of contract certainty to American firms and their foreign trade partners. With regard to normalizing conditions for trade, the U.S. side noted that official credits and Most-Favored-Nation (MFN) treatment for Soviet goods were dependent upon progress in other aspects of the bilateral relationship. The U.S. side stated that it hoped to see such progress soon.

The Commission believes that the process of improving conditions for trade expansion can be started by a gradual elimination of obstacles, where that is now possible. This would demonstrate to the business communities of both countries the intention of each side to contribute to strengthening mutually-beneficial economic cooperation.

In this spirit of cooperation, the U.S. side announced that it would introduce legislation in the Congress to eliminate the 34-year-old import embargo on seven types of furskins from the Soviet Union. It also stated that, to the extent consistent with present trade laws and the federal-state relationships in the United States, the U.S. side would attempt to see that Soviet Foreign Trade Organizations were not discriminated against in their efforts to sell in the United States.

In this same spirit of cooperation, the Soviet side stated that it would inform Soviet Foreign Trade Organizations of the Soviet side's interest in expanding trade with the United States, and that Soviet Foreign Trade Organizations would address bid inquiries to interested U.S. firms. It also stated that the Soviet Foreign Trade Organizations would consider U.S. proposals fully on their economic merits, taking into account foreign trade laws and regulations existing in the United States.

The U.S. side stated it was pleased that an increasing number of U.S. firms had received invitations to bid from Soviet firms since January 1985 and the several contracts totaling over $400 million had been signed. The U.S. side expressed its interest in having American firms serve as suppliers for appropriate Soviet projects under the upcoming 12th Five Year Plan.

The Commission discussed the U.S. analysis of over 30 projects which the Ministry of Foreign Trade had indicated as having potential for U.S.-Soviet cooperation. The U.S. side also identified over 20 other projects it believed to be of mutual interest. The U.S. side pointed out that most of the items related to these projects may currently be exported without a specific license and that, where required, a validated license would generally be approved for appropriate equipment associated with the projects listed.

In order to continue the efforts begun at this session of the Commission, both sides agreed to establish the practice of regular meetings between their representatives in Washington and Moscow for the specific purpose of attempting to identify and eliminate, where possible, obstacles to the completion of mutually-beneficial projects.

The Commission took note of the important role the U.S.-U.S.S.R. Trade and Economic Council (USTEC) has played in identifying areas for trade expansion and agreed that its efforts have been a useful starting point for concentrating attention on projects. The Commission agreed to continue to work closely with USTEC and to encourage it to develop additional detailed proposals.

BUSINESS FACILITATION

The Commission noted the importance of working conditions for firms and organizations engaged in bilateral commerce, and discussed the problems currently faced by firms and organizations of each country.

In order to expand commercial contacts and assist in the identification of concrete business opportunities, the U.S. side announced that the U.S. Department of Commerce will initiate a modest program for export promotion events in the Soviet Union beginning in 1985. These events may include trade missions, sales seminars and miniexhibits at the U.S. Commercial Office, as well as American participation in apropriate Soviet trade exhibits and fairs. The Soviet side agreed to furnish the necessary support for U.S. Government-supported events at the U.S. Commercial Office. These events will contribute to the development of trade and economic cooperation.

The Commission noted the importance of the business facilitation mechanism which has been utilized until 1980. Recognizing that business facilitation questions have accumulated since that time, both sides agreed to resume the practice of regular business facilitation meetings between their representatives in Moscow and in Washington.

Recognizing that the participation of small and medium-sized U.S. firms in bilateral trade requires special attention and assistance, the Commission asked the business facilitation group and the U.S.-Soviet Trade and Economic Council to consider possibilities on how to overcome the difficulties such firms encounter in trying to sell in the Soviet Union.

SUMMARY OF RESULTS

Summing up the results of the present session, the Commission believes that mutually-beneficial trade can contribute to the development of more constructive relations between the two countries. It also recognizes the economic benefits of this trade and supports its expansion.

Both sides recognize that in order to enhance the role of trade, it is necessary to respect the interests of the other side. Each side will consider possible steps toward improving conditions for a more complete trade relationship and will consult with the other.

Both sides agree that there are possibilities for the expansion of mutually-beneficial trade and economic cooperation. Noting the positive results and anticipated further benefits from trade in agricultural products,

the two sides will take steps to expand trade in those industrial goods and services identified as being of mutual interest.

These steps will include the removal of obstacles to trade expansion where possible and consistent with the laws and regulations of each country. Both sides welcome the efforts of firms and organizations to explore prospects for expanding trade. Each government will encourage officials and buyers to visit the trade exhibitions sponsored by the other.

The U.S. Government is interested in American companies serving as suppliers for appropriate Soviet projects under the upcoming 12th Five-Year Plan. The Soviet side states that interested U.S. firms will receive bid inquiries, will have full opportunity to participate in Soviet projects and purchases open to foreign participation, and will have access to Soviet trade and purchasing officials. Within U.S. law and practice, the U.S. side will use its best offices to prevent discrimination against Soviet Foreign Trade Organizations.

Each side intends to expand trade and economic cooperation in accordance with its own laws, national security interests, and market demands. Accordingly, both sides agree to concentrate their activities in areas where concern due to these reasons will be minimal.

The head of the U.S. delegation announced that he would publicize the contents of the Agreed Minutes in the official magazine of the Department of Commerce, along with a message encouraging U.S. businesses to explore trading opportunities in the U.S.S.R. and mentioning President Reagan's desire for a more constructive working relationship with the Soviet Union.

The head of the Soviet delegation announced that he would send a letter to the Soviet Foreign Trade Organizations enclosing the contents of the Agreed Minutes. He stated his letter would inform foreign trade organizations of the Soviet side's desire to: see commercial cooperation with the United States increase by providing bid inquiries to interested U.S. firms; consider U.S. proposals fully on their economic merit; and provide U.S. firms with access to Soviet trade and purchasing officials, always taking into account foreign trade laws and regulations existing in the United States.

ON THE NINTH SESSION OF THE COMMISSION

The Commission decided to hold its next (ninth) session in Washington in 1986. The date and agenda will be agreed upon by the Chairman of the U.S. and U.S.S.R. sections of the Commission in accordance with its Terms of Reference and Rules of Procedure.

Done in Moscow, May 21, 1985, in two copies, each in the English and Russian languages, both texts being equally authentic.

MALCOLM BALDRIGE,
Head of the U.S. Delegation to the Eighth Session of the Joint U.S.-U.S.S.R. Commercial Commission.

NIKOLAI S. PATOLICHEV,
Head of the Soviet Delegation to the Eighth Session of the Joint U.S.-U.S.S.R. Commercial Commission.

THE SOVIET MARKET: HAS ANYTHING CHANGED?

The Joint U.S.-U.S.S.R. Commercial Commission meeting in Moscow May 20-21, which Secretary of Commerce Malcolm Baldrige co-chaired along with Soviet Foreign Trade Minister Nikolai Patolichev, was the first Cabinet-level trade meeting with the Soviet Union in seven years. Because of the significance of the meeting and the widespread interest in its implications for American business, *Business America* presents the following interview with the Secretary.

Q. Could you tell us about the purpose of your trip to Moscow and why a meeting of the Joint Commercial Commission was held?

A. My visit to Moscow and participation in the Joint Commercial Commission were a part of President Reagan's effort to seek better working relationships with the Soviet Union. The President believes that trade can contribute to this effort. Our purpose in Moscow was to reestablish a mechanism for resolving commercial and economic problems, to explore the opportunities for peaceful trade, to improve market access for U.S. companies in the Soviet Union, and to solve some trade problems where that was possible.

By "peaceful trade" we mean trade in goods and services that are not prohibited for national security reasons, and trade that is consistent with our existing laws and policies. We are not interested in, and will not even consider, any weakening in the effectiveness of the multilateral system of export controls aimed at protecting strategic technologies.

A broad range of products can be exported to the Soviet Union under our regulations. Most of our $3.3 billion of exports to the Soviet Union are agricultural products. We see room for expansion there, but we also believe that there are prospects for an expansion of nonstrategic manufactured goods as well. We think there are good prospects, for example, in food processing, agricultural chemicals, building materials, pulp and paper equipment, pollution control equipment, irrigation equipment, and a broad range of consumer goods production equipment, to name a few.

Q. What did the meeting accomplish?

A. I think the main accomplishment was that Soviet Foreign Trade Minister Patolichev and I reestablished a structure for regular high-level review and resolution of bilateral trade and economic problems. We convened the Joint Commercial Commission for the first time in seven years, and had practical discussions that resulted in several specific steps that should lead to an increase in trade. The importance which both governments place on expanding peaceful trade was underlined by my two-hour meeting with General Secretary Gorbahev. I gave him a letter from President Reagan, and we discussed trade and other aspects of our relationship. As a result of these meetings, I believe that the environment for bilateral trade has improved, and American business will find a more interested attitude on the part of Soviet purchasing officials.

Q. What steps did the Soviets agree to take?

A. The most important step was that Minister Patolichev agreed to take some actions which we believe will improve market access for American firms. The Soviets agreed that all interested U.S. firms would receive bid inquiries from Soviet Foreign Trade Organizations. This is critical to doing business in the U.S.S.R. the way their system works. If you don't receive an inquiry from a Soviet trade organization, you are simply shut out of the market. Many U.S. companies trying to do business in the U.S.S.R. the last couple of years have told us this is what happened to them. We expect this to change.

Minister Patolichev agreed to send a letter to all the Soviet Foreign Trade Organizations, telling them that the proposals of American firms should be considered fully on their economic merits and that U.S. companies should have access to Soviet trade and purchasing officials. Also, the Soviets agreed to end their restrictions on holding U.S. company seminars and exhibitions at the U.S. Commercial Office in Moscow.

Q. What other actions were agreed to?

A. For our part, we announced that we would introduce legislation to end a 34-year-old import embargo on Soviet furskins. This is not a major step, but it will eliminate an irritant in the trade relationship. Lifting the ban won't greatly affect Soviet exports or the U.S. industry. Roughly 80 percent of U.S. mink production, for example, is exported and already competes successfully with Soivets furskins in world markets. We also agreed that we would attempt to see, to the extent consistent with U.S. laws and policies, that Soviets Foreign Trade Organizations were not discriminated against in efforts to sell in the United States.

Finally, both sides agreed to set up a "Projects Subcommittee" of the Commission to follow-up on U.S. company business proposals, to reestablish a business facilitation committee to help resolve problems of office space and the like, and to begin discussions later this year aimed at obtaining a new bilateral maritime agreement.

Q. Will these steps result in a major change in our trade relations with the Soviet Union?

A. No. I made it quite clear in Moscow that there could not be a fundamental change in our trade relationship without parallel improvements in other aspects of our relationship. The U.S.S.R., for example, does not have Most-Favored-Nation (MFN) treatment in the United States. U.S. law, the Jackson-Vanik Amendment to the Trade Act of 1974, links MFN and official credits to the issue of emigration. The position of the Administration and the American people on this issue has not changed, and there will not be progress on MFN or credits in the absence of improvement in emigration.

Q. What do you see as the outlook for U.S.-Soviet trade?

A. While trade should grow as a result of the steps we agreed to take at the Commission meeting, we should not expect too much at this time. The reason for our meeting was to set up a mechanism so that we could start talking and solving some of the problems we have. This can create the basis for steady, solid steps—depending on what happens in the rest of the relationship, because we can't view trade in isolation.

Overall, I think the outlook is for modest trade growth. For some individual companies, of course, there would be some major contracts that would be a significant boost to their business and to U.S. jobs. Under an optimistic scenario, our exports to the Soviet Union, now $3.3 billion, might reach as much as $5 billion within a few years; but it will take more than a Commission meeting or two for trade to reach that level.

Q. What is the Department of Commerce going to do in following up on the agreements reached at the Commission?

A. We need to see that the commitments made by both sides are carried out. We will want to see that U.S. companies actually get the kind of access they need in Moscow. As

U.S. companies put forward proposals for projects in the Soviet Union, we will follow up through the newly-established Projects Subcommittee of the Commission. This subcommittee will meet periodically to review proposals with the Soviets, in cases where U.S. companies want us to do that, and to help bring these projects to completion. As companies come to us with problems involving office space in Moscow, telephones, visas, and other practical matters, we will try to resolve these through the reconstituted business facilitation group.

This fall we plan to begin a program of trade promotion events in the Soviet Union. We are planning a full range of company seminars and exhibitions at the Commerce Department's U.S. Commercial Office in Moscow. We are thinking about some trade missions, and we are also contemplating participation in some Soviet trade fairs in Moscow.

Q. What do you advise U.S. companies to do? Is this a good time for them to look at the Soviet market?

A. For the experienced company with the right products, I would say yes, this is a good time to look at prospects in the U.S.S.R. In the first place, we have assurances from the Soviets that they will provide full access for U.S. companies and that they will take U.S. company proposals seriously, looking at them on the basis of their economic merits. Secondly, I think the Commission meeting generated increased Soviet interest in doing business with U.S. companies. And third, the Soviets are putting the final touches on the new Five-Year Plan, that will run from 1986 to 1990. Companies showing an interest in projects under that plan will have a good chance to compete for business.

The Soviet market remains a tough one in which to try to do business. Actually making sales will require careful analysis, perseverance and commitment. And companies have to be sure they understand our export control regulations to ensure that what they want to sell is acutally exportable.

Mr. HOLLINGS. My reason for its conclusion is that we are all hearing the praise of the late Secretary and it is more than justified. But it is saying that while he was just grand, his successor, Mr. Verity, is a man of a different stripe. I think not. I think that Mac Baldrige headed up that same United States-U.S.S.R. kind of economic summit as I entered in the RECORD earlier today, with respect to President Reagan's policy. So we do not have a wild card that is out willynily trying to beef up trade with the Soviets land disregarding the fundamental tenents of President Reagan's administration, or this Government.

Mr. President, the Senator from North Carolina raises a concern, which is mine also, about the confidentiality of the records of the shippers export declarations. The policy has been set on confidentiality under the Export Administration Act of 1979 as amended in 1985, and without reading the entire act, it says:

All information obtained at any time under this act or previous acts regarding the control of exports, including any report on license application required under this act, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon request to the chairman or ranking minority member of such committee or subcommittee.

No such committee or subcommittee or member thereof shall disclose any information obtained under this act or previous acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding of that information is contrary to the national interests.

Now it so happens the Senator from North Carolina and the Senator from South Carolina believe it is in the national interests that we not withhold. But apparently from the act itself and the policy by the Congress, the law on the statute books, I think any Secretary would have to try to be very cautious that he not reveal confidential information which the Congress has set in this particular policy.

While there is a clause in here whereby the Secretary can release such information if determined by the Secretary to be in the national interests, it seems the Congress determined that it is in the national interests to have confidentiality. And where he is given that volition I think it ought to be made clear. And I would join with the Senator from North Carolina in making that clear so that we can pass an act and we can all know what is going on with business in America as well as even the Soviets know what is going on with business in America, as the distinguished Senator from North Carolina has emphasized.

I think more than anything else it will give the public of America an understanding about the so-called strategic materials and prohibition against the shipment thereof to the Soviets. It appears to me from the computer printouts that much of the equipment and products, materiel, if you please, is of that nature.

I am rather surprised to see it all listed there. And I know we are into a situation whereby we have got to study whether that kind of computerization could be easily available from 5 to 10 other countries. And, if so, we do not want to lose the business. And yet, at the same time, there has got to be some kind of a policy where there are certain strategic materials—we are into Cocom in Europe. We all sit down and agree on this and we want to make certain we are adhering to that policy.

I retain the balance of my time.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I spoke this morning before cloture in behalf of Mr. Verity, and I now would like to make a few more remarks in regard to it.

Mr. President, I would like to reiterate my support for Mr. Verity. By definition, commerce means "the buying and selling of goods, business, and trade." Mr. President, we need a businessman at the Department of Commerce and Mr. Verity is the man for that job.

The best testament to one's ability is the adulation of his peers. Mr. Frederick B. Dent, president of Mayfair Mills in Arcadia, SC, and a former Secretary of Commerce under President Nixon, has the following to say about Mr. Verity:

Mr. Verity's familiarity with and commitment to the success of American business is exemplified by his service as Chairman of the Chamber of Commerce of the United States several years ago. He also has an extensive list of civic and charitable affiliations which clearly indicates his respect for fellow man. As a matter of fact, Yale University has recognized him for his enlightened leadership by awarding him an honorary doctor's degree. He is an excellent choice for this Cabinet position and I strongly recommend your support of it.

Mr. President, Mr. Verity is a distinguished businessman and a leader. I believe that he will fulfill well his duties as our next Secretary of Commerce, and I urge my colleagues to vote for his confirmation.

As I stated this morning, some of my colleagues have raised concerns about his position on trade with the Soviet Union. So I talked to Mr. Verity in my office, and I asked him questions. And I have been assured by him that he is opposed to any trade with the Soviet Union that is not beneficial to the United States or that involves strategic materials which could pose a threat to our national security.

Mr. President, in view of the assurances he has given me, in views of his fine record as a businessman, a successful businessman, as a past president of the U.S. Chamber of Commerce, as a distinguished educator, and as a great humanitarian, I hope my colleagues will see fit to confirm him.

Mr. HELMS. Mr. President, I believe I have 5 minutes left, and I will not take that.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I am so grateful to the able Senator from South Carolina—both of them; I am bracketed in between the South Carolinians here—but I want Senator HOLLINGS to know that I am genuinely grateful for his interest in correcting the one flaw that concerns me most and that is leaving the American people out of the mixture in terms of knowledge.

As I said earlier, the American people are the only ones who do not know what is going on. I think the finest discipline to protect against all kinds of mistakes, and errors is to let the people know. I have, as the Senator does, an innate faith in the judgment of the American people. But if

they do not know, if they are prohibited from knowing about these goods, technology, and sophisticated equipment that are just rolling forth into the Soviet Union, then they have no way of making a judgment.

I hope Mr. Verity is the best Secretary of Commerce we ever had. I thought highly of Mac Baldrige, as did we all. But I hope that Mr. Verity will be the best.

As to Jackson-Vanik, I am encouraged by Mr. Verity's statement that he will enforce Jackson-Vanik despite his earlier statements which Senator D'AMATO has read into the record. I note that Mr. Verity still does not say that he personally supports Jackson-Vanik, only that he will enforce it as written. It should be noted that he wants the law changed. So I hope I can give him the benefit of the doubt.

Now, as for the competitive situation in trading with the Communists, let us get one thing straight: They buy on price. We have entered into all sorts of LTA's, long-term grain agreements and so forth, and they have broken every one of them. They go where the price is best. They may say, "Well, the United States is a reliable supplier"—and that is true—but the fact remains when it serves Soviet interests to go somewhere else, an agreement does not mean a thing to the Communists in the Kremlin.

So I think that we have a duty to look after the national security of the United States. I know the Senator from South Carolina feels that way. I want to thank him for the comments that he has made this afternoon.

I repeat, Mr. President, I wish Mr. Verity well. I want to work with him, and will. But I reserve the right to discuss with him in the future any failure—if indeed he does fail—any failure to exercise the discretion which is permitted to the Secretary of Commerce, under the law, to make this information available to the American people.

I thank the Chair and I yield back the balance of my time, or I will yield it to the Senator from Colorado in addition to the time he already has.

Mr. ARMSTRONG. Mr. President, I am thankful to my friend from North Carolina for his generosity in yielding some of his time. I believe that under the unanimous-consent agreement that I have been allocated 10 minutes to address the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. And that would be plenty.

Mr. President, I think the President of the United States is entitled to great latitude in selection of people to serve in his Cabinet. By the very nature of it, a Cabinet appointment is a very personal appointment by the President of the United States. People who serve as the heads of the great Cabinets of our Government enjoy positions of special trust and responsibility in which ultimately they are accountable to the public as a whole to perform duties under the Constitution, but in a very personal way they are accountable to the President. Because they are not only his eyes and ears, they are the people who are charged with the responsibility of administering these departments.

So I think the President, any President, President Reagan, President Carter—whoever it is, is entitled to a presumption that he gets whoever he wants to run these Cabinet departments.

Only under extraordinary circumstances, I would think, would the Senate be justified in turning down the nomination of a person sent up here for a Cabinet department having been selected by the President.

Having said that, Mr. President, let me say that the fact that the President is entitled to great discretion does not necessarily mean that a President will wisely use that discretion. I will tell you, frankly, I have some doubt that in sending up the name of C. William Verity to be Secretary of Commerce, that President Reagan has acted wisely. The record which has been referred to at some length by other Senators, and I will not recapitulate it now, leaves open to substantial doubt, at least in my mind, whether or not Mr. Verity really stands for the same kind of policies that President Reagan does; whether or not, for example, he is as concerned about human rights, about the refuseniks seeking to leave the Soviet Union; about restraint on issues of strategic trade with the Soviet Union, as I think most Senators would wish to be and indeed as I think the President would wish to be.

The record is ambiguous about that and I, like the Senator from North Carolina, when Mr. Verity is confirmed—and I guess that is going to happen in the next few minutes, I have no doubt that he will be confirmed—I wish him well. I hope he will be a great Secretary of Commerce. But I think the record of his past public statements as reported from a wide variety of news media indicate that Senators have some reason to be concerned.

I am concerned that a very distinguished group of citizens in my own State, the Colorado Committee of Concern for Soviet Jewry, an organization and group of men and women in our State whom I have known and worked with and admired for many, many years, are sufficiently concerned about this that they have submitted a statement for the record during Mr. Verity's confirmation hearing which I will read a brief excerpt from and then would ask permission to print the entire statement in the RECORD.

In brief, the Colorado Committee of Concern for Soviet Jewry, a member of the Union of Councils for Soviet Jews submits the following materials:

> Our organization urges the Senate to: Reject Mr. Verity's nomination; and, two, schedule hearings forthwith to ascertain the Reagan Administration's policy on:
>
> (a) Subsidizing or facilitating capital transfers to finance Soviet trade; and
>
> (b) Using taxpayer-backed credits and loans in a hostage swap for a quota of Soviet Jews.

Over the years, as reported in a number of places, in the Wall Street Journal, in the Evans and Novak column, and elsewhere, Mr. Verity is quoted as saying things which were critical of the Jackson-Vanik amendment.

I talked to Mr. Verity about this and he says that he supports the Jackson-Vanik amendment. So, I guess if he says he now supports it, we have no reason to doubt his word on it. But it is disturbing to me that at a time when relations between this country and the Soviet Union were tense, that he made some statement such as the following. This is quoted, again, from the material submitted by the Colorado Committee of Concern for Soviet Jewry:

> I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians.

Perhaps history will record Mr. Verity as correct. I do not think that is true but perhaps that will be the outcome. The issue, though, is whether we ought to put international trade first or human rights first. I want to say this very cautiously, but I do not mean to accuse Mr. Verity unduly and I think there is some statute of limitations on statements that anybody in public life makes. I have certainly made some 5, 6, 7, 8, 10, 20 years ago that I would not like to have thrown up to me today. I expect other Senators could make the same observation.

But he evidently did make such statements and I just think it is important for the President to know and for Secretary-designate Verity to understand that these are matters of substantial concern.

Particularly let me say I am concerned because over and over again I have seen the Senate stand up to be counted on issues of human rights versus international trade and many, many times human rights have come out in second place when the question was, Should we sell grain to the Soviet Union? Should we sell equipment for an international gas pipeline to the Soviet Union?

Whenever we have had a direct, head on collision between human rights and economic concerns, there is a real doubt as to how that is going to turn out. It is not true that human rights have lost on every occasion. There are certainly some outstanding

examples to the contrary. But I think the better tradition of the United States is that we care about human rights far above any considerations of international trade. I just want to make that a part of the record, that that is my view and my position.

Notwithstanding what Mr. Verity has said on previous occasions including on Radio Moscow and in various other forums at different times, I hope that, as Secretary of Commerce, he will understand that it is the policy of this Government, I believe it to be the policy of the President of the United States and at least on most occasions it has been the policy of the U.S. Senate, that human rights are first and international trade is second.

I remember that Winston Churchill once said something to the effect that over the course of my long public career I have frequently been forced to eat my own words and, on the whole, have found them to be very tasty.

Perhaps that would be the experience that Mr. Verity will have: Upon reflection, he will not want to further undermine the Jackson-Vanik amendment and other measures of human rights. I hope that, as he assumes an official responsibility, that he will have a broader gauged perspective of this than has been necessarily the case in his private role.

So, Mr. President, despite my concerns I am going to vote to confirm Mr. Verity. I could have decided the opposite because of some statements he has made over the years which I completely disagree with. But I think upon reflection, and particularly in light of some assurances that he has given me in private conversations, I think that the wiser course is to note these reservations and note these concerns and submit for the Record what the Colorado Committee of Concern for Soviet Jewry and others are saying and then simply make it clear to Mr. Verity we are interested, we are concerned and hope that he will conduct the Office of Secretary of Commerce accordingly.

Without question, Mr. Verity has years of experience both in the domestic business community and in the international arena. He was the former head of Armco Steel, and he served as national cochairman of the U.S.-U.S.S.R. Trade and Economic Council. From such a background, it is reasonable to assume that Mr. Verity would be able to deal with the complexities of international commerce.

Unfortunately, his record with respect to other areas that will be under his jurisdiction leaves a number of open questions that are vital to this Nation's position as leader of the free world.

Taken, for instance, the concerns raised by the Colorado Committee of Concern for Soviet Jewry, an outstanding human rights organization from my home State:

First, Mr. Verity advocated weakening United States human rights laws during one of the most repressive periods in recent Soviet history. He did so on Radio Moscow.

Second, Mr. Verity's policies would harm American consumers and businesses.

Third, Mr. Verity recommends a hostage swap, granting the U.S.S.R. most favored-nation trade status and taxpayer-backed credits and loans in exchange for a quota of Soviet Jews, which would harm human rights and damage long-term United States interests.

The committee notes that on Radio Moscow, Mr. Verity stated:

> I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians * * * I believe that the Jackson-Vanik amendment can be amended so that it won't have the effect that it's had now. I just don't know how at the moment that we can amend the Jackson-Vanik amendment but there's a lot of talk about it in the United States. I think the business community would like to eliminate the amendment because its just a barrier to trade with the Soviet Union and it does no good.

I would point out to my colleagues the effect of the Jackson-Vanik amendment has been to make it clear to the Soviets that the United States is committed to basic human rights. Andrei Sakharov, the distinguished Soviet physicist stated in an open letter to the United States Congress more than a decade ago that Jackson-Vanik is a "policy of principle." If it was rejected, it would signify "a betrayal of the thousands of Jews and non-Jews who want to emigrate, of the hundreds in camps and mental hospitals, of the victims of the Berlin Wall."

On the specific issue of the emigration of Jews, I believe it is important to note one particular statement by Mr. Verity. A recent Evans/Novak editorial quoted Mr. Verity as saying, "The American Jewish community can never be satisfied on this matter." I would like to point out that the American Jewish community is not alone in its lack of satisfaction. I, for one, and I know I am joined by many of my colleagues, am not satisfied. And I will not be satisfied until the Soviet Union permits free emigration. Surely there can be no reasonable justification to keep average people, the type of people who make up this Nation of immigrants, from changing their country of residence if they choose.

Recently, Mr. Verity stated in his confirmation hearing before the Senate Commerce Committee that even though he viewed the Jackson-Vanik amendment that specifically mentions emigration as "counterproductive," he intends to uphold the law if he is confirmed. I hope that he will do more than merely uphold the law, but rather that he will work diligently and forcefully to insist upon improved human rights before any trade concessions are granted to the Soviet Union.

The most obvious litmus test of human rights compliance is freedom of emigration. At his confirmation hearing in September, Mr. Verity was asked what level of emigration from the Soviet Union would be considered satisfactory for easing trade restrictions. Mr. Verity stated that "a reasonable figure of somewhere between 15,000 and 25,000 a year would be a good starting point." In light of the fact that Soviet Jewry groups estimate that some 400,000 Jews would like to emigrate, Mr. Verity's figures seems terribly low.

The Colorado Committee of Concern for Soviet Jewry has made the following statement regarding Mr. Verity's views on Soviet emigration:

> Our organization considers the policy articulated by Mr. Verity morally reprehensible, legally indefensible and totally unacceptable. Americans who opposed buying hostages from Iran will properly oppose using tax dollars to ransom a quota of Soviet Jews.

As Commerce Secretary, Mr. Verity will have a role in balancing foreign policy with trade. In this regard, I am particularly concerned about his views on the issue of Soviet forced labor. The importation of goods made with forced labor has been banned since 1930 due to the often brutal conditions we know exist in many prisons and labor camps.

Despite the fact that we know conditions are deplorable in the Soviet Union, the United States presently bans not a single product from importation from the Soviet Union. I don't believe that reasonable people in America would willingly purchase goods made by people who are suffering in Soviet labor camps. Unfortunately, if we increase trade with the Soviet Union without any regard to the conditions under which those goods maybe produced, we will be adding to their suffering.

At a hearing held in the Senate Finance Committee in 1985, Vladimir Bukovsky, a noted scholar and former prisoner, spoke strongly in favor of banning goods made with forced labor. He states:

> I believe such action will lead to a decrease in the use of forced labor. I also believe that such action might force the Soviet authorities to consider broader economic changes and reforms in labor laws. This would be definitely a step in the right direction, and an important message from America to Russian people—a message of concern about the latter's well-being and freedom.

Earlier this year, the Senate attached an Armstrong/Moynihan amendment to the trade bill to ban seven products from importation that are made with forced labor in the

Soviet Union. With respect to that amendment, the AFL-CIO stated:

It is both immoral and economically unconscionable to encourage Soviet exploitation of their workers or to reward such cruelty by contributing to a mounting trade deficit.

In addition to the effect on Soviet labor, it is important to think about the results of increasing trade with the Soviet Union when a number of those who will be negatively affected are Americans. Think about the worker who knows that he might lose his job because products being made with forced labor are entering the United States to compete against the same products he is making. Simply put, wage-earning workers cannot hope to compete against those who receive no wages beause they are imprisoned.

Before any new trade arrangements are made with the Soviet Union, I hope Mr. Verity, if he is confirmed, will take into consideration the effects that increased imports from the Soviet Union will have on human rights in the Soviet Union and on American workers.

The Colorado Committee of Concern for Soviet Jewry brings up another important point on how Mr. Verity's appointment could affect Americans. The Committee states the following:

Mr. Verity failed to address important consequences of Soviet trade which could hurt consumers, businesses and U.S. interests in a variety of ways * * *.

Americans don't accept nonconvertible Soviet rubles for their goods; they expect dollars. Those dollars would come from U.S. banks. That capital would be less available for American borrowers.

Soviet borrowing would bid up interest rates, making loans for Americans more expensive. In contrast, Soviet loans would likely be syndicated at rates below market, making American borrowers pay higher rates to subsidize below-market Soviet borrowing.

By advocating waiver of the Jackson-Vanik amendment, Mr. Verity would give the Kremlin access to taxpayer backed credits and loans from the Export-Import Bank and other government agencies, promoting subsidized transactions unable to survive on the open market.

If Mr. Verity is confirmed, I hope he will be as concerned about the impact on the American as he is with promoting business interests.

Another area in which Mr. Verity will have a pivotal role is in U.S. export control policy. As the recent export control case involving submarine propeller milling equipment indicates, we must be extremely careful about the transfer of technology and the resulting higher costs to be overcome due to lost advantages.

At his recent confirmation hearing, Mr. Verity addressed the issue of export controls by stating, "If we had reasonable controls, we could substantially increase trade with the Soviet Union." I agree that reasonable controls can be useful to increasing trade. However, I am concerned about the word "reasonable."

There were many divergent ideas of what constitutes reasonable controls. They range from relaxing controls on all but the most highly sensitive military technology to clamping down on a vast array of items that have been openly available on the market for years. Certainly, a balance must be struck, but it must not be at the expense of security for America and the free world.

In this regard, I sincerely hope that Mr. Verity will do more that he has indicated to date. I would urge him to lead the effort to encourage legitimate exports, but only when our national security interests are properly and effectively safeguarded.

In my remarks today, I have listed several priority items that must be addressed by any nominee for the position of Commerce Secretary. Therefore, I hope Mr. Verity is listening carefully. Those of us who have raised questions today have not done so simply to hear ourselves speak. Instead, we have serious, legitimate concerns about the future of this Nation's trade and foreign policy.

Past statements by Mr. Verity leave considerable doubt in my mind regarding his suitability as the caretaker and promoter of U.S. trade, foreign policy, and human rights interests. From the record, it would appear that Mr. Verity is lacking in sensitivity and compassion for those who are forced to remain in a totalitarian state. It would appear that he has less interest in security goals than is necessary to maintain a proper balance in overall U.S. policies. And it would appear that Mr. Verity is more interested in promoting trade regardless of the consequences than is appropriate for the position of Commerce Secretary.

The need to improve the United States' trading position is clear. However, it is equally if not more important that the United States maintain its effectiveness as the leader of the free world.

America is a trading nation, and as such it must continue to pursue opportunities. However, America is also a symbol of human freedom, and that designation carries a heavy responsibility. If we falter in our commitment to freedom around the world, if we falter in defending our Nation and our allies, we bear the full responsibility.

In closing, I would like to once again quote from the Colorado Committee of Concern for Soviet Jewry:

Mr. Verity said on Radio Moscow that Soviet trade was "an important bridge to peace" which could lessen unemployment "which is a problem in our country." Would the Senate approve a Cabinet nominee who broadcast similar advice in 1937 over Radio Tokyo or Radio Berlin?

History has judged harshly those in the 1930's whose misguided policies aided totalitarianism. Those whose policies would do so today will be judged more harshly.

Personally, I am concerned over Mr. Verity's nomination because of the many questions regarding his views on human rights, export controls and other issues. I hope he will give high priority to these concerns when he is confirmed as Secretary of Commerce.

With that explanation, Mr. President, I do send to the desk the material which I have referred to and ask that it be printed in full in the RECORD at this point.

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

OPPOSITION TO NOMINATION OF MR. C. WILLIAM VERITY, JR.

The Colorado Committee of Concern for Soviet Jewry, a member of the Union of Councils for Soviet Jews, submits the following materials in opposition to the nomination of Mr. C. William Verity, Jr. as Secretary of Commerce.

RECOMMENDATIONS

Our organization urges the Senate to:

1. Reject Mr. Verity's nomination; and

2. Schedule hearings forthwith to ascertain the Reagan administration's policy on:

(a) subsidizing or facilitating capital transfers to finance Soviet trade; and

(b) using taxpayer-backed credits and loans in a hostage swap for a quota of Soviet Jews.

SYNOPSIS

Mr. Verity advocated weakening U.S. human rights law during one of the most repressive periods in recent Soviet history. He did so on Radio Moscow.

Mr. Verity's policies would harm American consumers and businesses.

Mr. Verity recommends a hostage swap, granting the USSR Most Favored Nation trade status and taxpayer-backed credits and loans in exchange for a quota of Soviet Jews, which would harm human rights and damage long-term U.S. interests.

STATEMENTS ON RADIO MOSCOW

On March 7, 1984, Radio Moscow broadcast an interview with Mr. Verity, who visited Moscow as co-chairman of the "U.S.-U.S.S.R. Trade and Economic Council." A transcript of the broadcast's salient points is attached as Exhibit A.

Using Soviet airwaves, Mr. Verity attacked bipartisan U.S. human rights policies:

On increased trade and other aspects of the Soviet relationship:

"I don't think it's really possible at this time to separate trade from the political environment, they're just too closely tied together, and that's unfortunate, because trade should not be tied to political situations."

On Congress and the Jackson-Vanik amendment:

"I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians . . . I believe that the Jackson-Vanik amendment can be amended so that it won't have the effect that it's had now. I just don't know how at the moment that we can amend the Jackson-Vanik amendment but there's a lot of talk about it in the United States. I think the business community would like to eliminate the amendment because it's just a bar-

rier to trade with the Soviet Union and it does no good." [1]

On Most Favored Nation status for the USSR:

"In 1972, a trade agreement was made in which one of the purposes was to grant Most Favored Nation to the Soviet Union. I believe that still is a possibility and I believe it should be done."

Should the U.S. have a Commerce Secretary who used Radio Moscow to denounce a U.S. human rights law? Who did so while Russian civil rights workers supporting the American law at personal peril were being persecuted?

OPPOSING HUMAN RIGHTS LEGISLATION

Along with Dr. Armand Hammer, Mr. Verity was among the founding Directors of the "U.S.-U.S.S.R. Trade and Economic Council," an organization described by a scholar from the Harvard Russian Research Center as a de facto lobby against the Jackson-Vanik amendment: [2]

The Trade Council was inaugurated on October 1, 1973, at a dinner in the Granovitovaya Palata in the Kremlin. Earlier in the day, Treasury Secretary Shultz had met with Brezhnev to discuss the Nixon's administration's strategy for squelching Henry Jackson's [Jackson-Vanik] amendment . . .

The next day, Shultz met for two hours with Kosygin and [Council officials] gave a news conference to announce the Council's formation. Most of the conference was taken up with the subject of granting the Soviet Union most-favored-nation (MFN) status. . . .[3]

On September 10, 1987, Mr. Verity testified before the Senate Commerce Committee that the "first time I realized that Jackson-Vanik was a problem with trade was in 1975." Mr. Verity's claim is incredible, since he was among the Council's founding Directors two years earlier in 1973.

WARNINGS FROM CIVIL RIGHTS WORKERS

Mr. Verity's nomination contravenes warnings by former and present Soviet citizens who risked their lives to promote trade in people and ideas.

Attached as Exhibit B is a statement by former Soviet civil rights campaigner Vladimir Bukovsky made in 1985 to the Coalition for a Democratic Majority, the organization founded on the principles of the late Senator Henry Jackson.

Mr. Bukovsky urged that MFN, credits and loans be made dependent on complete, not partial, Soviet compliance with its existing human rights agreements:

Some misguided individuals in the U.S. are advising President Reagan that he can promote human rights by increasing Soviet trade. Their advice contradicts the essence of the human rights movement. Andrei Sakharov himself warned, "Weakness, or even the hint of weakness and vulnerability to blackmail, is inconsistent with the defense of human rights and can lead to tragic consequences.". . . If President Reagan succumbs to the canard that compliance with human rights agreements depends on "better relations," he will assist the Politburo in vaporizing the final molecules of the Helsinki Accords.

In addition to supporting the Jackson-Vanik amendment, which Mr. Verity opposed, Nobel Peace Price laureate Dr. Andrei Sakharov wrote:

Speaking of trade, industrial and general economic relations, Soviet propaganda usually stresses their mutually profitable nature. These assertions should be analyzed with care. Of course, once a particular company or Western country has gotten a jump on its competitors, it may realize temporary benefits, but on the whole, it is the USSR and the countries of Eastern Europe which are vitally interested in acquiring technology and credits. It will be totally unforgivable if the West fails to use this leverage to open up Soviet society.[4]

Mr. Verity opposed U.S. human rights efforts which Soviet citizens risked their lives endorse. His record shows acceptance of even the most repressive status quo.

Would Senator Henry Jackson vote to confirm Mr. Verity?

ECONOMIC CONSEQUENCES NOT ADDRESSED BY MR. VERITY

Mr. Verity failed to address important consequences of Soviet trade which could hurt consumers, businesses and U.S. interests in a variety of ways, described below in broad terms.

a. Capital Transfers

Americans don't accept noncovertible Soviet rubles for their goods; they expect dollars. Those dollars would come from U.S. banks. That capital would be less available for American borrowers.

Soviet borrowing would bid up interest rates, making loans for Americans more expensive. In contrast, Soviet loans would likely be syndicated at rates below market, making American borrowers pay higher rates to subsidize below-market Soviet borrowing.

By advocating waiver of the Jackson-Vanik amendment, Mr. Verity would give the Kremlin access to taxpayer backed credits and loans from the Export-Import Bank and other government agencies, promoting subsidized transactions unable to survive on the open market.

The USSR appears to use hard currency borrowing from western banks to sustain its empire and finance expansion. Such capital transfers could also give the Kremlin leverage in U.S. policymaking, empowering the Politburo to threaten future administrations with nonpayment.

b. Dumping and Countervailing Duty Laws

Mr. Verity's policies harm domestic producers and American workers. A loophole exists in U.S anti-dumping laws, exempting the USSR and east bloc regimes from countervailing duty penalties for dumping cheap, subsidized imports into the U.S. economy. Attempts by Congress to plug this loophole have been opposed by the administration.

Mr. Verity's policies would open the floodgates to Soviet goods produced for wages unacceptable in the west, sacrificing American jobs, hurting U.S. business.

c. Forced Labor

Closely related to dumping is the use of forced labor to run the Soviet economy. The Reagan administration has repeatedly frustrated efforts by Congress to apply U.S. laws on forced labor to Soviets imports.

Under U.S. law, forced labor is defined as:

"All work or service exacted from any person under menace or any penalty for its nonperformance and for which the worker does not offer himself voluntarily." 19 USC § 1307

Article 60 of the Soviet constitution provides in pertinent part that "evasion of socially useful work is incompatible with the principles of socialist society." Article 209 of the RSFSR's legal code punishes "parasitism," in practice, one's refusal to accept "socially useful work" as decided by the authorities.

In Congressional testimony, former Soviet political prisoner Vladmimir Bukovsky, and Tom Kahn, Assistant to the President of the AFL-CIO, argued that all labor in the USSR could be viewed as forced labor, as defined under 19 U.S.C. § 1307, since it is exacted under threat of penalty for nonperformance and is not offered voluntary.[5]

Mr. Kahn testified:

Not only has the administration failed to propose steps to enforce the law, but it appears to have moved toward the view that the problem is either nonexistent or beyond remedy . . .

One might well argue that [in the USSR] forced labor is not confined to the 4 million workers in the camps. Considering the parasitism laws, the internal passport system, and other restrictions on the rights of workers to move freely and choose their own employment—restrictions all the more coercive in the absence of a genuine trade union movement—we could conclude that practically everything we import from the Soviet Union is produced in the words of Smoot-Hawley [Tariff Act of 1930] "wholly or in part" by forced labor . . . Forced labor is not confined to camps or prisons.[6]

Mr. Bukovsky agreed, and assessed the value of a U.S. embargo on Soviet imports:

I believe such action will lead to a decrease in the use of forced labor. I also believe that such action might force the Soviet authorities to consider broader economic changes and reforms in labor laws. This would be definitely a step in the right direction, and an important message from America to Russian people—a message of concern about the latter's well-being and freedom.[7]

We agree.

A PROPOSED HOSTAGE SWAP

The Jackson-Vanik amendment states that if the President wishes to waive its restrictions by Executive order, he must certify that the USSR does not deny its citizens the right or opportunity to emigrate, or that he has received assurances that the USSR's emigration practices henceforth will lead to that objective.[8]

The statute does not mention quotas, nor does it mention Soviet Jews.

Nevertheless, Mr. Verity testified at his confirmation hearing that he would support waiving Jackson-Vanik if the Kremlin allowed approximately two percent of Soviet Jews to leave annually:

Senator KASTEN. I'd like it I could to . . . ask you to state your position and the position that you would advocate in the Cabinet with the policy on human rights and trade relative to the actual numbers of immigrants that we would want to see be able to see leave the Soviet Union before we would entertain a relaxation of trade restrictions.

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[1] Nobel laureate Dr. Andrei Sakharov called the Jackson-Vanik amendment "a moral approach to political problems, in accord with the moral principles of American democracy." Alarm & Hope, Vintage Books (1978) p. 26.

[2] Finder, Joseph, *Red Carpet*, Holt, Rinehart & Winston (1983) p. 254.

[3] *Id.* at p. 259.

[4] Sakharov, A., Alarm & Hope, Vintage Books (1978) p. 109.

[5] Hearing Before the Subcommittee on International Trade of the Senate Finance Committee, July 9, 1985, (53-513) pp. 57-65.

[6] *Id.* at p. 57.

[7] *Id.* at p. 65.

[8] 19 U.S.C. § 2432

You may recall that in 1979, the number was approximately 50,000 immigrants who were allowed out of the Soviet Union. Is that a fair standard? Is that a fair benchmark?

VERITY. No I don't think 50,000 is. I think that was what you call a blip. But I do feel that there is a level and I don't know exactly what that level is.

Senator KASTEN. But you believe it would be less than 50,000?

VERITY. I believe it would be less than 50,000. . . . I would say that a reasonable figure is someplace between 15 and 20-25,000. Perhaps that will not be satisfactory, that's certainly a good starting point . . .

Our organization considers the policy articulated by Mr. Verity morally, reprehensible, legally indefensible and totally unacceptable.

Americans who opposed buying hostages from Iran will properly oppose using tax dollars to ransom a quota of Soviet Jews.

We oppose policies which substitute flesh peddling for the rule of law. Financing totalitarianism and abandoning millions to a police state damages U.S. interests.

We oppose any waiver of Jackson-Vanik until the Kremlin unconditionally and completely fulfills the human rights contracts it signed at Helsinki and removes its illegal barriers to people and ideas.

SPEAKING FOR AMERICAN JEWS

Mr. Verity said at his confirmation hearing that some Jewish leaders indicated that if Soviet Jewish emigration increased sufficiently, American Jews would support a waiver of Jackson-Vanik. Mr. Verity's belief is unfounded.

When the press revealed that Edgar Bronfman, who heads the World Jewish Congress and Morris Abram, who heads the National Conference on Soviet Jewry, secretly travelled to Moscow in March, 1987 and negotiated a hostage swap, the Jewish community reacted with outrage. Messrs. Bronfman and Abram were denounced by American human rights groups and by Soviet Jews themselves.

Longtime refusenik Vladimir Slepak declared that Mr. Bronfman and Mr. Abram "are definitely persona non grata in our [refusenik] community." [9] At New York's "Solidarity Sunday" rally for Soviet Jews, before a crowd of over 200,000 participants (including Mayor Koch), Messrs. Bronfman and Abram were publicly denounced, told to stay out of Moscow and warned to stop their harmful actions.

Messrs. Bronfman and Abram are the "Jewish leaders" whom Mr. Verity cites and whose actions he praises.

Mr. Verity has a quasi-conflict of interest in this matter. Mr. Bronfman serves on the Board of Governors of the "U.S.-U.S.S.R. Trade and Economic Council," the organization Mr. Verity co-chaired. Mr. Abram, an administration appointee, has estranged himself from the human rights community; among other things, he supports constructive engagement of the Kremlin, instead of divestment as recommended by Natan (Anatoly) Sharansky.

Neither American nor Soviet Jews support the hostage-swap, and the Senate should not confirm someone who does. Hearings should be convened promptly to determine to what extent the administration supports the hostage-swap.

[9] New York Jewish Week, June 5, 1987.

UNACCEPTABLE ADMINISTRATION DOUBLE-THINK

We reject the recent self-serving statement from the administration paying lip service to the Jackson-Vanik amendment. The administration demonstrates pure double-think. Appointing an opponent of Jackson-Vanik doesn't support it.

We urge the Senate to compare Mr. Verity's present claims with his previous actions, and to reject as not credible representations which fly in the face of his unambiguous record described herein.

Would Senator Henry Jackson vote to confirm Mr. Verity?

CONCLUSION

Mr. Verity said on Radio Moscow that Soviet trade was "an important bridge to peace" which could lessen unemployment "which is a problem in our country." Would the Senate approve a Cabinet nominee who broadcast similar advice in 1937 over Radio Tokyo or Radio Berlin?

History has judged harshly those in the 1930's whose misguided policies aided totalitarianism. Those whose policies would do so today will be judged.

We urge the Senate to reject the nomination of Mr. C. William Verity, Jr. to head the Commerce Department.

We ask that hearings be convened promptly to determine administration policy on subsidizing or facilitating Soviet trade and on swapping credits and loans for a quota of hostages.

Dated: September 16, 1987.

LILLIAN HOFFMAN, *Co-Chair.*
RHODA FRIEDMAN, *Co-Chair.*
WILLIAM S. PEARL, *Policy Analyst.*

TRANSCRIPT OF MR. C. WILLIAM VERITY, JR., ON RADIO MOSCOW

Source: Radio Moscow, North American Service English language, shortwave.
Broadcast Date: March 7, 1984.
Time: 6:45, 8:45, 10:45 p.m. EST.

(Condensed text; ellipses show deletions)

ANNOUNCER. In 1951, at the height of the Cold War, the U.S. withdrew Most Favored Nation status from the Soviet Union. As a result, this country lost the standard trading rights granted by the United States to the vast majority of countries. . . Mr. Verity comments on this in the following way:

VERITY. It is true that the, tariff or the duties, uh, for soviet products on the American market is higher than they are on other European countries. In 1972, a uh trade agreement was made in which one of the purposes was, uh, to grant Most Favored Nation to the Soviet Union. I believe that is a possibility and I believe it should be done. . . .

ANNOUNCER. In spite of the importance of exports to the United States economy, the Congress passed the Jackson-Vanik amendment to the Trade Reform Act of 1974 which prevented Soviet-American trade from any substantial expansion. Mr. Verity holds the following view of this discriminatory trade legislation:

VERITY. I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians. . . I believe that the Jackson-Vanik amendment can be amended, uh, so that it won't uh, have the effect that it's had now. I just don't know how at the moment that we can amend the Jackson-Vanik amendment but there's a lot of talk about it in the United States. I think the business community would like to eliminate the amendment because it's just a, a barrier to trade with the Soviet Union and it does no good.

ANNOUNCER. Mr. Verity also mentioned that despite the pesent difficulties in Soviet-American trade, the Soviet side is willing to do its best to stabilize it and hopefully to expand. Mr. Verity goes on to say:

VERITY. I find that they would like to deal, with uh, with the United States. I think there's a friendship between our two countries, particularly between people. We like each other. They know that it's more difficult to deal with the United States right now, and they'll tell us that, that uh, really because of "your unreliability and the political problems it's easier for us to deal with France or Italy or Japan. But nevertheless we would like to deal with you and can't we work out a way?" Uh, thats happened with every Ministry that we've, uh, have been to on this visit. I believe that there is a reservior of good will sitting here, and that if we could eliminate the, the political morass that we find ourselves in, that there would be all kinds of trade opportunities. Uh, certainly, our Soviet-friends, uh, are available and want us to do business with us. The reason I, I feel so strongly about trade is that I think it's an important bridge to peace, so I think it's extremely important that, to keep it alive and help it grow as much as we can.

ANNOUNCER. Taking part in this program about Soviet-American trade was William Verity, Jr., Chairman of ARMCO, Inc. and co-chairman of the US-USSR Trade and Economic Council. You are listening to Radio Moscow.

THE VERITY NOMINATION

Mr. PROXMIRE. Mr. President, I will vote against the confirmation of C. William Verity as Secretary of Commerce. Mr. Verity has impressive credentials. He is the former chairman of Armco, the large steel company. He is a former chairman of the U.S. Chamber of Commerce and he cochaired the U.S.-U.S.S.R. Trade and Economic Council.

Clearly he has experience in the matters of jurisdiction to the Department of Commerce. But just as clearly his positions on trade with the U.S.S.R. and his record with regard to the environment do not recommend him for confirmation.

Mr. Verity has been an ardent and consistent opponent of the Jackson-Vanik legislation and he has often voiced his opposition to tying our economic relations with the U.S.S.R. to their improvement on the Soviet Jewish emigration issue. In taking this stance, he moves away from the mainstream of a primary American diplomatic initiative of two decades. Now it is true that in his confirmation hearing, Mr. Verity seemed to back away from his prior point of view but he did so in a way which did not disguise his lingering doubts about using U.S. trade policies for human rights purposes. And in so doing, he raised additional doubts in the mind of this Senator.

Trade with the Soviet Union is a complex and ever-changing condition in our bilateral relationship. In recent

years we have been particularly concerned about the illegal flow of high technology to the Soviets—technology that one day may come back to haunt our own military establishment. The Senate Banking Committee has examined this problem and passed legislation to tighten the barriers to this hemorrhage of our industrial expertise. Mr. Verity has not shown in his testimony or his prior statements that he fully understands the seriousness of unlimited and open trade with the U.S.S.R. Nor does he appreciate the leverage that this trade allows us to exert on that regime through subtle as well as direct means.

Troubling as these matters are, it is Mr. Verity's environmental record which most convinces me to oppose his confirmation. Here is an individual who now says he will support the antipollution efforts of the National Oceanic and Atmospheric Administration as well as the EPA. That sounds good. But his record speaks of another commitment and resolve—that of unabashed pollution of our lakes and waterways.

That is a tough conclusion Mr. President. But it is backed by the facts. Mr. Verity was the principal public spokesman opposing enforcement of antipollution laws applying to his subsidiary firm, Reserve Mining, Inc., of Silver Bay, MN. That company was dumping 67,000 tons of iron ore tailings daily into Lake Superior—a body of water bordering on my State of Wisconsin. It took a suit by the Federal Government and three States, including my own, to bring this practice to a halt—over the objections of Mr. Verity up to the last minute. As one expert said about this incident, Mr. Verity was "pleasant, cooperative, self-confident and unapologetic."

As Hubert H. Humphrey III concluded based on extensive experience with Mr. Verity: "Mr. Verity remains an unrepentant polluter."

Mr. President, under these circumstances I cannot support this nominee. He carries with him too much of the past and he shows too little inclination that this past no longer fits the needs of our Nation.

Ms. MIKULSKI. Mr. President, I rise today to support the nomination of William C. Verity, Jr., to become Secretary of Commerce—and raise, at the same time, some reservations about confirming him.

My concerns relate to Mr. Verity's assertion that noneconomic factors such as human rights have no legitimate place in the discussion of trade-matters. In Mr. Verity's own words, taken from an article in the American Banker in 1980:

> Our dated view of the world leads . . . to what I call "moral imperialism." This is where we try to dictate to other countries our ideas of what is right and what is wrong. We have been mixing this trade policy with human rights and other social and political objectives for far too long. We haven't recast the world. We have only succeeded in cutting out many trading partners by creating ill will. Our drive to reconstruct the world in our image has served only, directly, to make American business less competitive.

According to Mr. Verity, this "moral imperialism" extends to the Jackson-Vanik amendment to the Trade Act of 1974. That amendment, linking most-favored-nation status to the Soviet Union's performance on human rights issues, was characterized by Mr. Verity as "one of the terrible mistakes that was made by American politicians." Based on that assertion, Mr. Verity also said that he would do away completely with the Jackson-Vanik amendment.

During his confirmation hearings, Mr. Verity changed his position. He stated then that he will abide by the law, and not try to do away with this crucial amendment.

Mr. President, I am willing to take Mr. Verity at his word. I have no reason to doubt his sincerity. At the same time, I am putting him on notice that I am depending on him not to go back on that promise. The issue at stake here—human rights—is a vital one.

I, too, favor expanded trade for the United States, and I want to see increased opportunities for American business. At the same time, however, I want to know that these opportunities are not inconsistent with U.S. policies overall. Trade does not exist in a vacuum. If it did, we wouldn't have minimum wage or child labor laws and we wouldn't have laws that protect the security of the United States. Everything would be decided on the basis of dollars and cents—rubles and kopeks—marks and pfennigs. And that is not the kind of world that I think most Americans want to live in.

In conclusion, I want to quote from an article by one of the former chairman of a major U.S. corporation. In the article, which talks about the connection between the business world and the community at large, the author says the following:

> Businesses can't survive for long without profits, but neither can they survive for long if all around them is crumbling at their feet. Ignoring the wider world in which we do business not only brings us profit without honor, but will in the fullness of time bring us no profit at all.

I agree with those words. Whether we are talking about the rights of Christians and Jews to practice religion or free speech in the Soviet Union, or the right to demand fair wages and safe working conditions, we are talking about questions that cannot be answered in terms of profit alone. They are moral considerations, and, yes, questions of honor.

I hope very sincerely that Mr. Verity believes the words that I have just quoted above. He wrote them in 1982, and I hope, as Secretary of Commerce, he will be guided by the same words and noble principles that he has set out for others.

Thank you, Mr. President.

Mr. DURENBERGER. Mr. President, I rise to express my reasons for voting in support of the nomination of C. William Verity, Jr., as Secretary of Commerce. In reaching this decision, I have carefully considered Mr. Verity's qualifications and past record as chief executive officer of Armco Steel, chairman of President Reagan's Task Force on Private Sector Initiatives, chairman of the U.S. Chamber of Commerce, as a member of the President's Export Council, and as member of the board of directors of the Chase Manhattan Bank.

Two weeks ago, I met with William Verity to discuss some of my concerns about his nomination. Mr. Verity had served as Armco's CEO during a period of time that Armco, as co-owner of Reserve Mining of Silver Bay and Babbit Minnesota, was engaged in a highly charged lawsuit brought by the U.S. Government and the States of Minnesota, Wisconsin, and Michigan. In many ways, this lawsuit reflected how a company that in the 1950's and 1960's brought jobs and wealth to Minnesota, ultimately could not cope with the environmental demands that we expect of corporate citizens today.

I believe it is necessary to provide some background to this contentious litigation that polarized nearly all of my constituents. In 1922, Armco, which had been frozen out of the national ore fields by the larger and more dominant steel companies, entered into a research arrangement with the University of Minnesota to try to find a way to commercialize taconite ore. It took nearly 20 years for Armco and the University to develop such a process. Finally, Armco developed a pelletizing process for the taconite ore that effectively doubled the production of America's blast furnaces.

Armco worked with the State of Minnesota and the Army Corps of Engineers to determine a suitable location for a pelletizing plant. Ultimately, Silver Bay, MN, was selected as the site for the plant. One of the key factors in reaching this decision was the economic savings that would result if the taconite tailings from the plant were disposed of in a deep trough in Lake Superior.

In pioneering the commercial processing of taconite in the 1950's, Reserve was seen as "an economic savior" of the Minnesota Iron Range. At the peak of its operations, Reserve brought nearly 3,200 jobs to the State and broadened the tax base of rural Minnesota.

However, it is clear to me that if in the 1950's the Federal Government

and the State of Minnesota had been aware of the environmental implications of disposing of taconite tailings in Lake Superior, I am sure that the U.S. Corps of Engineers and the State of Minnesota would not have approved permits for such dumping. And had there been that environmental awareness, I trust Reserve would have developed a nonpolluting land disposal system that would have enabled Reserve to continue operating today.

Unfortunately, the State of Minnesota and the U.S. Government engaged in nearly 8 years of protracted litigation seeking to end lake dumping. Although Reserve could have decided to close down its taconite operations, the company committed nearly $172 million to developing a nonpolluting land disposal system. The decision to continue operations saved nearly 2,800 jobs on the Iron Range in the late 1970's.

But the subsequent economic plight of the steel industry in the 1980's, with worldwide overcapacity and plunging commodity prices, proved fatal for Reserve. When Armco's partner in Reserve, LTV, filed for bankruptcy last year, Armco found it impossible to continue the Reserve operation. Babbit and Silver Bay have yet to recover from this decision. This is a tragedy that has affected all of the citizens of my State.

Mr. President, I think Reserve could have worked harder to develop the technology to dispose of taconite tailings in a more environmentally satisfactory way. Mr. Verity, at his confirmation hearings expressed his regret over this entire matter:

> One of the things I regretted most was that we were not able to find a solution to the problem sooner. Had I known the feelings of those people for Lake Superior, I think I would have been more sensitive sooner.

Although Mr. Verity's statement cannot redress the grievances of the people of my State, I accept it as an apology to the citizens of Minnesota for the actions of the company that he headed.

Mr. President, I believe William Verity's longstanding association with the steel industry will make him especially effective in helping to reinvigorate the domestic steel industry, which will significantly benefit the iron ore workers of my State. While he is a strong supporter of a free and open international trading system, he is well aware of the fact that some of our trading partners have severely hurt our dometic industries by engaging in unfair trading practices, especially predatory dumping.

As Armco's chief executive, he frequently criticized the dumping of steel imports on the U.S. market at artificially low, subsidized prices. And he was instrumental in convincing both this administration and the previous administration to curb the practice by limiting the imports from nations that supported the unfair practices. As recent corporate reports show, the President's steel import program is working, and many companies are returning to profitability.

I believe his experience in fighting unfair trading practices will send a signal to our trading partners that America will not tolerate predatory pricing that destroys our industrial base. And I strongly support his view that while our export control laws should be modified so that sensitive technology products should not be exported to the East bloc, our export control laws should not prevent American companies from exporting products that are generally available from our trading partners.

Moreover, William Verity does not believe that American exporters should be held hostage to American foreign policy. And to me, that means we will have a Commerce Secretary who will not advocate a shoot-ourselves-in-the-foot policy of embargoing American grain to further a foreign policy objective.

Finally, Mr. President, I want to thank the attorney general of Minnesota, Hubert "Skip" Humphrey III, and Grant J. Merritt, former director of the Minnesota Pollution Control Agency for bringing to my attention the fact that while William Verity served on the board of directors of the Chase Manhattan Bank, it approved loans to develop Brazilian iron-ore reserves. As many of you know, Brazil has been exporting a large volume of iron ore in recent years which has underpriced Minnesota iron ore and taken a large market share from Minnesota companies.

I have asked Mr. Verity what, if any, role he had in the placement of these loans, and he indicated to me that when the issue of granting a further extension of a line of credit to the Brazilians was raised in 1979, he was unaware that the proceeds were being used to develop Brazil's iron-ore facilities. No vote was ever taken on the extension of this line of credit. And when the original line of credit was established in the early 1970's, and the merits of the project were fully debated, William Verity was not a member of the Chase board.

Mr. President, the tragic and untimely death of Malcom Baldrige has created a void at the Department of Commerce at a critical time for our Nation's international economic relations. I believe that William Verity has the depth of international business experience that will enable him to serve effectively as the next Commerce Secretary.

I cannot condone the activities of Reserve Mining during the protracted litigation in the 1970's. However, I believe that today William Verity has a better recognition of the sensitivities and needs of the people of Minnesota. I will therefore vote to confirm him for this important position.

Mr. BENTSEN. Mr. President, I support this nomination. I have known William Verity for many years. He is a man of integrity. He is a man of competence. He is a "can-do" administrator. He is not an ideolog. He has indicated a willingness to work with Congress during the waning days of the current administration, and to help this country solve its considerable trade problems. I believe that these are the reasons the President nominated William Verity to fill the shoes of the late Commerce Secretary, Malcolm Baldrige.

There are approximately 15 months left in this administration's term. It is nearly over. But the problems still unsolved are as pressing as ever. To the extent that he can, I believe that this nominee will help us to try to solve these problems, and will do so in an effective, nonconfrontational manner. I do not believe that we could ask for very much more.

I know that there have been some questions raised about the nominee's actions when he was in the private sector and about his views on trade with the Soviet Union. I have heard these criticisms. I have listened closely to the nominee's answers. They have been candid. They have been placed in context.

Based on the testimony before the Commerce Committee by William Verity's supporters and detractors alike, I think the criticisms, while important to listen to, nevertheless miss the mark. This is not a nomination to be administrator of the Environmental Protection Agency. This is not a nomination to be Secretary of State. It is to be Secretary of Commerce. As important as environmental matters are, they will not be his responsibility. As significant as human rights are in the Soviet Union, they are not something he will be called upon to deal with daily.

I think that we have gone on for too long now without a permanent Secretary of Commerce. We need one. I know that C. William Verity will make a good one. Mr. President, I hope that the Senate will confirm him.

Mr. WALLOP. Mr. President, I oppose the nomination of Mr. C. William Verity because I remain unconvinced that Mr. Verity understands the fundamental connection between human rights and business as usual relations with any country, but especially with a nation whose system of government is the model for modern tyranny: the Soviet Union.

His avowed interest in expanding United States-Soviet trade without any linkage to human rights or the fate of Soviet Jewry in the Soviet

Union makes him, in my judgment, unfit to hold the Office of Secretary of Commerce in the Reagan administration. His critical remarks of the Jackson-Vanik amendment, which he described in an interview with Radio Moscow as a "terrible mistake(s) that was made by American politicians," demonstrates that he neither understands nor cares to understand the nature of the United States-Soviet conflict.

Mr. President, we can expect from Mr. Verity only the pursuit of expanded United States-Soviet trade on its own terms. His statements that we might link trade directly to the release of Soviet Jews and others are morally repugnant. The Government of the United States should not and cannot be seen as willing to trade for human beings.

Mr. President, at a time when the United States is already setting aside its concerns about Soviet human rights abuses in the pursuit of an arms control agreement the the Soviet Union, we should not be sending yet another signal of weakness on the human rights front to the Soviet leadership.

This senator believes that it is an irreconcilable contradiction to vote for Mr. Verity and support the ideals that this Senate embodied in the Jackson-Vanik amendment. I urge all my colleagues who support those ideals to vote against Mr. Verity's nomination.

Mr. LEAHY Mr. President, because of the nomination on the floor today, it is appropriate to raise the issue of whale protection.

The Secretary of Commerce must, as Secretary Baldridge did, negotiate with the Japanese on whaling practices. I am voting for Mr. Verity today because, among things, he has publically stated his support for whale conservation and his commitment to employ economic sanctions against the Japanese if they refuse to abide by international agreements.

Japan will soon commence "scientific whaling" despite the resolution by the International Whaling Commission [IWC] and in disregard of the agreement negotiated between our two nations.

When the IWC adopted its worldwide moratorium on commercial whaling in 1984 the Japanese Government filed an objection and refused to observe the moratorium. Under U.S. law the administration could have invoked sanctions against Japan's fishing industry for diminishing the effectiveness of the IWC, but instead it chose to offer Japan a phase-out of whaling over a longer period of time. In 1984, Secretary Baldrige entered into a good faith agreement with the Japanese Government whereby our Government would withhold sanctions in return for Japan's commitment to end commercial whaling after April 1988. Thus, the 1986-87 season was to be the last for Antarctic whaling.

The agreement was controversial because it allowed the Japanese whaling industry two more years of Antarctic whaling. However, it did result in a withdrawal of Japan's formal objection to the moratorium and an agreement that whaling would be halted 2 years later.

Now Japan has advised us that they will not only allow whaling, but also subsidize expeditions to kill hundreds of whales in the name of scientific research. A resolution adopted by the IWC last June specifically addressed the scientific merits of the proposed Japanese program and called upon Japan to refrain from conducting that research whaling. To kill the whales under these circumstances would be to violate both the IWC resolution and the spirit of the bilateral agreement.

In the Senate confirmation hearings, Mr. Verity stated his support for the IWC's conservation program and said that he would certify Japan if the Government does not follow the IWC resolution. The Japanese Government should be on notice that certification under the Packwood-Magnuson and Pelly amendments will be forthcoming if their proposal is implemented.

For many years the United States has played a leading role in international efforts to conserve the great whales. I believe it is essential for our Government to continue this strong commitment to conservation and to have as our Secretary of Commerce a person who will work toward this goal.

NOMINATION OF C. WILLIAM VERITY TO BECOME SECRETARY OF COMMERCE

Mr. CHILES. Mr. President, I would like to say a few words about the nomination of William Verity for the position of Secretary of Commerce. Mr. Verity's professional and leadership credentials are impressive. His position on the President's Task Force on Private Sector Initiative, his chairmanship of the Armco Steel Co. and the U.S. Chamber of Commerce have provided him with the breadth of experience to carry out his responsibilities in an exemplary fashion.

My sole concern does not regard Mr. Verity's capabilities, nor his achievements. Rather, it is the question of whether Mr. Verity intends to uphold the Jackson-Vanik amendment, as he has pledged to do. In my view, it is extremely important that Mr. Verity fully support a basic policy which maintains that until all of those who wish to emigrate from the Soviet Union are allowed to do so, we cannot ease existing trade restrictions. After studying Mr. Verity's statements on this matter, I will accept that Mr. Verity does understand the importance of this matter. With this in mind, I shall vote for his confirmation.

Mr. HATCH. Mr. President, I take no pleasure in opposing the President's nominee to succeed my friend Malcolm Baldrige. In fact, I would be happy to support Bill Verity for another post in the administration as long as it does not deal with the Soviet Union. But the Secretary of Commerce has important influence on our trade policy toward the Soviets, and Mr. Verity has a severe blind spot in that area that disqualifies him in this Senator's view.

Now, Mr. President, I know the White House is defending Bill Verity by claiming that he was just ordered by President Nixon to carry out détente policy and that it was Nixon and Henry Kissinger who instructed him. But the White House lobbyists have no explanation for what Bill Verity said on Radio Moscow 3½ years ago on March 7, 1984. This interview is the reason I must oppose Bill Verity as Secretary of Commerce.

Mr. President, one of my highest priorities has been to obtain the release of Soviet Jews and their emigration to Israel or elsewhere. I visited the Moscow Choral Synagogue in August 1983 to discuss the case of a number of Jewish refuseniks. I have adopted one family, the Khassins of Moscow, and been attacked in the Moscow Evening News for my activity on behalf of the Khassin family. Anatoly Scharansky has kept me informed about their progress in obtaining visas to Israel. So, from my own personal involvement, I have reviewed Bill Verity's record. His Radio Moscow interview stands out as the main symbol of why he is unsuited for this post.

On March 7, 1987, Bill Verity made three points to his Soviet audience that I believe speak for themselves. I am confident that President Reagan was not aware of this incident when he approved his nominee.

First, Mr. Verity said, "I think the Jackson-Vanik amendment was one of the terrible mistakes that was made by American politicians." All my fellow Senators who vote to confirm Mr. Verity should consider that sentence and what it means. My fellow Senators should consider whether they approve of this criticism of Jackson-Vanik being made over Radio Moscow. Now I know that our Commerce Committee chairman Senator HOLLINGS just quoted Mr. Verity's testimony to the Commerce Committee that Mr. Verity said he intends to obey the law on Jackson-Vanik, the same way Mac Baldrige did, but what did the chairman expect? Could Verity say he would disobey the law of the land and still expect confirmation? I think not.

The second point with which I disagree in Mr. Verity's Radio Moscow interview is denial of any linkage between trade and diplomacy. I quote:

I don't think it's really possible at this time to separate trade from the political environment, and that's unfortunate, because

trade should not be tied to political situations.

That is it. Our nominee does not want to use linkage to obtain the release of Soviet Jews, as I read this interview. And, what is worse, he is telling it to the Soviets directly on Radio Moscow.

The third point in this Radio Moscow interview is the worst. Mr. Verity comments on most-favored-nation status for the Soviet Union. I quote:

In 1972, a trade agreement was made in which one of the purposes was to grant most-favored-nation status to the Soviet Union. I believe that still is a possibility, and I believe it should be done.

I remember very well in 1973 when the most-favored-nation status was blocked by the efforts of Senator Scoop Jackson, while George Shultz, then our Secretary of the Treasury, met with Leonid Brezhnev in Moscow to reassure him on Jackson-Vanik. It was a mistake, and the Congress reversed it with the Jackson-Vanik amendment. I hope Secretary Shultz doesn't make the same mistake again. The Senator from Colorado has made an important point that he is concerned about this issue but wishes to vote to confirm anyway. I feel that the message of concern will be a little stronger by my voting against Mr. Verity because of his insensitivity on the issue of Jewish emigration from the U.S.S.R., an issue I have been deeply concerned about. Frankly, I believe Bill Verity should recuse himself from this issue in the Cabinet.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. ARMSTRONG. I do, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, most of the time now has been yielded back. I think the vote has been set exactly at 4:15, so we will be yielding to the majority leader for a quorum call momentarily.

Let me say the fundamental principle involved is not something categorical or relative to trade as a lever. The distinguished Senator from Colorado said he hoped that Mr. Verity would carry out President Reagan's policy.

I can give you an update on President Reagan's policy. That policy is not to use trade as a lever. I refer particularly to our ally down in the Pacific there, New Zealand.

I happened to have headed the delegation there in 1976. Senator Baker, Senator Griffin, Senator Culver—we went down and we talked with then Prime Minister Muldoon. We had the policy change where the Prime Minister allowed the acceptance of Navy vessels, nuclear vessels in port at New Zealand.

Now we have tried to exact that same thing out of Prime Minister Langley in New Zealand. At the time the negotiations were carried on, it was emphasized in the press by Secretary Shultz that trade was not a leverage.

I think back at the time when President Lyndon Johnson was in office. At the time of the war in Vietnam, LBJ, in his famous way said: "Well, now, we will take all your lamb in the United States." And in return New Zealand joined in with our troops in Vietnam.

We have economic weapons that must be used in the overall national interest. I happen to believe in leverage. I happen to believe in Jackson-Vanik. But there has been a footdragging in this administration with respect to that leverage.

So, I think Mr. Verity has made himself clear. I know he comes to our State with the highest of recommendations. He has only been there momentarily, as a retiree, and only for a few months. I have already heard from a distinguished member of our State legislature, Ms. Harriet Keyserling; the mayor of Beaufort, Mr. Chambers; the former Secretary of Commerce, Fred Dent; another member of our Department of Commerce, Mr. John Trask; and a former president of the U.S. Chamber of Commerce, Mr. Bob Thompson. I have a long list, Mr. President, who immediately upon the Verity nomination contacted me to tell me what an outstanding individual he is. I believe it and I am proud to support that nomination.

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

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

Mr. BYRD. Mr. President, I believe the speakers have taken all the time that they seem to want to consume. The vote was earlier scheduled to begin at 4:15 p.m., I believe, and it would have been a 15-minute vote. Thus, it should have ended at 4:30 p.m. today.

I ask unanimous consent, Mr. President, that the vote begin now and that at 4:30 p.m. today a call for regular order be automatic.

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

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of C. William Verity, Jr., to be Secretary of Commerce. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. STAFFORD] is necessarily absent.

I also announce that the Senator from Kansas [Mrs. KASSEBAUM] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Kansas [Mrs. KASSEBAUM] would vote "Yea."

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

The result was announced—yeas 84, nays 11, as follows:

[Rollcall Vote No. 321 Ex.]

YEAS—84

Adams	Fowler	Moynihan
Armstrong	Garn	Murkowski
Baucus	Glenn	Nickles
Bentsen	Graham	Nunn
Biden	Gramm	Packwood
Bingaman	Harkin	Pell
Bond	Hatfield	Pressler
Boren	Hecht	Pryor
Boschwitz	Heflin	Quayle
Bradley	Heinz	Riegle
Breaux	Hollings	Rockefeller
Bumpers	Inouye	Roth
Burdick	Johnston	Rudman
Byrd	Karnes	Sanford
Chafee	Kennedy	Sarbanes
Chiles	Kerry	Sasser
Cochran	Lautenberg	Shelby
Cohen	Leahy	Simpson
Conrad	Levin	Specter
Cranston	Lugar	Stennis
Danforth	Matsunaga	Stevens
Daschle	McCain	Symms
Dole	McClure	Thurmond
Domenici	McConnell	Trible
Durenberger	Melcher	Warner
Evans	Metzenbaum	Weicker
Exon	Mikulski	Wilson
Ford	Mitchell	Wirth

NAYS—11

D'Amato	Hatch	Proxmire
DeConcini	Helms	Reid
Dixon	Humphrey	Wallop
Grassley	Kasten	

NOT VOTING—5

Dodd	Kassebaum	Stafford
Gore	Simon	

So, the nomination was confirmed.

Mr. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

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

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

NOMINATION OF JUDGE BORK

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not he has been able to ascertain, through his conversations, the possibility of our getting an agreement to begin forthwith on the Bork nomination and complete action thereon tomorrow at 6 o'clock.

Mr. DOLE. Mr. President, if the majority leader will yield, we have made a number of inquiries on this side, and we are still in that process.

The distinguished ranking member of the Judiciary Committee, Senator THURMOND, I think, is agreeable to a vote this week. It is a matter that I will take up when we have about 40 Senators together in one place later this afternoon. It is pretty hard to track them down. I hope to be able to give the majority leader some definitive word tomorrow morning, either way.

I understand that the majority leader does not want it to be pending several days. I wonder whether, as an alternative, if we cannot agree to take it up this week, we could agree to take it up, say, next Tuesday morning and vote Wednesday evening.

Mr. BYRD. Mr. President, the report will be filed tonight and will be printed and available tomorrow. Under the rules, the distinguished Republican leader and I can take it upon ourselves and jointly waive the 2-day rule. I am not only ready but eager to do that.

I hope that if we cannot get consent today to waive the report and get to the nomination this evening, the distinguished Republican leader and I can join tomorrow morning to waive the 2-day rule and get the nomination up.

The President says he wants to vote this week. Let us give Mr. Bork a vote, not only this week but earlier than the end of the week, so that we can do some other things.

We have appropriation bills. We have the War Powers amendment around. We have catastrophic illness legislation. We have the Labor-HHS appropriation bill. That has been called up. Hopefully, we can get action on those before the week is out, also.

So I cannot do more than urge or request unanimous consent to take up the nomination today. I am helpless to take it up, under the rules, as I have already indicated. Except by unanimous consent, the 2-day rule cannot be waived. The report is going to be filed. The one alternative is that the two leaders waive it. There is nothing I can do today to get it up.

Tomorrow morning, I will revisit this matter with the distinguished Republican leader, and I hope at that time we can join in waiving this requirement for the report, get on the nomination, have a good, long day of debate tomorrow thereon, and vote Thursday afternoon at 3 o'clock or 4 o'clock. In that way, we could easily get 15 hours of debate on the nomination, by 4 o'clock on Thursday.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I am glad to yield.

Mr. DOLE. Let me discuss that again with my colleagues, and let me get back to the majority leader in the morning. I think there are some on this side who just do not want to vote this week. We will discuss it this afternoon, and I will be back to the majority leader.

Mr. BYRD. I thank the minority leader.

LEGISLATIVE SESSION

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

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

SCHEDULE

Mr. BYRD. Mr. President, there will not be any more rollcall votes today.

The matters that may be discussed this afternoon are the War Powers Resolution, the Labor-HHS appropriation bill, catastrophic illness. Not on either of the latter two can action be taken, because a number of Senators on both sides are trying to work out an amendment on catastrophic illness. On the Labor-HHS appropriation bill, we cannot finish that this evening because some of the Senators will not be here. They will be leaving. I do not think we are ready to get an agreement on the War Powers matter.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be morning business for not to exceed 1 hour and that Senators may speak therein for not to exceed 10 minutes each.

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

Mr. BYRD. I thank the Republican leader and all Senators.

PRESIDENT ARIAS RECEIVES NOBEL PRIZE

Mr. HARKIN. Mr. President, the Nobel Committee has just awarded this year's peace prize to Oscar Arias Sanchez, President of Costa Rica.

The selection of President Arias is in keeping with the tradition of leaders given this award, such as Lech Walesa of Solidarity, Bishop Desmond Tutu of South Africa, Andrei Sakharov of the Soviet Union, and Martin Luther King of the United States, to name just a few of the recipients of this award. All would be proud to have Oscar Arias join them on the roster of promoters of peace.

For the work he has done in promoting peace in Central America, President Arias richly deserves this reward. Back in February, President Arias first announced his proposal to bring peace with democracy to Central America. This proposal, which marked the first time the Central Americans themselves stepped forward to control their own political destiny, at first was given little chance of success. However, we did not realize then that President Arias' initiative would crystallize the longstanding desire of the Central Americans to put an end to the civil wars that had caused so much death and so much destruction for so long to their respective countries. It was this desire, plus the personal intervention of President Arias, that led to the signing of the peace accord by the five Central American Presidents on August 7.

This plan, in my estimation, is a masterful work of diplomacy. It does not rely on the good faith of the Sandinistas or the good faith of the government of Napoleon Duarte or the intentions of the President of Guatemala, President Cerezo; nor does it place blind trust in their desire to institute, on their own, democratic reforms. Rather, the Arias plan is designed as a process—with each step taken toward a democratic opening, leading to another irreversible step in the process. In short, it is visionary yet realistic, and offers all of us, in the United States and Central America, a way out of the cycle of violence that has gripped Central America for the past decade.

And by most accounts the process is working. Reconciliation commissions have been created in El Salvador, Guatemala, and Nicaragua. Peace talks between guerrillas and government representatives for El Salvador and Guatemala have begun.

In Nicaragua, censorship has been lifted both for the radio stations and for the newspapers. La Prensa and Radio Catolica can now operate free of any interference or prior censorship. Dialog has resumed between the government and the internal political opposition.

So, Mr. President, a lasting peace may be some way off in Central America but the process has taken a giant leap forward.

The Arias plan has also had an irreversible impact on the policy debate in the United States. For the past 7 years, the domestic political debate in Congress has centered on the question, "Do you support aid to the Contras?"

Now, as a result of the Arias initiative, the question now on the table is whether or not you support the peace process.

The Nobel Committee, by designating President Oscar Arias the recipient of its 1987 Nobel Peace Price Award, has clearly and unequivocally answered this question.

The issue that Congress will face within the next month is whether it joins the international community in endorsing the central Americans' desire for peace as expressed in the Arias peace proposals.

A new era of independence is dawning throughout Latin America. Through the Contadora process initiated in 1983 and now in the Arias plan, our Latin neighbors have begun grappling with their own political problems, and set a middle course free from Soviet interference and independent of unilateral dictates of the United States.

Thanks to the leadership of Oscar Arias, Latin America has embarked on a rendezvous with its political future. I hope that Congress exercises the good sense to heed the call for independence now stirring in Latin America.

So I join, Mr. President, with countless others, in extending my congratulations and a hearty "Well done" to President Oscar Arias for receiving the 1987 Nobel Peace Prize.

Mr. KENNEDY. Will the Senator yield?

Mr. HARKIN. I am delighted to yield to my distinguished colleague.

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

First, let me join the distinguished Senator from Iowa in commending the Nobel Committee for selecting President Oscar Arias of Costa Rica as the recipient of the 1987 Nobel Peace Prize. In citing President Arias as a spokesman for "democratic ideals, with freedom and equality for all," the Nobel Committee selected a man of vision, determination, and courage who has worked tirelessly to promote peace and democratic values in Central America.

Since his election as President 1½ years ago, President Arias has achieved what many believed impossible—a peace plan signed by all five Central American Presidents. Despite lack of support from this administration, despite criticism that the countries of the rgion would never abide by it and despite seemingly overwhelming obstacles to a negotiated settlement of the internal and external difficulties of each of the individual countries, President Arias forged forward, explored, and quietly negotiated an extraordinary document.

On November 7, the success of the Arias plan will not be certain. Its progress will not be perfect; its weaknesses will be visible and its omissions will be criticized. But this plan is the best hope for peace in the region in many years. For 7 years we have tried the military option of this administration—which has only brought us further from our goals. The time has arrived for us to try a negotiated, peaceful, and Central American solution.

Would the Senator from Iowa agree that in the selection of Oscar Arias that the Nobel Prize is following in the proud tradition of Lech Walesa, Andrei Sakharov, Desmond Tutu, Amnesty International, Anwar Sadat, Mother Teresa, and most recently Elie Wiesel? They are extraordinary men and women of our times, extraordinary individuals who have demonstrated exemplary personal and political courage in combating the causes of violence, and of discrimination in their respective countries or regions.

Would the Senator agree with me that Oscar Arias certainly falls within that tradition and that the Nobel Committee has made a very wise choice in using its extraordinary prestige to advance the cause for peace in Central America?

Mr. HARKIN. I think the Senator has hit the nail on the head.

Yes, Oscar Arias does join that pantheon of individuals, such as Lech Walesa and Martin Luther King, individuals who have understood that peace does not just come from the barrel of a gun. As many of those who supported the Contras for so many years, and who still do, who believe that the only path to peace in Central America is through the barrel of a gun, do not recognize that there is another path the path of peace and reconciliation through mediation, through amnesty, and through healing the wounds that tore them apart in the first place.

These were the ideals that Lech Walesa, Martin Luther King, and so many others stood for. Oscar Arias stands for that tradition.

Mr. KENNEDY. Perhaps the Senator had the chance to hear Oscar Arias advancing his proposal before the Senate Foreign Relations Committee. Shortly afterward, the Senate voted overwhelmingly, 97 to 1, in favor of this plan.

Would the Senator agree with me that there are men and women not only in Central America but in other parts of the world who have a strong commitment to democratic values, democratic ideals, and democratic sensibilities as do the Members of the Congress and Americans themselves? And this extraordinary individual, Oscar Arias, has demonstrated a willingness to take a chance for peace.

I remember those words of Oscar Arias when he said, Let us try and "Give peace a chance." It might just work. No one was minimizing the complexities or the difficulties his plan faces. No one is naive about the problems of implementing that program. But would the Senator agree just with me that is a challenge we cannot ignore in this body?

Mr. HARKIN. I think the Senator is absolutely right. We cannot ignore it. The Nobel Committee has recognized just what the Senator has spoken of—the tremendous desire of so many Central Americans to seek a peaceful solution to the years and years of bloodshed and anguish that they have suffered—by rewarding the individual who is foremost in the fight for a peaceful resolution of those conflicts.

Sometime, we are going to have to discuss openly in front of the American people all of the little things that have been done to President Arias over the last year to try to thwart him, to get him to back off on his peace proposal, the economic pressures that were placed on him, the threats that were made in terms of what might happen to economic assistance to Costa Rica if in fact he pushed ahead with this proposal, the fact that when he ran for President in Costa Rica that right-wing groups in this country poured money into an opponent of his to defeat this man of peace, this man who wants to bring peace to Central America.

Fortunately the people of Costa Rica had the good sense not to listen to the propaganda on the other side, and he was elected President.

The success of the Arias proposals shows the strong desire of the Central Americans for peace. I am just greatly upset when I find that elements in this administration have been using the threats of withholding economic aid or in some way restricting the kind of economic aid that he can get for his country to pressure on Oscar Arias not to move ahead with his peace proposal. I find this bordering on the unconscionable.

The American people ought to know about this activity especially now in light of the fact that President Arias has attained a world stature for being worthy of the Nobel Peace Prize.

Mr. KENNEDY. Mr. President, I commend the Senator from Iowa for bringing the matter to the Senate. I know that he speaks, as I do, for a great number of Members of this body who have the high regard and respect for this extraordinary patriot and statesman.

I thank the Senator.

Mr. HARKIN. I thank the Senator from Massachusetts for his statements in this regard.

I yield the floor.

Mr. PELL. Mr. President, President Oscar Arias of Costa Rica deserves the congratulations of this entire body on the occasion of his being awarded the Nobel Prize for Peace in Stockholm today. This courageous and dedicated man, against the most formidible of obstacles, has forged and molded a

plan that is the best opportunity for peace that Central America has seen for years. Many of us in the Congress have strongly supported President Arias and the Central American peace plan based on his original proposal. On his recent visit to this country, I took the opportunity to personally tell him of my gratitude for his dedication to peace.

The momentum toward peace that is now taking place in Central America because of the work of President Arias is a credit to this man of deep conviction. Who would have believed that with their seemingly intransigent positions, the Government of El Salvador and the FMLN/FDR armed opposition would be holding peace talks? Who would have believed that the Government of Guatemala and the leaders of the guerrilla insurgency would be meeting for the first time in over two decades? Who would have believed that the Sandinista government in Nicaragua would be taking major steps toward national reconciliation so that Nicaraguans of all political persuasions could participate in their nation's political life? It was a dream to many of us but to President Oscar Arias it was a vision that could become a reality.

The international acclaim embodied by the Nobel Prize for Peace for President Arias is recognition by the entire world that the long-suffering people of Central America deserve the peace that this man envisioned. It is incumbent upon all peace-loving people of the world to continue their support for President Arias and to help him in the task of bringing a real and lasting peace to the region. Congratulations to President Oscar Arias and to the people of Costa Rica.

Mr. BIDEN. Mr. President, today it was announced that President Oscar Arias of Costa Rica will be the recipient of this year's Nobel Peace Prize.

I would like to extend congratulations to President Arias and to applaud the wisdom of those who selected him to be the recipient of the prestigious award.

The Arias plan is the most significant step toward peace in Central America in memory. It is an historic initiative, born of the dreams of a man who believed that the solution to the problems of his region could be found through diplomacy rather than gunfire. Such dreams are what the Nobel Peace Prize is all about.

President Arias and our other allies in Central America are painfully aware that the agreement they signed in Guatemala City with the Sandinistas is only the first step down a long and bumpy road. There is an enormous amount of work to be done in the days and weeks ahead, and it will require determination, perseverance, and above all, patience.

In honoring President Arias today, I urge my colleagues and President Reagan to honor not just the letter but the spirit of the Arias plan. This is the time for the United States to demonstrate its full commitment to a negotiated solution to the problems of Central America. We must become a positive participant in the regional peace effort—not an obstacle to its progress. In so doing, we will enter a new era in our long partnership with Central America: an era of peace, prosperity, and democracy.

The PRESIDING OFFICER. The Senator from Colorado.

THE NOMINATION OF JUDGE BORK

Mr. ARMSTRONG. Mr. President, Judge Robert Bork, who has been nominated by President Reagan to be a member of the U.S. Supreme Court, has been subjected to a bitter, personal, vindictive, savage personal attack over the last several months. Now that the Judiciary Committee has had its turn at bat and the interest groups have had their chance to express their opinion, I think it is about time that some of the rest of us who are not members of the Judiciary Committee but who have watched the proceedings before that body, and, what is worse, the campaign of political terrorism throughout the country conducted in the newspapers and on the television stations of this country, I think it is about time that some of the rest of us, who have been indirectly involved, now step forward, as the debate begins in this Chamber, to express our concern and indignation over the way that this matter has been handled.

Mr. President, from the very day that the news was announced that Judge Bork was President Reagan's choice for the Supreme Court, Mr. Bork has been the target of the most extraordinary and unfounded accusations that I can recall. Now, my experience here goes back about 15 years, and I suppose that in some decades past that there may be some historic parallel. But the better traditions of the Senate are that, in considering matters of serious import, particularly the nomination by a President of the United States to the Supreme Court, Senators and commentators in the media and interest groups have been far more restrained and far more truthful than has been the case in the Bork nomination.

I started to make the point that even before the nomination was officially before the Senate, they started unlimbering a barrage of charges which have been repeated endlessly; charges which, if true, would disqualify Judge Bork from consideration by the Senate and confirmation. But these charges are not true.

In fact, they are exactly what Washington Post Columnist Edwin Yoder wrote a couple of months ago. And I quote: "This twaddle"—and, by the way, Mr. President, that is a word that one does not often hear, but I think it accurately sums up some of the discussion about Judge Bork. But, to return to quoting Mr. Yoder: "This twaddle is what Adlai Stevenson used to call 'white collar McCarthyism.'"

Mr. President, that is exactly what it is. It is a technique which McCarthy used and others over the years have used from time to time of repeating endlessly, in variation, over and over again, in a coordinated, concerted attack, untruthful statements and telling them so often that they begin to assume a life of their own and, pretty soon, people begin to believe what they hear.

When interest groups take out ads and Senators make statements and Congressmen make statements over and over again, it is only natural that thoughtful people, whose day-to-day attention is not focused on the matter, begin to believe what is being said.

Most people, at least the ones I talk to at home, are not thinking about the Supreme Court every day. They are not thinking about the Senate every day. They are preoccupied with the more ordinary concerns of making a living and raising their families and making ends meet. And so, when they hear endlessly repeated statements of an extreme nature about a person who has been nominated for the U.S. Supreme Court, it is only natural that concerns arise.

Mr. President, it is not my purpose today to deal with all of these or to try to put the entire matter into perspective. But I want to start that process today and, over the next few days prior to the time that we come to a vote on the Bork nomination later this week or next week, I hope to comment on several aspects of it.

But the beginning of it is to say a word about the nature of the campaign, a political campaign against Judge Bork. Now, there is nothing wrong with a political campaign. Every Senator here got here as a result of a political effort.

But to politicize the selection and confirmation of members of the judiciary in the way that has been the case in this instance, I think is not only unfortunate—indeed, it may well be tragic for Judge Bork and those who are close to him, and I do not happen to be; he is an acquaintance of mine, a person whom I have admired. But there is an element of personal tragedy for him. That is not my primary concern.

My concern is when ads, such as this one which appeared in the New York Times a few days ago, start to show up around the country making charges

which are not substantiated, which are not factual, and which, in fact, are misleading and untruthful, it pollutes the process. And, indeed, even if the charges which were raised here were entirely true—and they are not; they are completely off the mark, let me say—there is a serious doubt in my mind that the public interest is well served by politicizing the process. And those are the two issues which I would like to address briefly today.

Mr. President, this particular, advertisement, which did appear in the New York Times on September 15, has a headline which says: "Robert Bork Versus the People." It goes on to make these observations, among others: "The nomination of Robert Bork for a vacant seat on the Supreme Court has caused a lot of controversy and has a lot of people worried. With good reason. Robert Bork is a Federal judge and former law school professor with extremist legal views."

Now that is brief—the ad goes on at some length—is the kind of thing which Mr. Yoder correctly called "twaddle" and which the Chicago Tribune summed up in these words, not referring to this particular article or to this particular ad, but to the general campaign against Mr. Bork which has so often emphasized this question of whether or not he is a legal extremist or whether he is in the mainstream. The Chicago Tribune wrote the following:

The American Civil Liberties Union has become the latest lobby group to condemn the nomination of Robert Bork to the Supreme Court, accusing him of being a "radical." In the words of the ACLU's executive director, "He thinks the highest right in this society is the right of local majorities to make law and to impose their morality on the rest of society."

Allowing for the gross exaggeration that has come to be the rule in attacks on Judge Bork, the ACLU's complaint is that Judge Bork has a bias in favor of democratic government. In this respect he is a radical like Thomas Jefferson.

In fact, the rhetoric of opposition is getting so extreme and misshapen that it is threatening to disfigure not only the nominee but everyone involved.

I am not going to read the entire editorial, but I do ask unanimous consent that it be printed in the RECORD.

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

THE DISFIGURED DEBATE OVER BORK

The American Civil Liberties Union has become the latest lobby to condemn the nomination of Robert Bork to the Supreme Court, accusing him of being a "radical." In the words of the ACLU's executive director, "He thinks the highest right in this society is the right of local majorities to make law and to impose their morality on the rest of society."

Allowing for the gross exaggeration that has come to be the rule in attacks on Judge Bork, the ACLU's complaint is that Judge Bork has a bias in favor of democratic government. In this respect he is a radical like Thomas Jefferson.

In fact, the rhetoric of opposition is getting so extreme and misshapen that it is threatening to disfigure not only the nominee but everyone involved.

Judge Bork has been accused in the New York Review of Books of being a "constitutional radical who rejects a requirement of the rule of law that all sides * * * had previously accepted" because he regards "central parts of settled constitutional doctrine mistakes now open to repeal." This charge of radicalism is a repeating refrain among his opponents. But if the willingness to reverse mistaken court decisions is radicalism, then so was the first school desegregation case, because it overturned a decision that had sanctioned the racist Jim Crow system.

Beyond trying to make Judge Bork out to be a radical, the critics cannot seem to agree on exactly what is so bad about him. In a letter to the editor in the New York Times, for example, Yale Law School professor accused Judge Bork of "a dogmatic commitment to a comprehensive or general theory . . ." Apparently he had not read the New York Review of Books, which attacked Judge Bork for not having a theory. Or the New Yorker, which derided Judge Bork for being "concerned less with theory than with results."

Judge Bork has been accused by pro-abortion advocates of favoring "compulsory pregnancy." Meanwhile, in the New Republic, Renata Adler insisted that the consequence of his position would permit laws that "impose abortions—on welfare mothers, say, or on single mothers . . ." And the New Yorker went one step further by shrieking that Judge Bork's jurisprudence could countenance a law "requiring everyone of every race to be blond. And nothing—perhaps this is more serious—[would] prevent the State from enforcing a majoritarian preference that all single mothers should be sterilized. Or all women with an I.Q. below 130. Or all mothers under eighteen.

The folks who are writing these wildly overblown things show absolutely no shame. After smearing Judge Bork in wildly inflated terms, they are perfectly capable of turning around, as the New Republic article did, and accusing him of a "relentless habit of extreme overstatement."

And sometimes the case against Judge Bork seems to be a game of "heads I win, tails you lose."

In the New Republic, for example, Judge Bork was accused of arguing in favor of greater 1st Amendment protection in a particular libel suit because he was engaged in a "lobbying effort, through his judicial opinions, for a position on the Court." The charge had a familiar ring. Justice Antonin Scalia, who participated in that same case in the U.S. Court of Appeals, was accused of precisely the same offense. Except he came out exactly opposite from Judge Bork, arguing against more 1st Amendment protection.

University of Chicago law professor Philip Kurland, in an article on the Tribune's oped page, went so far as to include in his list of horrible things Judge Bork has argued over the years several positions that Prof. Kurland himself has shared (including one position Prof. Kurland presented to the Supreme Court). Prof. Kurland apparently won't take yes for an answer, at least when it comes from Judge Bork.

By now Judge Bork must be wondering who this person is that everyone is so upset about, because the grotesque caricatures bear so little resemblance to his real record.

Lloyd Cutler, who served as President Carter's White House counsel and who supports the nomination, got closer to the reality in a piece he wrote for the National Law Journal. Mr. Cutler estimates that on the U.S. Court of Appeals, Judge Bork voted with his liberal colleagues 75 percent of the time. In 10 discrimination cases in which the scope of individual rights was at issue, Mr. Cutler found that he voted in favor of the victim of discrimination seven times. And in two of the three cases in which he voted against the plaintiff, his position was upheld by the Supreme Court. In fact, of 11 cases in which Judge Bork voted with the majority that have been accepted by the Supreme Court for review, not a single one has been reversed. Some wild-eyed radical.

This is not the first time a struggle over confirmation of a judge has sunk to an ugly level. U.S. Court of Appeals Judge Abner Mikva had a hard time with conservatives when he was nominated by President Carter. During that fight, the liberals had the better position. Sen. Kennedy said, "The question is whether [the nominee] is willing and able to interpret the law as we and those before us have written it. The answer does not turn on politics; it turns on ability, sensitivity, and perhaps most importantly, integrity." And Sen. Joseph Biden, the Senate Judiciary Committee chairman, said, "The real issue with a judicial nominee is whether he is capable of objectively reviewing questions of law and fact. He must be able to put aside personal prejudice he might have on matters before him . . . To apply any other standard would be to disquality from the judiciary virtually any public person who has been willing to take positions on judicial issues."

They were right, of course. Judge Mikva deserved to be confirmed because he is smart, thoughtful, skillful in the law, intellectually honest and in the mainstream of legal thinking. If Paul Simon someday becomes president, and nominates his old friend Judge Mikva to be a justice, he will deserve confirmation again, even if it happens to change the balance on the Supreme Court.

The same is true of Robert Bork and for the same reasons. The campaign to smear him has become, quite simply, a disgrace.

Mr. ARMSTRONG. But I would like to call the attention of my colleagues to the way the Chicago Tribune sums up.

The campaign to smear him has become, quite simply, a disgrace.

I believe that is true. I believe that when over and over again the public is told in various ways things which are simply unsupported, which are unfair characterizations, which are not backed up by facts, that it does disfigure the process and dishonor the confirmation process in this body.

Mr. President, I think that our colleague from Utah, Senator HATCH, did a great service when he came before the Senate recently to comment on the newspaper ad which I mentioned a moment ago, "Bork Versus the People." He put into the RECORD—and I am not going to recap it—but he did put into the RECORD no less than 67 specific points on which this full page

ad was off the mark, either drawing unfair conclusions or stating facts which were unsubstantiated in some way.

The extremist issue is one which Senator HATCH correctly took issue with. I would like to quote briefly our colleague's observations about that, because he nailed it down tight. He said: "Those calling him"—meaning Judge Bork—"an extremist would not know a judicial mainstream from a judicial jetstream."

Now, in fact, people like Justice Warren Burger have explicitly declared that Judge Bork is in the mainstream. The distinguished jurist from our own State, Byron White, who has served so long and with such great distinction on the Supreme Court in one way or another has said more or less the same thing.

But the fact of the matter is that you do not have to take anybody's opinion—not ORRIN HATCH'S not Warren Burger's, not BILL ARMSTRONG'S, not anybody's opinion on the matter. The facts speak for themselves.

Judge Bork has been serving as a member of the Circuit Court of Appeals, one of the most important courts of this land. He was confirmed for that post by the U.S. Senate on a unanimous vote. During the years he has been on that court, he has established a record which any citizen can look to and evaluate and make a determination of whether or not he is a crazy judge, whether he is an extreme judge, whether he is a person that has veered off into the hinterlands and swamps and marshes of judicial thought, or whether or not he is, as Justice Burger said, in the mainstream.

Well, in 5 years on the bench, Judge Bork has joined in 95 majority opinions written by his colleagues. Not one of them has, to date, ever been reversed by the U.S. Supreme Court.

He has been, while a member of the Circuit Court, in the majority in 94 percent of the cases that he has heard. A fair-minded person might well ask, what about the other 6 percent? What about the times when he was not in the majority?

Well, in fact, in a number of cases, Judge Bork has dissented.

The PRESIDING OFFICER. The Senator's 10 minutes have elapsed.

Mr. ARMSTRONG. Mr. President, I would ask unanimous consent to proceed for an additional 5 minutes.

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

Mr. ARMSTRONG. I thank the Chair and I thank my colleagues.

To return to the discussion of the times when he has not been in the majority, in 5 years on the bench, Judge Bork has dissented 25 times, in 25 cases. He has written the dissent in 9 instances and in 7 cases, the partial dissents.

It is instructive to realize that the Supreme Court has granted certiorari and has overruled the majority on the circuit court, siding with Judge Bork, in six of the nine cases.

This hardly describes a judge who is out of the mainstream. And yet day after day there is this drumbeat of criticism implying—and not just implying but in fact stating, in the strongest, indeed in the most exaggerated terms—that Judge Bork is some kind of a legal extremist.

Mr. President, the record shows that he is nothing of the kind. The fear merchants scurry around the country, trying to portray him in those terms and for the time being they may convince a majority of the people of this country. It may be that they will delude some newspaper writers to think that they are correct. And it is possible that they may, even, convince a majority of U.S. Senators that Judge Bork is an extremist.

I do not think that history will make that conclusion because the facts do not bear that out and in a time of less passion, after the newspaper ads and the television commercials have long been forgotten, I think historians, legal scholars will look back and recognize Judge Bork, not as an extremist, indeed as an eminent jurist.

The other matter I wanted to address today in connection with the Bork nomination is this. Even if these charges were truthful instead of spiteful and untruthful, there is a real question in my mind about the process and what we are doing to it when we subject a nominee to this kind of a political test.

I want to say this very clearly. I believe that the majority ought to rule. I think in this country that when there is a majority, the majority is entitled to have its way. In this Chamber, in the other body, in the country at large.

I believe that while the general public will make some mistakes, in the long run, if we do not put our faith in the people, there is no other dependable place where we may repose our trust for the decisions and for the future of this country. But I do not believe, any more than did the founders of this country, that it is wise to simply submit every question and every issue to a popular vote or to a popular referendum; and that there ought to be, as one of the founders said, a time for cooling off.

There are distinct functions of government and it is a unique feature of American Government that we expect the Congress of the United States, particularly the House of Representatives and to a lesser extent the Senate, to be the expression of the popular will at any particular time.

Every 2 years we elect a new U.S. House of Representatives so every 2 years the public could dismiss all or any proportion of the Members of the lower House. In each biennium, one-third of the Members of the Senate are up, so once again the public has a chance to express its opinion. Of course supremely above every thing else, the President of the United States is the embodiment of the popular will because he is the person who is elected by all the people in the country and the only one who is in fact so elected.

I think that is good and we expect both the executive and legislative branch to reflect, if not to mirror at least in broad terms to reflect, the popular sentiment on issues of the day.

The judicial branch has quite a different function. It is, in part, the function of the judiciary to protect the persons and the causes which are not at any moment popular; which do not have a majority. So, to the extent that we subject judicial nominees, whether they are for the Supreme Court, District Court, Circuit Court of Appeals or whatever it is, to a political test, we run the risk of undermining and eroding the very function which is at the heart and soul of the judicial process.

If every judge has to prove himself before the bar of public opinion; has to take a stand on every controversial issue that may come up before his court; the risk is, the danger—and I do want to say this cautiously because in the final analysis the people have their way and are entitled to have their way—but if on every judicial appointment that comes along we face the prospect of a test of popular will and referendum on that person's views, then we do undermine one of the distinct and unique and precious functions of the judiciary. That function is to interpret the Constitution, which is our compact with the past, with those who preceded us and who have a stake, an investment in the decisions made by every court in this land.

We interfere with that contract with the past, just as we do with the contract of those who are our successors, who are the future.

Mr. President, I do not want to overemphasize this theme, though I will come back to it, perhaps, when I have an opportunity to speak again on this matter. But if the political tests applied to Robert Bork were entirely above board, entirely fair, couched in the most dispassionate of political rhetoric, I, for one, would have some reservations about whether it was really appropriate in this case. Because I do not want to put all the Federal judges who come through this body for confirmation through that political test. That is not what the

framers of the Constitution had in mind. It is not consistent with the better traditions of this body.

I would have some doubt and reservations if that were the case. But if the rhetoric is florid, unfair, spiteful, when it is what somebody has called, as I mentioned earlier, white-collar McCarthyism, the big lie technique, then I think it is not only a tragedy for Judge Bork, not merely how the vote turns out, it is a tragedy for the country.

When we begin the formal consideration of this nomination, we are going to render a verdict on Judge Bork. But by the way we handle this matter, by the precedents which we set and by the traditions which we honor, we shall call into question our own competence and our own honor. The people of this country and history will render a verdict on us as well.

Mr. President, I yield the floor.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. ARMSTRONG, if the following numbers on the Executive Calendar have been cleared on that side of the aisle. Calendar No. 355 through 363?

Mr. ARMSTRONG. Mr. President, if the distinguished leader will yield, in fact these have been cleared on our side and we are ready to go forward.

Mr. BYRD. Mr. President, I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the Calendar Orders No. 355 through 363; that they be considered en bloc, confirmed en bloc, the motion to reconsider en bloc be laid on the table, the President be immediately notified of the confirmation of the nominees and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL SCIENCE FOUNDATION

Frederick Phillips Brooks, Jr., of North Carolina, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1992.

NATIONAL ADVISORY COUNCIL ON EDUCATION RESEARCH & IMPROVEMENT

Noreen C. Thomas, of Washington, to be a member of the National Advisory Council on Education Research and Improvement for a term expiring September 30, 1988.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Moneesa L. Hart, of Virginia, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1990.

Judith D. Moss, of Ohio, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1990.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

Lt. Gen. William W. Quinn, U.S. Army, retired, of the District of Columbia, to be a member of the board of trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of 6 years.

Dean Burch, of Maryland, to be a member of the board of trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of 6 years.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jerald Conway Newman, of New York, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Aram Bakshian, Jr., of the District of Columbia, to be a member of the National Council on the Humanities for a term expiring January 26, 1992.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Joy Cherian, of Maryland, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1988.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2782.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 2782) to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes.

(The amendment of the House is printed in the RECORD of October 8, 1987 beginning at page 26967.

Mr. HOLLINGS. Mr. President, after several months of negotiations with the House, I am pleased to present H.R. 2782, the fiscal year 1988 NASA authorization bill.

Mr. President, I am not going to try to fool anybody. H.R. 2782 is not a panacea; it does not solve the budgetary and policy problems of the National Aeronautics and Space Administration or the Civil Space Program. Compared to the needs of NASA, the authorization of $9,573.8 million is modest. But it is the best that we can do in a period of fiscal constraint—and that has me worried.

In March of this year, the Congressional Budget Office released a staff working paper entitled, "The FY 1988 Budget and the Future of the NASA Program." Let me quote from that report:

Expectations for civil space activities exceed the budget allotted to the current program of the National Aeronautics and Space Administration [NASA]. In considering the NASA budget for fiscal year 1988, the Congress will have to decide how much of the present NASA program can be afforded as it competes with other important spending priorities and as it starts to recover from the Challenger accident and its consequences.

The most immediate consequence has been to increase the cost of all space activity at the very time that NASA was turning to its next major program and budget commitment, a permanently manned space station to be deployed in the mid 1990's. No less significant, but less direct, is a reexamination of major aspects of the currently planned program, including the role of the manned space shuttle versus unmanned rockets, the usefulness of the present space station in relation to large increases in its estimated costs, the role and cost of large space science projects, and their effect on the viability of small, less costly space science projects. In order to continue NASA's agenda at its preaccident level, this analysis estimated that the cost of program additions in space transportation, space science, and the space station would increase the NASA budget by $14.0 billion above the Congressional Budget Office [CBO] baseline for the fiscal years 1988 through 1992.

Mr. President, as somebody recently said, "we have been trying to put 10 pounds of potatoes into a 5-pound bag for too long." The CBO study clearly manifests this syndrome and the fact that our civil space program expectations exceed our available resources. So impressive was this analysis that the Senate Commerce Committee has asked CBO to do a more comprehensive analysis of NASA's future budget requirements and to cost out the long-term goals and objectives of the Paine and Ride reports.

The reason I highlight this CBO report is to put into perspective the budget dilemma that confronts the committees of jurisdiction and the Congress with regard to the civil space program. If the Congress wants a civil space program, it must be willing to provide the necessary resources. To paraphrase the finding of the "Seaman's Committee on the Space Station Report," you cannot develop the civil space program on the cheap.

In light of these realities, H.R. 2782 provides $9,573.8 million for NASA in fiscal year 1988. This is $93.8 million above the President's fiscal year 1988 budget request that did not provide any funding for ELV's or critical wind tunnel rehabilitation and contained inadequate funding for anomaly resolution activities. The latter issue was re-

solved in the fiscal year 1987 supplemental appropriations, and it is our intent in this bill to propose a partial remedy for the other deficiencies. We have included $41 million to initiate rehabilitation of the 12-foot wind tunnel at the NASA Ames Research Center and $60 million for the procurement of expendable launch vehicles and commercial launch services. These are small steps toward restoration of our space program to its former preeminence, but they are important steps in the right direction.

In addition to these increases, there are a series of pluses and minuses to other programs to stay within the regime of an acceptable budget. Some programs, such as the orbiting maneuvering vehicle, the tracking data and relay system, space shuttle structural spares, space station facilities, and the civilian space technology initiative, were reduced because of more pressing concerns or other actions that reduced the fiscal year 1988 budget requirements. Even the research and program management account was reduced by $15 million. In the case of R&PM, the members assumed that any reduction in this account could be offset by savings due to the implementation of the Federal employment retirement system.

Other space science and applications programs, such as the Mars Observer Program, the Explorer Program, the suborbital and solid Earth observations programs, materials processing in space, the aeronautics research and technology, and the advanced communications technology satellite, were increased in H.R. 2782. These increases reflect the committees' strong support of space science and applications and a balanced civil space program.

Mr. President, the final budget recommendations proposed in H.R. 2782 are modest when compared to the requirements of NASA. But they are adequate for the tasks proposed in fiscal year 1988. The problem is they are inadequate for the tasks proposed in fiscal year 1989–92. I want each member to understand clearly that we are at a critical juncture—we can either make the necessary commitment and maintain our leadership in space or we can watch the mantle of leadership shift to the Soviet Union, the European Space Agency, Japan, or China.

As for the policy content of this bill, I would like to focus on one issue, an issue that literally consumed the members of the two committees. That issue is the Advanced Solid Rocket Motor Program.

Mr. President, last year language was included in the fiscal year 1987 NASA authorization bill that instructed the administrator of NASA to first, issue a request for proposal for a second source for a redesigned motor, or second, issue a request for proposal for an upgraded motor. The instruction stated that the "administration should issue such a request upon completion of the solid rocket motor redesign and the upgraded motor evaluation efforts, and the determination of a safe and reasonable flight rate, but before signing or extending any production contract for solid rocket motors beyond those currently under contract."

A lot has happened since last year when that language was drafted and the bill was vetoed, and I am pleased with what has happened as regards the advanced solid rocket motor.

First, in March of this year, NASA submitted the "space shuttle solid rocket motor: proposed acquisition strategy and plan." So important are the findings of this report that I would like to quote directly from that plan:

NASA has assessed the Space Shuttle Solid Rocket Motor [SRM] program to develop a procurement strategy and planning for the future. This assessment evaluated various SRM design concepts including the monolithic propellant grain designs and variations of the current four segment design. Study contracts were initiated with the five major solid rocket motor contractors for design and program planning support. The output of these studies were assessed by a NASA technical team and the results used in the preparation of the acquisition strategy and plan. A variety of options for SRM procurement were developed and evaluated. Each option's advantages, disadvantages, resource requirements, and projected schedules were considered. The principle objectives for these options were to: improve SRM reliability, increase procurement competition, and improve shuttle performance. Secondary objectives included cost effectiveness and implementation schedules. The viable options are:

Option I.—Competition of Redesigned SRM;

Option II.—Continued Single Source Procurement of the Redesigned SRM;

Option III.—Competition of Advanced (Upgraded) SRM.

After careful consideration of each Option, NASA concludes that Option III best satisfies the agency's objectives. This option provides:

Improved reliability and flight safety;

Improved flight performance;

Procurement competition;

Development of a modern, high technology, automated SRM facility to improve quality control, minimize hazards and reduce labor costs.

NASA is prepared to proceed with program implementation of a Phase B engineering effort in fiscal years 1987 and 1988 using funds available within agency resources which will provide the necessary information for the fiscal year 1989 budget process, leading to a potential decision to proceed with a development and production program.

As a proponent of an advanced solid rocket motor, especially a monolithic motor, I was most pleased with the findings of this report and with NASA's willingness to expedite implementation by using existing funds.

Second, two independent groups evaluating aspects of the civil space program also strongly endorsed the advanced solid rocket program. These were the National Research Council's Panel for the Technical Evaluation of the Redesign of the Space Shuttle Solid Rocket Motor and the National Research Council's Committee on the Space Station.

Let me quote from the most recent of these reports, "Report of the Committee on Space Station," issued on September 14, 1987:

The Committee strongly supports NASA's plans to develop an Advanced Solid Rocket Motor.

An improved motor is the preferred way to enhance the space transportation system at this time.

Advanced solid rocket motors with improved performance and reliability should be developed for the shuttle.

So strong is the Committee on Space Station's support of the ASRM that during the congressional briefing it was noted that if budget constraints restrict initiation of an ASRM, it would be more prudent to slip space station in order to have the necessary funding to proceed with ASRM. In the opinion of this NRC committee, ASRM should be available for the deployment of the space station.

Third, during the first week of August 1987, NASA issued five contracts for a phase B engineering effort for an advanced solid rocket motor. These contracts represent a 9-month program and went to each of the major solid rocket motor manufacturers.

Finally, since this year's fiscal year 1988 bill was drafted, NASA has submitted its fiscal year 1989 budget request to OMB. This request includes funding for an ASRM program. If this program is approved by OMB, the RFP for an ASRM program could be issued next year prior to signing or extending any contract with the existing manufacturer of the redesigned solid rocket motor. I should indicate that both the fiscal year 1987 NASA authorization bill and the fiscal year 1988 NASA authorization bill before the Senate today prohibit the administrator of NASA from signing or extending any contract for the purchase of additional solid rocket motors until an RFP for an advanced solid rocket motor has been issued.

Mr. President, in the course of the last year, the ASRM program has gained the support of the NASA hierarchy, the NASA Offices of Space Flight and Space Station, the National Academy of Sciences and the U.S. Senate. However, it took many hours of discussion with the House before they committed to this program; and even then, it required the inclusion of some language concerning the second sourcing of the proposed redesigned motor. The discussions were tough—at

times acrimonious. But I think we have made the right decision, and I am optimistic that OMB will give NASA the authority to aggressively pursue the ASRM program, bescause the ASRM program is in the best interest of the Nation and in the best interest of the space program.

Mr. President, the formulation of H.R. 2782 has been a long and arduous process. Sometimes shortcuts are not the most direct route to completion of a bill. Whatever, I strongly endorse H.R. 2782 and ask for my colleagues to support this measure.

I also am pleased to say that the final bill has been crafted in such a manner as to bypass any threat of a veto. With the support of the Senate, there will be a fiscal year 1988 NASA authorization bill.

Mr. RIEGLE. Mr. President, the Senate has before it H.R. 2782, the fiscal year 1988 NASA authorization bill. After several months of discussion, the Senate reached a consensus with the House of Representatives on further amendments to the Senate-passed provisions of this bill.

H.R. 2782 would authorize $9,573.8 million for the Nation's civilian space and aeronautics activities and will provide the necessary budget and policy framework to conduct NASA's programs in fiscal year 1988. The amount authorized is slightly above the President's original recommendation. The increase is required to accommodate two additional fiscal year 1988 requirements that surfaced after the submission of the fiscal year 1988 budget submission—the acquisition of expendable launch vehicles and the rehabilitation of the 12-foot wind tunnel at the NASA Ames Research Center.

Perhaps the most significant element of the bill is the $767 million that is authorized for the space station. This is the full request of the administration. By authorizing this amount, the Congress is stating its conviction that the space station is a national priority, critical to the U.S. leadership in space, and must be constructed. At the same time, the Congress will be telling the American people and our international partners that we will honor our duty and obligation to remain in space on a permanent basis, and it will be providing tangible proof to other nations that we will honor the commitments that we have made to build a space station.

There has been considerable discussion in recent weeks concerning the overall cost, design, schedule and purpose of the space station. Indeed, there are some who are saying that the United States does not need a space station, that it will be too expensive, and that no purposes for the space station can be identified. I believe that the entire future of America's civil space program rests squarely upon a permanently manned facility in low Earth orbit. Other nations have already made a commitment to remain in space permanently, the Soviet Union has its third generation space station circling the Earth, the Japanese are aggressively pursuing space development on all fronts, and the Europeans, who are partners in the space station with the United States, have made it very clear that they will continue to explore and exploit space for scientific and commercial purposes.

During the last year and a half, the members of the House Science, Space and Technology and the Senate Commerce Committees have assessed the issues of whether the United States should develop a space station and what that space station configuration should look like. They also have addressed the related issue of whether the United States should take the necessary steps to guarantee its place in space or descope its role in this arena after pioneering all exploration and development for a quarter of a century. Having made their assessments, the committees reflect their findings with a strong endorsement of the space station program in the fiscal year 1988 NASA authorization bill. The committees feel this Nation is capable of undertaking such a bold endeavor—both technically and economically. The only thing required in making the space station program a reality is a commitment, and we have tried to reflect that ingredient in this bill.

I also am pleased to note that the Senate's language concerning space station uses has been included in the final bill, and the Senate's interpretation of this language has been accepted too.

In addition to the space station initiative, there are a number of other important initiatives that have been made in the fiscal year 1988 NASA authorization bill to strengthen and to enhance the space program. Among them are:

First. An authorization to begin the purchase of expendable launch vehicles and services. This will enable NASA to diversify its launch capabilities, insure access to space, and be a step closer toward the mixed fleet concept that is critical to NASA's future.

Second. The bill provides additional funds for the Mars Observer Program in order to guarantee its launch in 1992 and to provide for adequate planetary spares. This mission is key to the restoration of our interplanetary sciences effort, which has been dormant since the last mission in 1978. Never again should there be a 10-year gap in our planetary sciences programs.

Third. The Advanced Communications Technology Satellite [ACTS] Program is restored in H.R. 2782. This program has been eliminated by the administration the last 3 consecutive years but revived by the Congress. ACTS represents the next generation in communications satellites; and without an aggressive research and development program by NASA in this area, the United States could lose its competitive position in this vital technology to foreign competitors. The committee strongly supports this cooperative applied research program and feels it represents the fruits of industry/government cooperation.

Fourth. The legislation provides NASA with the means to begin long-range research and technology initiatives to meet the needs of the space program in the next few decades. $234 million is provided for the Civilian Space Technology Initiative that was initiated in fiscal 1988 in direct response to the recommendations of the Paine Commission and the urging of the Senate Commerce Committee. NASA must begin today the planning and development work on new propulsion systems, the next generation of Earth-to-orbit vehicles, new processing and production systems, and improved automation and robotic capabilities that will be necessary in the future to sustain and expand our presence in space.

The CSTI Program is the first step in preparing the civil space program for the challenges of the future and represents the most significant R&T effort in NASA since the Apollo Program.

Fifth. Funds are provided to begin the rehabilitation of the 12-foot wind tunnel at the Ames Research Facility in California. This wind tunnel is critical to the design and development of new aircraft technologies, both civil and military. This wind tunnel has suffered major structural cracks which require a complete rehabilitation. Without this work, the tunnel cannot meet the needs of the aircraft industry. In addition, the committee found that NASA's entire facilities inventory is in desperate need of repair and modernization and has ordered that a complete survey of needs and projected costs be prepared.

In the eyes of the committee, the situation at the Ames Research Center warrants serious attention. The NASA wind tunnels are critical to the continued dominance of world markets by U.S. aerospace contractors, and the United States must be willing to make the necessary investment in this infrastructure to retain this lead and our favorable balance of trade.

Sixth. The bill initiates the National Space Grant College and Fellowship Program. In my view, NASA and the Federal Government are not doing enough to train scientists and engineers and to attract top technical talent to its workforce. One method of creating and maintaining a pool of available professionals is through the support of graduate fellows around

the Nation. During the Apollo Program, for example, NASA supported an average of 800 fellows annually, most of whom joined NASA and contributed to the early successes of the space program.

NASA is currently supporting an average of 50 graduate fellows annually, which is insufficient to meet the needs of either the current or the future space program. To address this concern, $10 million is authorized for the National Space Grant College and Fellowship Program which will support, in cooperation with private organizations, graduate fellows in universities throughout the United States.

The Space Grant College and Fellowship Program also encourages the creation of interdisciplinary and multidisciplinary programs of space research within the university community and promotes the development of space grant colleges and regional consortia.

This initiative is the creation of Senator BENTSEN, and I think he should be complimented for his work in getting this provision into a form that makes it acceptable to NASA and the administration.

Seventh. The legislation states forcefully the position of the Congress with regard to an Advanced Solid Rocket Motor [ASRM]. NASA has indicated its intentions to pursue this program, which will lead to a more reliable and more capable solid rocket motor, and the committee strongly endorses capable solid rocket motors, and the committees strongly endorse this initiative. The space shuttle will be an integral part of the space transportation system throughout the next decade. In order to exploit fully the capabilities of the shuttle and to meet the needs of the Space Station Program, an advanced solid rocket motor will be necessary. This legislation will give NASA that opportunity, and we are hopeful that this program will begin shortly.

I am pleased to note that the ASRM Program and its goals have been strongly endorsed by both the Stever's and Seaman's Panels of the National Research Council of the National Academy of Sciences.

So, Mr. President, I believe that we have produced a bill that does meet NASA's current needs; and under the policies of this legislation, NASA can continue its recovery efforts, move toward more balance in the civil space program, and begin to look ahead to future space activities. But this is not to say that the authorization bill addresses all of the current difficulties that are seen in the space program. Some of those difficulties are related to the budgetary confines under which we all labor. Other difficulties are more deeply rooted and arise from the lack of policy direction and coherent space strategy that is evident in the government today.

The Senate previously agreed to a provision in the Senate-passed authorization bill that would have re-created the National Space Council under the direction of the Vice President. This organization functioned effectively during the era of the Apollo Program and would provide an appropriate forum today for a national space policy to be formulated.

Last year, the NASA authorization bill was vetoed by the President because the National Space Council provision was included. We received the same message from the President with respect to inclusion of this provision in the fiscal year 1988 NASA authorization bill, H.R. 2782. We reluctantly agreed with the House to remove the council provision in order to ensure that a NASA authorization bill would be enacted into law this year. We continue to feel, however, that the council, or some similar mechanism is needed to bring together all facets of the national space program—defense, civil, and commercial—and to create a national strategy for the continued exploration and use of space. National resources are far too precious to permit duplication of effort or inefficient allocation of efforts. I will continue to pursue the council idea and hope that we will be able to create a better space policymaking mechanism with the support and cooperation of the White House.

Mr. President, the U.S. space program is approaching a major crossroads in its history. The *Challenger* accident has caused a major reassessment of the structure of the current program to occur as well as beginning a debate on the overall future of the program. We must, as a nation, commit ourselves to a program with realistic and attainable goals. I do not believe that the United States can continue to conduct a space program without a coherent strategy and without clearly defined goals. To protect our technological leadership in space, to ensure the exploitation of commercial benefits from space, and to guarantee a sustained program of exploration and space science, we must formulate a coherent strategy that is strongly supported by the American public.

I believe that this bill will provide an important first step toward that strategy, but it is only a first step, and we must redouble our efforts in the coming year to craft the policies and begin the technological development that will ensure our place in space for the future.

Mr. President, I would be remiss if I did not briefly highlight for the Members of the Senate some of the other provisions included in the fiscal year 1988 NASA authorization bill and provide an outline of the budget discussions.

Besides the fiscal year 1988 NASA authorization, H.R. 2782 contains the fiscal year 1988 authorization for the Department of Transportation Office of Commercial Space Transportation. $4.5 million is included in H.R. 2782 for this office which is responsible for the licensing and regulation of the commercial, expendable launch vehicle industry.

The bill also includes language that would permit NASA to accept donations toward the construction of a new orbiter. In the aftermath of the *Challenger* disaster, NASA received many donations from a variety of sources toward the construction of a new orbiter. However, NASA is currently prohibited from accepting donations for such a specific purpose. This language would permit NASA to put those donations to good use.

In addition, the bill includes technical amendments to the Land Remote Sensing Commercialization Act of 1984 that are intended to clarify the intent of the Congress with regard to the sale and use of experimental data and the reproduction of data.

As for the proposed fiscal year 1988 NASA budget, the proposed bill authorizes $9,573.8 million for NASA in fiscal year 1988. This is $47 million less than the Senate-passed bill and $52 million more than the House-passed bill. Compared to the President's request of $9,481.0 million, the bill is a modest $93 million higher. However, as indicated above, this increase reflects the cost of two later requirements that were not included in the President's budget submission but have been authorized in H.R. 2782—$60 million to initiate a NASA ELV program and $41 million to initiate the rehabilitation of the NASA Ames Research Center 12-foot wind tunnel.

Mr. President, at this point, I would like to request unanimous consent to place two tables in the RECORD. The first table compares the House and Senate bills, and the second table compares the final bill to the President's fiscal year 1988 budget request.

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

NASA BUDGET SPREAD SHEET FOR FISCAL YEAR 1988

[In millions of dollars]

	Fiscal year—				
	1987 operating plan	1988 request	1988 Senate authorization	1988 House authorization	Final compromise
I. Research and Development	(3,120.7)	(3,623.2)	(3,721.0)	(3,697.0)	(3,719.0)
1. Space Station	420.0	767.0	767.0	767.0	767.0
2. Space transportation capability development	491.1	568.6	592.6	538.6	553.6
Spacelab	(73.9)	(73.5)			
Upper stages	(156.1)	(159.7)	(181.7)		(159.7)
Engineering and tech. base	(133.4)	(139.8)			
Payload ops and sup. equip	(44.5)	(83.4)	(85.4)	(73.4)	(73.4)
Advanced programs	(27.6)	(24.9)			
Tethered satellite system	(10.6)	(7.3)			
Orbital maneuvering vehicle	(45.0)	(80.0)		(60.0)	(75.0)
3. Space Science	983.4	949.0	973.7		976.7
A. Physics and astronomy	(552.8)	(567.1)	(591.8)	(577.1)	(581.8)
Hubble space telescope dev	101.3	98.4			
Gamma ray observatory dev	50.5	49.1			
Shuttle/Spacelab payload dev	90.1	95.4			
Explorer development	56.7	60.3	80.3	70.3	70.3
Mission operation and data analysis	125.7	128.1			
Research and analysis	53.4	60.1			
Suborbital program	75.1	75.7	80.4		80.4
B. Life Sciences	(72.2)	(74.6)	(74.6)	(74.6)	(74.6)
C. Planetary exploration	(358.4)	(307.3)	(307.3)	(342.2)	(320.3)
Galileo development	71.2	55.3			
Magellan	97.3	59.6			
Ulysses	10.3	10.8			
Mars observer	35.8	29.3		64.3	42.3
Mission ops and data analysis	75.8	77.0			
Research and analysis	68.0	75.3			
4. Space applications	569.2	559.3	651.4	604.3	651.4
A. Solid Earth observations	(75.6)	(76.8)	(80.8)	(76.8)	(80.8)
Shuttle/spacelab payloads	21.6	21.1			
Geodynamics	32.1	33.1			
Research and analysis	21.9	22.6	26.6		26.6
B. Environmental observations	(320.9)	(393.8)	(393.8)	(393.8)	(393.8)
Applied research data analysis and related activities	142.8	141.3			
Shuttle/spacelab payload development	12.0	19.4			
Scatterometer	32.9	22.7			
Upper Atmos. Res. Satellite (UARS)	114.2	95.4			
Ocean Topography Experiment (TOPEX)	19.0	90.0			
Global Geospace Science	0	25.0			
C. Materials Processing in Space	(47.9)	(45.9)	(50.0)	(45.9)	(50.0)
D. Communications	(103.5)	(20.5)	(104.5)	(65.5)	(104.5)
E. Information Systems	(21.3)	(22.3)	(22.3)	(22.3)	(22.3)
5. Commercial programs	40.9	54.0	49.0	49.0	49.0
Technology utilization	(15.7)	(18.3)	(18.3)	(18.3)	(18.3)
Commercial use of space	(25.2)	(35.7)	(30.7)	(30.7)	(30.7)
6. Aeronautical Research and Technology	374.0	375.0	375.0	399.0	387.0
Research and technology base		(285.2)		(305.2)	(295.2)
Systems technology programs		(89.8)		(93.8)	(91.8)
Rotorcraft systems technology		5.0			
High-perf. aircraft systems technology		14.6		16.6	
Advanced prop. systems technology		30.5		32.5	
Numerical aerodynamic simulation		39.7			
7. Transatmospheric research and technology	45.0	66.0	66.0	66.0	66.0
8. Space research and technology	168.0	250.0	212.0	250.0	234.0
9. Safety reliability and quality assurance	12.0	16.2	16.2	16.2	16.2
10. Tracking and data advanced systems	17.1	18.1	18.1	13.1	18.1
II. Space flight control and data communications	(5,799.5)	(4,064.3)	(4,081.3)	(3,974.0)	(4,045.3)
1. Space shuttle productions/operations capability	1,005.1	1,229.6	1,150.6	1,174.6	1,174.6
Orbiter operational capability		(403.2)	(324.2)	(348.2)	(348.2)
Launch and mission support		(249.3)			
Propulsion systems		(552.1)			
Changes and systems upgrading		(25.0)			
2. Replacement orbiter	2,100.0				
3. Space transportation operations	1,847.0	1,885.8	1,885.8	1,885.8	1,885.8
Flight operations	(557.7)	(561.1)			
Flight hardware	(936.0)	(923.1)			
Launch and landing operations	(353.3)	(401.6)			
4. Space tracking and data acquisition	845.4	948.9	944.9	913.9	924.9
Space network		(481.5)		(446.5)	(461.5)
Ground network		(257.1)			
Communications and data systems		(210.3)			
5. Expendable launch vehicle operations	2.0	0	100.0	60.0	60.0
III. Construction of facilities	(166.3)	(195.5)	(210.7	(185.5)	(216.4)
IV. Research and program management	(1,460.5)	(1,598.0)	(1,608.0)	(1,605.0)	[1] (1,593.0)
Total NASA	1,054.7	9,481.0	9,621.0	9,522.0	[2] 9,573.8

[1] Includes $10,000,000 for the Space Grant College and Fellowship Program.
[2] Assumes that an additional $44,000,000 will be available in fiscal year 1988—$22,000,000 for Upper Stages and $22,000,000 for the Mars Observer Mission—from unobligated fiscal year 1987 funds.

Compromise Bill Compared to President's Budget Request

[Dollars in millions]

Orbiting maneuvering vehicle	−5.0
Payload development	−10.0
Upper stages	[1]
Explorer program	+10.0
Mars Observer	[2] +13.0
Microgravity research	+4.1
Solid Earth observation	+4.0
Suborbital programs	+4.7
Advanced communications technology satellite	+84.0
Commercial programs	−5.0
Civil space technology initiative	−16.0
Structural spares	−55.0
Tracking data relay satellite replacement	−20.0
Expendable launch vehicles	+60.0
Tracking	−4.0
Space station facilities	−25.8
Space grant college	+10.0
Research and program management	−15.0
Aeronautics research and technology	+12.0
Wind Tunnel rehabilitation	+41.0
Launch Complex 39	+5.8
Total adjustment	+92.8

[1] Assumes use of $22 million of unobligated prior year moneys to meet fiscal year 1988 requirements.
[2] Also assumes a reprogramming of $22 million pursuant to section 101(e).

Mr. RIEGLE. As a result of our negotiations, I can say with certainty that both the House and the Senate realize that there must be a diversified Civil Space Program with a robust space transportation infrastructure that balances the needs of the manned

and unmanned programs. This attitude is reflected in the proposed bill by the increases for the Mars Observer program, materials processing, the Explorer programs, the creation of a new expendable launch vehicle program, and continued support of the space shuttle anomaly resolution program.

I also think it is clear to say that the members of both committees realize that if the United States is to maintain its leadership in space, the Civil Space Program budget needs to be increased in the very near future. At present, the Senate Commerce Committee has the Congressional Budget Office looking into the future budget requirements of NASA, and the committee is hopeful that a thorough analysis of these requirements will be available next January.

It might interest Members to know that resolution of the budget differences between the House- and Senate-passed bills was the easy part of this year's process. The resolution of policy matters, however, reflects strong differences of opinion between the two committees as to what NASA should be doing and what the respective roles of two committees should be. Quite clearly, a consensus needs to be formulated on the scope, direction, policies, and goals of the Civil Space Program—and this consensus must emerge soon.

Mr. President, I am quite pleased with the final bill that I am presenting to the Senate today. The numbers and the policy statements are more modest than I would have preferred, but I think it is a well-crafted document. The final bill represents compromise on the part of both the House and Senate, but in no way does it compromise the program. What H.R. 2782 does do is manifest the commitment of the Congress to the Civil Space Program and to the technological leadership of the United States in space.

Mr. President, I urge my colleagues to support H.R. 2782, as further amended by the House, and to commit to work with me to rebuild the Nation's Civil Space Program and to regain our leadership in space.

Would the distinguished chairman of the Senate Commerce Committee yield for a question?

Mr. HOLLINGS. I would be pleased to yield to the distinguished chairman of the Subcommittee on Science, Technology, and Space who has done such an able job in formulating the NASA authorization bill.

Mr. RIEGLE. For the record, would the Chairman please give his interpretation of section 121 of H.R. 2782?

Mr. HOLLINGS. Section 121 of the bill is intended to instruct NASA to proceed in a most deliberate manner with the release of a request for proposal for the design and development of an advanced solid rocket motor. The Senate strongly supports an advanced solid rocket motor program and feels that it will improve the reliability, safety, and performance of the shuttle program. I might note that the Senate's position is strongly endorsed by several committees of the National Academy of Sciences and by NASA.

Simply put, section 121 tells NASA that it should proceed immediately with the advanced solid rocket motor program because it is in the best interest of the space shuttle program and the best interest of the Nation.

Mr. RIEGLE. Would the Senator please explain why subsection (d) is included in section 121?

Mr. HOLLINGS. Despite the consensus that exists with regard to the need for an advanced solid rocket motor, some Members of the House still questioned NASA's intent. This subsection was added to placate these Members. However, it is the Senate position that this subsection will never be required.

Mr. RIEGLE. Does subsection (d) require the second sourcing of the redesigned sold rocket motor?

Mr. HOLLINGS. I am glad you asked that question since it was one of the key points of disagreement during our negotiations with the House.

For all practical purposes, the answer to that question is "no." The reason I say that is because it is the congressional intent and NASA's intent to develop an advanced solid rocket motor. The only time that second sourcing or recompetition of the redesigned sold rocket motor would kick in would be if we do not proceed with the advance solid rocket motor—a decision that would not be in the best interest of the Space Program.

I also should indicate that at one point during our negotiations the House proposed that NASA must second source or recompete the redesigned solid rocket motor even if NASA proceeds with an advanced solid rocket motor. The Senate rejected that approach because of the severe technical, financial, safety, reliability and quality assurance issues that it surfaces.

What the Senate expects to see in the next calendar year is the issuance of a request for proposals by NASA for an advanced solid rocket motor. It does not expect to see NASA issuing any request for proposals for second sourcing or recompetition of the redesigned motor until it is absolutely clear that the advanced solid rocket motor program is not a viable option. However, as I indicated above, it is doubtful that we will ever reach the point.

Mr. DANFORTH. Would the distinguished chairman of the Subcommittee on Science, Technology, and Space yield for a moment?

Mr. RIEGLE. I would be pleased to yeild to the distinguished ranking member of the Senate Commerce Committee. But before I do I would like to thank him for his cooperation in formulating this year's NASA authorization bill. Thanks to the distinguished Senator's intervention, some of the more difficult policy issues were resolved quite easily.

Mr. DANFORTH. I thank the Senator from Michigan for his kind remarks. I totally concur with the interpretation of section 121 just described in the discussion between the Senator from Michigan and the Senator from South Carolina. NASA and the National's Space Program need an advanced Solid Rocket Motor Program, and we should proceed with its implementation as soon as possible.

I look forward to NASA's fiscal year 1989 budget request for this program and will continue to work with my colleagues to see that it is implemented.

Mr. PRESSLER. Would the Senator from Michigan yield?

Mr. RIEGLE. I would be pleased to yield to the Senator from South Dakota and the able ranking member of the subcommittee. As always, it was a pleasure to work with my colleague in formulating the NASA authorization bill.

Mr. PRESSLER. I would just like to note that I too agree with the interpretation offered for section 121 of H.R. 2782. I might also note that the committee addressed this issue in some detail in the committee report on the fiscal year 1988 NASA authorization bill [S. Report 100-87] and that the committee's conclusion in the report was that second sourcing of the redesigned solid rocket motor was not warranted and that the emphasis should be directed to an advanced solid rocket motor.

Mr. RIEGLE. I thank the Senator from South Dakota and the other members of the committee for participating in this discussion. I think that the Senate's position on the issue of an advanced solid rocket motor is quite clear and I look forward to working with my colleagues to get the advanced Solid Rocket Motor Program approved and funded. I also hope that the Office of Management and Budget, which is currently reviewing NASA's fiscal year 1989 budget request, a request which includes funding for an advanced solid rocket motor, will acknowledge the advanced Solid Rocket Motor Program as a high national priority.

Mr. PRESSLER. Would the Senator from Michigan yield for one additional question?

Mr. RIEGLE. I would be pleased to yield.

Mr. PRESSLER. Is it the intent of section 107(b) that NASA totally reassess the options for a space station program or is the intent that NASA indicate what options were reviewed with and by the National Research

Council and provide that analysis to the committee?

Mr. RIEGLE. As you know, this Senator thinks we have discussed configurations for too long already and the time has come to commit to the development phase of the Space Station Program. Therefore, it is our intent to be provided with the National Research Council analysis so as to put to rest the configuration issue. I might note that the National Research Council concluded that none of the alternative configurations examined by the Space Station Committee were judged to be as satisfactory as the current Block I configuration and that Block I was a satisfactory starting point for the space station that reflected thoughtful compromises among the priorities.

Mr. PRESSLER. I thank the subcommittee chairman for his interpretation of the language and agree that we are well beyond the point where alternatives should be further evaluated.

Mr. RIEGLE. I thank the Senator from South Dakota and now recommend that we move to final passage of H.R. 2782, the fiscal year 1988 NASA authorization bill, and send this bill to the President for signature.

Mr. DANFORTH. Mr. President, I join the chairman of the Committee on Commerce, Science, and Transportation, Senator HOLLINGS, and the chairman of the Subcommittee on Science, Technology, and Space, Senator RIEGLE, in commending to the Senate H.R. 2782, the fiscal year 1988 NASA authorization bill. As you will recall, on July 10 the Senate approved S. 1164, the fiscal year 1988 NASA authorization bill that the Commerce Committee had favorably reported on June 24. Since that time, the Commerce Committee has been negotiating with the House Science, Technology, and Space Committee to resolve the differences in the Senate and House bills.

The bill before the Senate today, H.R. 2782, reflects the compromise that has recently been struck between the Senate and House negotiators and, in my opinion, incorporates the most responsible funding levels and policy provisions from each bill. This compromise bill authorizes $9.574 billion, compared to the original Senate authorization of $9.621 billion and the original House authorization of $9.522 billion.

Mr. President, now I would like to comment on some of the funding levels and provisions in this compromise bill. First, this bill authorizes the administration's request of $767 million for the space station program, truly our space program's next major step. This funding is significant in that it will permit the actual development of the space station to move into high gear. Furthermore, this authorization will send a signal to our international partners in this program—the European Space Agency, Japan, and Canada—that we are truly committed to the completion of this program on schedule.

I believe that it is worth noting at this time that the recently completed report of the National Research Council on the space station program endorsed NASA's space station design and concluded that the space station will "be a visible demonstration of American technological and operational prowess in space." This endorsement should remove any doubt that NASA is on the right track in terms of its space station program. Also, as we consider funding for the space station program, we should not overlook the fact that since 1971 the Soviet Union has had an operational space station orbiting over the United States every 90 minutes. Any delays that are imposed on our space station program will only cause us to fall further behind in terms of manned space operations. For this reason alone, it is imperative that we move out aggressively in the development of our space station.

This compromise bill also authorizes $977 million for NASA's space science programs, a funding level that fully supports the administration's fiscal year 1988 request and maintains the schedule for the launch of our major observatories and planetary missions, such as the Hubble space telescope, the Galileo mission to Jupiter, the Magellan mission to Venus, and the Mars Observer mission.

The space applications authorization in this bill fully funds the advanced Communications Technology Satellite [ACTS] Program and supports its scheduled launch date of 1991. Furthermore, this bill provides $387 million for aeronautical research and technology and $66 million for transatmospheric research and technology. The latter two authorizations support the administration's budget request in areas that are key to our Nation's competitive posture in aeuronautical technology and sales. I am particularly pleased with the authorization for transatmospheric research and technology, which supports NASA's role in the joint NASA/DOD national aerospace plane program. This program not only holds the key to a revolutionary new dimension in our space launch capabiltity—a single-stage Earth-to-orbit vehicle, but it also could open up new markets for our commercial aircraft companies by taking advantage of a supersonic or hypersonic capability.

Mr. President, another important authorization in this bill is that of $3.0 billion for the space shuttle program. This funding level continues to support the redesign of the shuttle's solid rocket motor [SRM] and other safety related shuttle modifications. NASA is making steady progress in its redesign of the SRM and appears to be on track toward meeting its next scheduled shuttle launch in June 1988. This schedule leading to a June 1988 launch is, by all accounts, a tight schedule; yet I am encouraged by the progress NASA has made to date and by NASA's efforts to incorporate safety, reliability, and quality assurance into each aspect of the shuttle program.

One lesson that we learned fro the *Challenger* accident is that we must develop a more robust and diversified space transportation system. To that end, this bill authorizes $60 million for NASA to initiate the procurement of expendable launch vehicle [ELV] services for two upcoming space science missions—the roentgen satellite and the extreme ultraviolet explorer.

Related to this authorization of $60 million for the two ELV's is this bill's provision that grants NASA multiyear contracting authority for the procurement of ELV services. Currently, NASA is prohibited from obligating appropriated funds for more than 2 years at a time. This prohibition, unless legislatively corrected, would continue to prevent NASA from procuring ELV services, an activety which is considered critical to the success of a U.S. commercial ELV industry. The language in this bill will allow NASA to enter into launch service contracts which foreseeably could require advance payments over several years and will allow NASA to budget for contingent liability, in the event the Government has to terminate the contract for its convenience.

Finally, Mr. President, this bill includes language that emphasizes the need to initiate a competitive procurement for an advanced solid rocket motor [ASRM]. The ASRM, as it is presently envisioned, could, among other things, enhance the shuttle's performance to the point that space station deployment and assembly would be facilitated significantly. This provision states, however, that if a request for proposals is not submitted by the submission to the fiscal year 1990 budget request, NASA must issue an RFP to recompete the redesigned SRM or to establish a second source for the redesigned SRM. This provision maintains the competitive element in NASA's SRM Program, while emphasizing the need to develop an advanced solid rocket motor.

Mr. President, the pressures of our budget deficits impose a necessary requirement of fiscal responsibility as we consider all authorization and appropriations bills. This authorization bill is more than responsive to those concerns. Yet, this bill also provides NASA the support that is needed to ensure the recovery of our space pro-

gram. This legislation has been passed by the House, and Senate passage today will send to the President a fiscal year 1988 NASA authorization bill that will help the U.S. space program reaffirm its previous leadership. I urge my colleagues to approve H.R. 2782 as a visible show of support for NASA and our Nation's endeavors in aeronautics and space.

Mr. PRESSLER. Mr. President, as ranking Republican member of the Subcommittee on Science, Technology, and Space, I rise in support of H.R. 2782, the fiscal year 1988 NASA authorization. This bill before the Senate is compromise legislation that incorporates, what I believe, are the best aspects of fiscal year 1988 NASA authorization bills that the Senate and House have previously approved.

The total authorization in this bill is $9.573 billion, a funding level that essentially splits the difference between the Senate authorization of $9.621 billion and the House authorization of $9.522 billion. Not only is this bill responsive to the pressures that our Federal budget deficit continues to impose on the budget process, but it also supports the critical budget requirements for the continued recovery of our space program. For these two reasons, I believe that this compromise legislation is in the best interests of our space program and our Nation.

Mr. President, NASA's No. 1 priority in the aftermath of the *Challenger* accident has been, and still is, the restoration of the space shuttle system. Central to this restoration is a new emphasis on safety, reliability, and quality assurnace, which I am pleased to report is having an extremely positive effect on our overall space program and the shuttle program, in particular. Moreover, NASA has made significant progress to date in its shuttle recovery effort. An example of this progress is the successful test firing in August of the redesigned solid rocket motor. The $3.0 billion authorization in this bill for NASA's space shuttle production and operations capability account and the space transportation operations account will continue to strongly support NASA's shuttle recovery efforts, which are focused on a first launch in June 1988 launch.

This authorization bill also provides strong support for NASA's space transportation capability development account, which includes, among other things, the development of the orbital maneuvering vehicle [OMV]. This bill's authorization for the OMV is $75 million, which should enable NASA to deliver the OMV on a schedule that will support the OMV reboost of the Hubble space telescope in 1991.

This authorization is also significant in that it fully funds the administration's request of $767 million for the space station program. Furthermore, within this bill's authorization, NASA's space science programs are funded at a level of $977 million, a funding level which accommodates the budget request in space science research and analysis and augments the explorer program. I am particularly pleased with the funding of these two space science programs, as they are critical to the vitality and health of our Nation's university space science programs.

The authorization for space applications includes $84 million for the advanced communications technology satellite [ACTS] program, which is important if the United States expects to maintain its competitive edge in comunications technology and sales in the global marketplace. Also, this space applications authorization provides $4 million for NASA to initiate, in cooperation with the U.S. Geological Survey, the National Oceanic and Atmospheric Administration, and other appropriate Federal agencies, the capabilities for receiving directly from foreign remote sensing satellites data collected over the United States. At a time when the future of our own satellite land remote sensing capabilities grows more uncertain, establishing this new capability will enable us to meet our own scientific requirements for satellite remotely sensed data.

This bill also authorizes $60 million for NASA to procure two expendable launch vehicles [ELV's] or, if commercially available, the launch services that would support the launch of two space science missions schedule for launch in 1990 and 1991. This is a new initiative in NASA's budget and is intended to remedy a deficiency in our space program that was painfully revealed as a consequence of the *Challenger* accident. In the aftermath of this tragedy, it became eminently clear that we can no longer rely solely on the shuttle for the conduct of civil space launches. We must incorporate more flexibility and resiliency into our space launch capability, and this authorization of $60 million for ELV services is a step in the right direction.

To the end of incorporating more flexibility and resiliency into our space launch capability, this bill also grants to NASA multiyear contracting authority for the procurement of launch services. Over the past 3 years, Congress and the administration have been working to remove unnecessary and inintended obstacles to the successful commercialization of ELV's. That NASA has been without this multiyear contracting authority has been cited repeatedly as one such obstacle. With the passage of this bill and this provision, we will have taken the commercialization of ELV's one step closer to fruition.

Mr. President, one other provision of this bill about which I would like to comment is that which calls for NASA to initiate an advanced solid rocket motor [ASRM] development program. Even though NASA has, by all accounts to date, chosen and begun to test a safe and reliable solid rocket motor [SRM] redesign, this redesigned SRM will not provide the performance that will be needed for many of our shuttle missions of the future, most notable of which are those associated with space station deployment and assembly. For that reason, it is generally believed that an ASRM is a necessary enhancement to the shuttle system.

Furthermore, this provision specifically calls for a competitive procurement of the ARRM. However, if, for some reason, NASA has not released by the date of the fiscal year 1990 budget submission a request for proposals [RFP] for an ASRM, NASA is instructed to issue an RFP to recompete the production of the redesigned SRM or to establish a second source of the redesigned SRM. In either case, this provision establishes and maintains the critical element of competition in NASA's solid rocket motor program.

Mr. President, it is no secret that our space program is at its most critical juncture. If we want a space program that again distinguishes itself as a true leader among the space programs of the world, then we must be willing to make the resource commitment to support such a program. However, if we choose to have a space program that does not distinguish itself from the space programs of a half dozen other nations, we must be willing to accept the fact that we are conceding part of the competitive struggle for world leadership in science and technology. Passage of this bill will help us in this struggle and will maintain our space program on its road to recovery. Therefore, I urge my colleagues to approve by unanimous consent H.R. 2782, which provides well-reasoned and balanced support for the future of our Nation's endeavors in aeronautics and space.

Mr. BYRD. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

COAST GUARD AUTHORIZATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 224, S. 1459, the Coast Guard authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1459) to authorize appropriations for the Coast Guard for fiscal years 1988 and 1989, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Is there further debate on the measure?

Mr. BYRD. Mr. President, may we proceed to third reading?

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the House companion bill, Calendar Order 245, H.R. 2342.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

Mr. HOLLINGS. Mr. President, I rise today to urge Senate passage of H.R. 2342, the Coast Guard Authorization Act of 1987.

This bill provides the core authorizations for the next 2 fiscal years. The operating expense authorizations of $1,950 million for fiscal year 1988 and $2,085 million for fiscal year 1989 will force the Coast Guard to manage its funds carefully. But this level of funding will enable the agency to carry out its many and varied missions without serious reduction. And it will permit Coast Guard units to conduct maritime drug interdiction activities at the level envisioned by Congress upon enactment of the Anti-Drug Abuse Act of 1986.

Because of the continuing national concern over the Federal budget deficit, the Commerce Committee did not approve all the funding the Coast Guard might reasonably want for these years. For example, the commandant has indicated that over a thousand additional personnel will be required to operate new equipment that is coming on line and that the Coast Guard Reserve's manning levels are less than 50 percent of its mobilization requirements. Unfortunately, we had to hold the line, and the commandant and his able staff will have to devise ways to deal with these problems. At this point, though, let me stress that these authorization limits constitute a bare minimum for operating funds. In congressional testimony this year, the commandant has indicated that if $90 million less were provided, three 270-foot cutters would have to be taken out of operation, a number of search-and-rescue facilities would be shut down, and helicopter flight hours for drug law enforcement would have to be cut substantially.

S. 1459 takes a similarly conservative approach to capital funding. The bill authorizes $278 million for fiscal year 1988 and $289 million for fiscal year 1989 to maintain and modernize vessels, aircraft, equipment, and shore facilities. The commandant has testified that $500 to $600 million a year is an appropriate level for keeping in operation a capital plant as extensive as the Coast Guard's. However, we have elected to approve a figure that will permit the agency's ongoing procurements and other capital projects to proceed in the short term, recognizing that funding in this area will probably have to be increased substantially in future years. In fact, it is conceivable that the fiscal year 1989 figure will have to be amended next year if it appears necessary to commence acquisition of replacement polar icebreakers. In this regard, S. 1459 calls on the administration to carry out a fresh review of national icebreaking needs and to report to Congress on the review by January 1, 1988, complete with funding and legislative recommendations.

Other funding authorizations in the bill cover research and development, retired pay, and alteration of bridges obstructing navigable waters. In addition, authorizations are provided for end-of-year strengths of 39,042 military personnel for fiscal year 1988 and 39,500 for fiscal year 1989. This increase of 458 personnel is a partial response to alleviating the anticipated shortage of positions as new equipment comes on line in the next few years. The bill also authorizes average military training loads for recruits and special training, flight training, professional training, and officer acquisition.

In addition to authorizations, S. 1459 contains a number of provisions amending existing law applicable to the Coast Guard. These include:

A provision that extends to Coast Guard legal personnel the legal malpractice liability limits already applicable to the personnel of the other armed forces;

A change to the Inland Navigational Rules to conform provisions applicable to mineclearance vessels to those in place for international navigation;

A nonnavigability declaration for a drainage ditch in Camden, NJ, so as to eliminate a bridge permit requirement over the ditch and thus speed the way for completion of a badly needed solid waste recovery facility;

A housing assistance provision to extend to the Coast Guard the benefits of an existing Defense Department program to help employees whose homes have lost their marketability as a result of an installation closure;

A requirement for a helicopter base in South Carolina to ensure that the growing coastal population has sufficient search-and-rescue protection;

A requirement for a study of the merits of acquiring a mobile semisubmersible facility for drug law enforcement purposes; and

A prohibition on foreign construction of Coast Guard vessels.

I would like to make a few brief comments about the bill's prohibition on foreign construction of Coast Guard cutters, including its polar icebreakers. First, the language of the ban is virtually identical to the wording of section 7309 of title 10, United States Code, which says that "no naval vessel, and no vessel of any other military department, and no major component of the hull or superstructure of any such vessel, may be constructed in a foreign shipyard." It was a mere accident of phraseology that section 7309 has been interpreted not to cover the Coast Guard, which becomes a specialized service of the U.S. Navy in time of war. Had the drafters of section 7309 referred to the vessels "of any armed force" instead of those "of any military department," the provision in S. 1459 would have been unnecessary. Second, like section 7309, this bill contains a provision allowing the President to authorize exceptions to the prohibition if the President determines it is in the national security interest of the country to do so. Third, this prohibition will help bolster our national industrial shipbuilding capability and will eliminate the need for extra security precautions that would most likely be required in the event of overseas construction.

Before closing, let me say that the Coast Guard is an invaluable national resource, ready to respond to any demands that arise off our shores. I note with appreciation that the Coast Guard has recently assumed important new leadership in the military defense of the coast and in maritime air interdiction. However, no matter how important these new roles, we cannot allow the neglect of this agency's proud tradition as protector of life and property at sea.

Mr. President, I reiterate my support for prompt passage of the Coast Guard authorization bill.

Mr. BYRD. Mr. President, I move that all after the enacting clause be stricken and that inserted in lieu thereof be the language of the bill S. 1459.

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

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2342), as amended, was ordered to a third reading, was read the third time, and passed, as follows:

S. 1459

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 "Coast Guard Authorization Act of 1987".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1988 and 1989, as follows:

(1) For the operations and maintenance of the Coast Guard, $1,949,813,000 for fiscal year 1988 and $2,085,000,000 for fiscal year 1989.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $277,893,000 for fiscal year 1988 and $289,000,000 for fiscal year 1989, to remain available until expended.

(3) For research, development, test, and evaluation, $20,119,000 for fiscal year 1988 and $20,500,000 for fiscal year 1989, to remain available until expended.

(4) For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000 for fiscal year 1988 and $390,000,000 for fiscal year 1989, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,400,000 for fiscal year 1989.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

SEC. 3. (a) The Coast Guard is authorized an end-of-year strength for active duty personnel of thirty-nine thousand and forty-two for fiscal year 1988 and thirty-nine thousand five hundred for fiscal year 1989. The authorized strength does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

(b) The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,600 student-years for fiscal year 1988 and 4,100 student-years for fiscal year 1989.

(2) For flight training, one hundred and twenty student-years for fiscal year 1988 and one hundred and thirty student-years for fiscal year 1989.

(3) For professional training in military and civilian institutions, 400 student-years for fiscal year 1988 and 400 student-years for fiscal year 1989.

(4) For officer acquisition, nine hundred fifty student-years for fiscal year 1988 and nine hundred student-years for fiscal year 1989.

DEFENSE OF CERTAIN SUITS

SEC. 4. Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or the United States Coast Guard" immediately after "title 32)"; and

(2) in subsection (g), by inserting ", the Secretary of Transportation," immediately after "Defense".

INLAND NAVIGATIONAL RULES

SEC. 5. (a) Rule 3(g)(v), which appears under the heading of part A of section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2003(g)(v)), is amended by striking "minesweeping" and inserting in lieu thereof "mineclearance".

(b) Rule 27, which appears under the heading of part C of section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2027), is amended—

(1) in subsection (b), by striking "minesweeping" and inserting in lieu thereof "mineclearance"; and

(2) by amending subection (f) to read as follows:

"(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in rule 23 or to the lights or shape prescribed for a vessel at anchor in rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.".

DESIGNATION OF A NONNAVIGABLE WATERWAY

SEC. 6. The unnamed tributary of Newton Creek, located at block 641 in the city of Camden, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

HOUSING ASSISTANCE TO CERTAIN COAST GUARD EMPLOYEES

SEC. 7. Section 92 of title 14, United States Code, is amended by inserting immediately after paragraph (d) the following:

"(e) perform all functions of the Secretary of Defense under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), for purposes of assisting civilian and military employees of the Coast Guard as if they were employees of the Department of Defense with regard to any closing, in whole or in part, of an installation ordered by the Coast Guard, except that—

"(1) funds available to the Secretary for such purpose shall be limited to such sums as may, from time to time, be appropriated for operations and expenses of the Coast Guard; and

"(2) any such funds shall be maintained in a separate account in the fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(d)) for activities of the Secretary under this paragraph.".

HELICOPTER BASE

SEC. 8. Not later than six months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a full-time, permanent base at Charleston, South Carolina, for the operation of at least one HH65 short-range recovery helicopter, together with necessary support and operational personnel.

MOBILE LAW ENFORCEMENT BASE

SEC. 9. The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than three months after the date of enactment of this Act, the Secretary shall report the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

ICEBREAKER STUDY

SEC. 10. The Secretary of Transportation, in consultation with the Secretary of Defense, the Secretary of Commerce, the Director of the National Science Foundation, and the heads of affected departments or agencies of the Federal Government, shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than January 1, 1988, the Secretary shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the advantages and disadvantages of acquiring polar icebreaking vessels built in whole or in part in foreign shipyards as opposed to acquiring polar icebreaking vessels built in whole or in part in domestic shipyards, including any national security risks and economic costs and benefits;

(3) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(4) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national needs.

CONSTRUCTION OF CERTAIN VESSELS

SEC. 11. (a) Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The analysis of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"665. Restriction on construction of vessels in foreign shipyards.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the House bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

BILL PLACED IN SUBJECTS ON THE TABLE

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 224, S. 1459, be placed in the "subjects on the table" section of the calendar.

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

1988 OLYMPIC COMMEMORATIVE COIN ACT

Mr. BYRD. Mr. President, I inquire of the Senator from Colorado if Calendar Order 373 has been cleared on his side.

Mr. ARMSTRONG. Mr. President, calendar item 373 has been cleared on this side.

Mr. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 373.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2741) to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

On page 4, line 24, strike "December 31, 1988" and insert "June 30, 1989."

So as to make the bill read:

H.R. 2741

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 "1988 Olympic Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than one million five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such five dollar coins shall be emblematic of the participation of American athletes in the 1988 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1988", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than ten million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the participation of American athletes in the 1988 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1988", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) SILVER BULLION.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

(b) GOLD BULLION.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the United States Olympic Committee and the Commission of Fine Arts.

SEC. 5. SALE OF THE COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins and $7 per coin for the one dollar coins.

SEC. 6. ISSUANCE OF THE COINS.

(a) GOLD COINS.—The five dollar coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) SILVER COINS.—The one dollar coins authorized under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike each such quality.

(c) SUNSET PROVISION.—No coins shall be minted under this Act after [December 31, 1988] *June 30, 1989.*

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United States Olympic Committee. Such amounts shall be used by the United States Olympic Committee solely to train United States Olympic athletes, to support local or community amateur athletic programs, and to erect facilities for the training of such athletes.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the United States Olympic Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this Act shall result in no net cost to the United States Government.

(b) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

Mr. PROXMIRE. Mr. President, I am pleased to send to the floor H.R. 2741, the 1988 Olympic Commemorative Coin Act, which was reported favorably out of the Senate Banking Committee on September 30, 1987.

This bill will authorize the mint to strike up to 11 million legal tender coins commemorating U.S. athletes competing in the 1988 winter and summer Olympic games. Up to 1 million $5 gold pieces and up to 10 million $1 silver pieces are authorized. Surcharges collected of $35 and $7, respectively, will be paid to the U.S. Olympic Committee. The legislation directs that the program be carried out at no net cost to the Government.

All across America, our finest amateur athletes have been preparing for these games—many of them training up to 4 to 6 hours a day for years for the privilege of representing the United States.

From February 13–28, 1988, Calgary, Alberta, Canada, will host the games of the XV Winter Olympiad. A record number of 51 nations is expected to participate in such sporting events as

ice hockey, figure skating, downhill skiing, nordic skiing, speedskating, bobsledding, and luge. From September 17–October 2, 1988, Seoul, Korea, will host the games of the XXIV Olympiad—popularly known as the summer Olympics. Invitations to participate in these summer games have recently been sent to the 167 national Olympic committees which are members of the International Olympic Committee. Competition will be keen in such familiar sports as track and field, swimming, basketball, gymnastics, wrestling, field hockey, volleyball, diving and water polo, archery, and shooting and equestrian sports.

Raising money through the sale of commemorative coins for the U.S. Olympic Committee is not a new idea. In 1982 Congress authorized a similar program for the 1984 Olympics. Over $73.5 million was raised by means of surcharges and presented to the USOC to be used solely to train U.S. Olympic athletes, support local athletic programs, and erect facilities for the training of such athletes. While those funds were put to good use, the USOC funding process is an ongoing process. This legislation will help ensure that the United States—through the generosity and support of its citizens—continues to produce world-class amateur athletes who will represent the United States at the 1988 Olympic games and beyond.

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

The committee amendment was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there is no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 2741) was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

CORRECTION OF AMENDMENT NO. 938 TO S. 1394

Mr. BYRD. Mr. President, I ask unanimous consent that amendment No. 938 to S. 1394, passed by voice vote on October 8, 1987, be altered to reflect previously agreed upon language that was inadvertently omitted.

Lines 16 through 19 should read as follows:

Add the following item, after item (7) of section (b):

(8) The United States applauds public and private statements by the South Korean Minister of Defense, senior officers and top government officials that they support the democratization process, and will work to see the process fully implemented.

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

BILL PLACED ON CALENDAR—H.R. 2969

Mr. BYRD. Mr. President, I ask unanimous consent to place on the calendar H.R. 2969, a bill dealing with employee benefits in cases where companies file for bankruptcy.

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

TRIBUTE TO MR. ALFRED M. LANDON, POLITICIAN AND STATESMAN

Mr. THURMOND. Mr. President, on Monday, October 12, 1987, Alfred M. Landon, former Governor of Kansas and 1936 Republican Presidential candidate, died at the age of 100. Alf was an outstanding public servant who was greatly admired by millions of Americans.

Serving as Governor of Kansas for two terms, Alf cared deeply about the needs of those he represented, and provided continuity for his party at a time when few Republicans could be elected. His commitment to the Republican Party and the Nation was evidenced in his famous campaign for the Presidency against Franklin Roosevelt in 1936. He was known as the grand old man of the Grand Old Party.

Alf was widely respected as a public-spirited citizen. He was a true patriot, serving his country, in WWI as a first lieutenant in the U.S. Army, and as an advisor in national and State politics and policy for 50 years. His dedication and the fine examples he set can still be seen today in the service of his daughter, Senator NANCY LANDON KASSEBAUM. The distinguished Landon legacy of public service continues.

A successful businessman, a devoted family man, and a dedicated and charitable American, Alf Landon will be remembered fondly by colleagues, friends, and family for years to come. We are saddened by the death of Alfred M. Landon, and I join with my colleagues in extending deepest sympathy to his lovely wife, Theo, and their children, Jack Landon, NANCY LANDON KASSEBAUM, and Peggy Landon Mills during this time of bereavement.

Mr. D'AMATO. Mr. President, I rise today to pay tribute to the grand old man of the GOP, Alf Landon. Alf Landon passed away yesterday at his home in Topeka, KS. Just 1 month ago, he was joined by President Reagan in celebrating his 100th birthday in his home.

Alf Landon was, curiously, best known for his landslide defeat to FDR in the 1936 Presidential race. Carrying only two States, Vermont and Maine, Alf Landon showed his good humor by giving his two grandchildren ponies named for those States. After that, Landon served out his term as Governor of Kansas, and then retired from politics. He returned to private life and the oil business at which he had been so successful.

Landon's first gubernatorial race in 1932 proved to be a large success. His defeat of the Democratic incumbent, Harry Woodring, by 5,637 votes made him the only Republican candidate west of the Mississippi to survive depression era elections. In 1934, he was relected and this time the only Republican gubernatorial candidate in the country to be elected.

Landon was a beloved public figure known for his unique philosophy of traditional conservatism and economic progressiveness. His image of a midwestern conservative only went so far, for he was quite vocal on his endorsement of many controversial aspects of the New Deal. He had definite beliefs and never hesitated to take a strong stand. His support of the Republican Party and his intelligence, keen wit, and love for country will long be remembered.

Thank you, Mr. President.

TRIBUTE TO ALFRED M. LANDON

Mr. LEVIN. Mr. President, "Alf" Landon was an American legend. In a lifetime that spanned a century, he knew both victory and defeat. And he accepted them both with an equanimity that few other national leaders have matched.

The highlight of his public life had to be the Presidential campaign of 1936. Landon's was to be no easy task: taking on the "champ," President Franklin Roosevelt who was bidding for a second term. Landon knew, right from the beginning, that he would have little chance against Roosevelt. But he ran anyway and, when it was over, he walked away with the electoral votes of only two States but with his dignity and reputation enhanced.

Alf Landon performed a real service for the country by running for President in 1936. His record as Governor of Kansas indicates that he would have been a good, progressive President had he been elected. But he also performed an important service by running and losing.

In American life, 1936 was a turbulent year. The economy was still in depression. Dictatorships had seized con-

trol abroad and both communism and fascism were picking up adherents here. There was a strong possibility, one that President Roosevelt fretted over, that an extremist of one stripe or another might contest him for the Presidency. America was, perhaps, ripe for that kind of candidacy in 1936.

Luckily, the candidate chosen to oppose Roosevelt was Landon. He made the case against the New Deal without invective or excess. He went out of his way not to attack the President personally and even gave credit to F.D.R. for some of his accomplishments. When the campaign was all over, Landon called on Americans to unite behind the reelected President and returned to private life. It was a mark of the kind of campaign he had run that President Roosevelt offered Landon a Cabinet post in his administration. It's hard to imagine that type of thing happening today.

Mr. President, we all owe a debt of gratitude to Alf Landon both for his 1936 campaign and for the half-century since—years that he has served as a voice for common sense and moderation. We also owe him a debt for the presence in the Senate of his daughter, NANCY LANDON KASSEBAUM, who is carrying on her father's proud tradition. I hope that NANCY and other members of Alf Landon's family take some comfort in the fact that so many join them both in celebrating the life Alf Landon lived.

BICENTENNIAL MINUTE

OCTOBER 11, 1972 (FOR OCTOBER 13); SENATE NAMES OFFICE BUILDINGS

Mr. DOLE. Mr. President, 15 years ago this week, on October 11, 1972, the Senate officially named its two office buildings, the newest of which had already stood on Constitution Avenue for more than 15 years. For many years, the buildings had simply been called the Old Senate Office Building and the New Senate Office Building. I remember when I first came to Congress as a Representative in 1961 wondering about the Old Senate Office Building and the New Senate Office Building across Capitol Hill. In October 1972, the two buildings finally were named for two of the Senate's most distinguished leaders. They were Richard Brevard Russell, a Georgia Democrat and President pro tempore who had served the Senate for almost 40 years, from 1933 until his death the year before in 1971, and Everett McKinley Dirksen, a Republican from Illinois and minority leader, who served from 1951 until his death in office in 1969.

In 1904 the Senate authorized construction of a fireproof office building to meet its pressing need for working space. Along with the House, the Senate awarded a contract to a prominent New York architectural firm, which designed buildings for both bodies as identical four-sided structures. The First Street side of the Senate's building wasn't completed until 1933. The Russell Building encloses 315,000 square feet of floor space and cost $8.4 million.

Congress authorized the Senate's second building, the Dirksen Building, in 1948. The site was purchased and cleared, but the Korean war delayed groundbreaking until 1955. Ready for use in 1958, the Dirksen Building has 419,000 square feet of floor space and cost $24 million. The third and newest of the Senate's three buildings, occupied in 1982, was dedicated in June 1987 to the memory of Michigan Democrat Philip A. Hart. The Hart Building has nearly 1 million square feet of floor space and cost $138 million.

MESSAGES FROM THE HOUSE

At 2:44 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

H.R. 2782. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1574. An act to combine the Senators' Clerk Hire Allowance Account and the Senators' Official Office Expense Account into a combined single account to be known as the "Senators' Official Personnel and Office Expense Account", and for other purposes;

H.R. 1567. An act to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in the U.S. Claims Court docket numbered 53-811, and for other purposes;

H.R. 3226. An act to amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug-Free America to be allowed travel expenses, and for other purposes; and

H.J. Res. 338. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. STENNIS].

At 4:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1417) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

The message also announced that the House has passed the following bill, without amendment:

S. 1666. An act to amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2969. An act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2969. An act to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 13, 1987, he had presented to the President of the United States the following enrolled bill:

S. 1574. An act to combine the Senators' Clerk Hire Allowance Account and the Senators' Official Office Expense Account into a combined single account to be known as the "Senators' Official Personnel and Office Expense Account," and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with the recommendation that the nomination be rejected:

Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States (with additional, minority, and supplemental views) (Exec. Rept. No. 100-7).

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. DIXON (for himself, Mr. RIEGLE, Mr. SIMON, Mr. SHELBY, Mr. SASSER, Ms. MIKULSKI, Mr. KASTEN, and Mr. PROXMIRE):

S. 1785. A bill to amend section 601 of title 17 of the United States Code, the Copyright Act; to the Committee on the Judiciary.

By Mr. DIXON:

S.J. Res. 200. A joint resolution to designate the period commencing on November 8, 1987, and ending on November 14, 1987, as "National Food Bank Week"; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. GLENN, Mr. ADAMS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. CONRAD, Mr. D'AMATO, Mr. DANFORTH, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EVANS, Mr. EXON, Mr. FOWLER, Mr. GORE, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. MATSUNAGA, Mr. MCCAIN, Mr. MCCLURE, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. QUAYLE, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. SANFORD, Mr. SIMON, Mr. STENNIS, Mr. SYMMS, Mr. THURMOND, Mr. TRIBLE, Mr. WALLOP, Mr. WILSON, and Mr. WIRTH):

S.J. Res. 201. A joint resolution to designate January 28, 1988, as "National Challenger Center Day" to honor the crew of the space shuttle *Challenger;* to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE:

S. Res. 296. A resolution authorizing supplemental expenditures by the Select Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. LUGAR (for himself, Mr. BOSCHWITZ, Mr. D'AMATO, Mr. GARN, Mr. NICKLES, Mr. BRADLEY, Mr. KENNEDY, Mr. KERRY, and Mr. LEAHY):

S. Con. Res. 82. A concurrent resolution urging the German democratic chief of state Erich Honecker to repeal permanently 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 Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself, Mr. RIEGLE, Mr. SIMON, Mr. SHELBY, Mr. SASSER, Ms. MIKULSKI, Mr. KASTEN, and Mr. PROXMIRE):

S. 1785. A bill to amend section 601 of title 17 of the United States Code, the Copyright Act; referred to the Committee on the Judiciary.

MANUFACTURING CLAUSE OF THE COPYRIGHT ACT

Mr. DIXON. Mr. President, today I am joined by Senators RIEGLE, SHELBY, SIMON, SASSER, MIKULSKI, KASTEN, and PROXMIRE in introducing legislation which would provide a permanent extension of the manufacturing clause of the Copyright Act.

For 95 years—until June 30 of last year—the manufacturing clause has been the trade law for the printing industry. Under its requirements, our Nation's printing industry has grown to become our sixth largest industry with 1.3 million workers across all 50 States.

The manufacturing clause has required that most printed material of a preponderantly nondramatic literary nature and written in the English language by an American author domiciled in the United States must be printed in the United States or Canada in order to enjoy the full and unqualified protection of the U.S. copyright laws.

Despite its overall size, printing is our Nation's largest and most important sector of small manufacturers. Of the more than 50,000 printing businesses, three-fourths of the firms employ 20 or fewer workers. Clearly, small- and medium-sized businesses cannot afford to lose their competitive edge. For many of these firms, because of their heavy capital investment, the loss of just a few printing jobs to overseas competition would mean possible economic ruin.

Because they do not have the resources to move their operations overseas and compete with foreign printers or large U.S. printers with overseas operations, tens of thousands of small- and medium-sized printing companies may eventually be forced to close their doors due to overseas competition.

The loss of employment in the printing industry would greatly affect those who are least able to recover. A recent book manufacturers institute study has indicated that 60 percent of printing industry workers are either unskilled or semiskilled workers. These workers would be among the first workers to be struck by job losses. These job losses would be even more tragic because the tight Federal budget limits the funds available for unemployment compensation or job training if these workers lose their jobs.

Although printing is a competitive and productive industry, it is increasingly threatened by high levels of import penetration. In fact, in 1985 and 1986, the United States, for the first time since World War I, was a net importer of books. The most recent trade figures indicate a worsening trade deficit in books and a growing deficit in other printed material.

The revised extension would be a tool for fair trade in printed materials. Fully consistent with the GATT, the legislation would extend and expand the manufacturing clause, but would suspend its requirements until an injuriously high level of imports is reached. Once reached, the clause would remain effective until the import level returned to the acceptable range or until the end of a 1-year period, whichever is later.

During the last several years, one important manufacturing industry after another has been crippled by imports. Millions of jobs have been lost. Thousands of factories have closed their gates. Worst of all, many of these industries and jobs will not return to our shores.

A recent study of foreign printing concludes that the highly developed, but low-wage, printing industries in Hong Kong, Malaysia, and Singapore are already producing large quantities of printed material for the United States markets. In addition, printers in China, Indonesia, Thailand, and Korea are also increasing their penetration of the United States market. In the absence of the manufacturing clause, we can expect these, and other Pacific and Caribbean Basin countries, to flood the U.S. markets with printed materials which will cripple our domestic printing industry.

The proposed manufacturing clause legislation is both fair and effective. The passage of this legislation would have an extraordinarily beneficial impact on more than 50,000 printing establishments and more than a million hard-working men and women.

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

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

S. 1785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that when the percentage of printing and publishing imports relative to domestic printing and publishing production for a calendar year equals or exceeds four times the percentage of printing and publishing imports relative to domestic printing and publishing production for the 1986 calendar year, such level of import penetration would cause serious injury or the threat of serious injury to the United States printing and publishing industry, within the meaning of article XIX of the General Agreement on Tariffs and Trade.

SEC. 2. Section 601(a) of title 17, United States Code, is amended by—

(1) striking out "literary"; and

(2) striking out "Prior to July 1, 1986, and except"; and inserting in lieu thereof "Except".

SEC. 3. Section 601(b) of title 17, United States Code, is amended—

(1) in paragraph (1) by—

(A) striking out "neither a national nor a domiciliary" and inserting in lieu thereof "not a national"; and

(B) striking out "or domiciliary";

(2) by striking out "or" at the end of paragraph (5);

(3) by striking out "or" at the end of paragraph (6);

(4) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; or"; and

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

"(8) where, on the date when importation is sought or public distribution is made in the United States, the percentage of printing or publishing imports relative to domestic printing and publishing production for the previous calendar year equals or exceeds four times the percentage of printing and publishing imports relative to domestic printing and publishing production for the 1986 calendar year, as provided in subsection (f).".

SEC. 4. Section 601 of title 17, United States Code, is amended by adding at the end thereof the following:

"(f)(1) For purposes of paragraph (8) of subsection (a), the provisions of such paragraph, once imposed, shall apply for one year, or until the Secretary of Commerce certifies that the percentage of printing and publishing imports relative to domestic printing and publishing production is less than four times the percentage of printing and publishing imports relative to domestic printing and publishing production for the 1986 calendar year, whichever is later.

"(2) The provisions of paragraph (8) of subsection (a) shall not apply to materials subject to the provisions of this section which were manufactured prior to the date on which the provisions of such paragraph apply to such importation or distribution, or to such materials manufactured after such date pursuant to any contract, agreement, or understanding entered into, or reasonable expectation relied upon, prior to such date and imported during a period of 24 months after such date.".

● Mr. SIMON. Mr. President, today I join with my colleague from Illinois in reintroducing a bill to create a permanent extension of the manufacturing clause of the Copyright Act.

The printing industry in the United States is in a state of peril. For the first time since World War I, the United States is running a deficit in the trade of printed materials. More and more printing is being sourced overseas, undermining our domestic industry.

Like many of our industries, the printing industry is highly labor-intensive. As a result, U.S. producers are unable to compete on a price basis against the lower wages paid overseas. Our printers should not be punished for paying a wage that allows their employees a decent standard of living.

Printing is currently one of our strongest industries, with over a million employees nationwide. It has always been particularly strong in my State of Illinois, with thousands of print workers located in the Chicago area.

What makes this industry particularly sensitive to imports is that this industry is made up not of a couple large corporations, but thousands of small businesses. Printing is in fact the Nation's largest "small business industry," with 80 percent of its 53,500 plants employing 20 or fewer workers.

Due to their size, these plants are unable to make the structural changes necessary to match the prices of their foreign competitors. So, like other small businesses faced with unmanageable foreign competition, they simply close their doors and another American industry goes under.

By extending the manufacturing clause permanently we can save our print industry and the jobs associated with it. I urge my colleagues to support this vital piece of legislation.●

By Mr. DIXON:

S.J. Res. 200. Joint resolution to designate the period commencing on November 8, 1987, and ending on November 14, 1987, as "National Food Bank Week"; to the Committee on the Judiciary.

NATIONAL FOOD BANK WEEK

Mr. DIXON. Mr. President, I rise today to introduce a joint resolution declaring the week of November 8 through 14, National Food Bank Week.

Hunger and homelessness are a national disgrace, and the problems are not diminishing. The latest studies confirm that more than 20 million Americans, including 4 million children, go hungry at some time during every month. Despite signs of an improving economy, the problem continues to grow.

Since 1980 there have been over 15 studies addressing the problems of domestic hunger. These reports all reach the same conclusion—for millions of Americans, hunger is a tragic fact of life.

Mr. President, one out of every five children lives in poverty, and is at risk of being hungry or malnourished. Between 1983-85 the average number of households seeking emergency food rose by almost 40 percent. Despite these facts, however, Federal food programs under the Reagan administration have been cut by more than $12 billion. The administration's response to this chronic problem has been to cut the budget and eliminate vital programs which help place food on the table and a roof over the heads of the needy.

In my own State of Illinois, requests for hunger assistance have increased tremendously. For example, since 1982 food pantries in the city of Rockford have experienced an increase in demand for client services of over 470 percent. In September of 1986, one food pantry in Springfield served 286 meals. In September 1987 this same food pantry served 615 meals. This problem is growing, and it is growing nationwide.

Mr. President, today Illinois alone has 1,290 agencies distributing over 28 million pounds of food. The Chicago Food Depository Services 497 pantries, kitchens and charities in Chicago. In 1986 these 497 outreach groups distributed over 17 million pounds of food. In Springfield there are 275 agencies which last year provided over 4 million pounds of food. Last year the agencies involved in Rockford's Hunger Connection Network received 700,000 pounds of food, translating into over 420,000 meals to the needy.

I believe the Federal Government must take an active role in fighting hunger and homelessness. The Federal Government, however, should not be the only participant, and indeed, it is not. Mr. President, those involved in the Nation's food bank network, as well as the thousands of charities, pantries, soup kitchens and shelters, have done an outstanding job. The dedication and commitment of all those involved, from the volunteers at the grassroots level to the executives of the national corporations which donate food, help ensure that the vital objectives of these programs will be accomplished.

The efforts of these groups to feed our hungry has been extraordinary. Today there is a national network of food banks, spearheaded by an outstanding organization known as Second Harvest. Second Harvest is a Chicago-based nonprofit organization committed to bringing food to the hungry—food which would otherwise go to waste. During 1986 national corporations contributed 128.5 million pounds of nutritious food to Second Harvest. More than 265 national food companies vigorously participate in this food network. In addition, the 203 food banks of Second Harvest's Network collected 224 million pounds of food from local manufacturers, supermarket chains, and canned food drives. The Second Harvest National Food Bank Network reached more than 38,000 outreach programs serving the hungry in their communities.

I commend the work of all these compassionate people, and the groups and agencies which they represent. National Food Bank Week will increase the public's awareness of the serious problem posed by hunger in America. In addition, it pays tribute to the thousands of dedicated individuals whose tireless work contributes so much to the eventual eradication of this terrible problem.

Mr. President, the sad fact is that we had this problem licked once. As a nation, we Americans first became aware that many of our citizens were hungry and malnourished when thousands of men were rejected for service on those grounds during World War II. Programs were put in place which worked to virtually eliminate hunger and malnutrition across our bountiful land. We did the job then. We can do it again—now.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 200

Whereas an influential report has indicated that at least 20 million Americans go hungry at some time during every month, even though America is a land of abundant food resources;

Whereas the assistance of the private sector is needed to meet the increasing demands of families, children, the elderly, unemployed workers, and the homeless for food;

Whereas an extraordinary yearlong effort to feed the hungry is being coordinated by Second Harvest, America's Food Bank Network;

Whereas the 200 local food banks of the non-profit Second Harvest network are committed to channeling the surplus products of food manufacturers and retailers to the needy;

Whereas Second Harvest food banks rely upon the generous donations of hundreds of national food corporations, thousands of local food companies, and million of concerned individuals;

Whereas in 1986 Second Harvest was able to distribute 325 million pounds of wholesome, nutritious food valued at $500,000,000 to 38,000 charitable feeding programs nationwide; and

Whereas the upcoming Thanksgiving season is a time not only to count one's own blessings, but to support those who are extending a helping hand to their fellow Americans: Now, therefore, be it:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 8, 1987, and ending on November 14, 1987, is designated as "National Food Bank Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

By Mr. GARN (for himself, Mr. GLENN, Mr. ADAMS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. CONRAD, Mr. D'AMATO, Mr. DANFORTH, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EVANS, Mr. EXON, Mr. FOWLER, Mr. GORE, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. MATSUNAGA, Mr. MCCAIN, Mr. MCCLURE, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. QUAYLE, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. SANFORD, Mr. SIMON, Mr. STENNIS, Mr. SYMMS, Mr. THURMOND, Mr. TRIBLE, Mr. WALLOP, Mr. WILSON, and Mr. WIRTH):

S.J. Res. 201. Joint resolution to designate January 28, 1988, as "National Challenger Center Day," to honor the crew of the space shuttle *Challenger*; to the Committee on the Judiciary.

NATIONAL CHALLENGER CENTER DAY

Mr. GARN. Mr. President, today on behalf of the distinguished Senator from Ohio, JOHN GLENN, and 57 of our colleagues, I propose a joint resolution to proclaim January 28, 1988, as National *Challenger* Center Day. We passed a similar joint resolution last year and President Reagan signed it into law as Public Law 100-3.

I would like, first of all, to thank those Senators and the members of their staffs who responded quickly and enthusiastically to offer their support as cosponsors to this measure. Their willingness to be helpful affirms the validity of the *Challenger* Center's cause and is a measure of strong interest in both remembering and honoring the *Challenger* crew and their families.

We are approaching the 2-year anniversary of the tragic accident when we lost seven brave and wonderful people as the space shuttle *Challenger* was destroyed shortly after launch. As you all know, the families of the *Challenger* crew decided in the aftermath of that accident to establish a space education center called the *Challenger* Center as a living memorial to their loved ones. Their hope is that this center will continue the final mission of the *Challenger* and help to complete the dream of those who flew her.

The center will provide the children and young people of the Nation with an opportunity to experience the sciences, especially the space sciences, at work. It will help teachers learn how to be more effective in teaching the concepts embodied in space science. And it will serve as a focus point to bring together the best talents, skills and resources to continue to improve learning and teaching opportunities for generations to come.

The center has made significant strides in establishing a Washington headquarters, as well as regional mission sites and affiliated museums across the country. Over 10,000 individuals have contributed in excess of $2 million, and the families and friends of the *Challenger* Center have traveled thousands of miles to communicate the purpose of the *Challenger* Center and to garner valuable support for its programs.

Focusing on the *Challenger* Center is an appropriate way to mark the anniversary of the shuttle accident. By looking to the dreams of Dick Scobee, Mike Smith, Ron McNair, Ellison Onizuka, Judy Resnik, Greg Jarvis, and Christa McAuliffe, we can find solace. By forwarding their dreams in the pursuit of a functioning and completed *Challenger* Center, we can find purpose.

Passage of this joint resolution will aid the cause of the *Challenger* Center by again focusing public attention on the living memorial that the center will be. It will also remind us again of those seven wonderful people and the sacrifices they made. For these reasons, I encourage prompt consideration and passage of this joint resolution, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 201

Whereas the crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally;

Whereas the members of the Challenger crew gave their lives trying to benefit the education of American children;

Whereas a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed;

Whereas an appropriate form for such a tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research; and

Whereas the Challenger Center is the only institution expressly established by the immediate families of the crew of the Challenger for the above-named purposes, and is intended to be the living expression of the nation's commemoration of the Challenger crew: Now, therefore, be it

Resolved by the Senate and House of Representative of the United States of America in Congress assembled, That January 28, 1988, is designated as "National Challenger Center Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day—

(1) by resolving that in the course of their regular activities the people of the United States will remember both the Challenger astronauts who died while serving their country, and the importance of the Challenger Center in honoring the accomplishments of the Challenger crew by continuing their goal of the expansion of interest and ability in space and science education; and

(2) with other appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 303

At the request of Mr. BRADLEY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 303, a bill to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes.

S. 1157

At the request of Mr. BRADLEY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1157, a bill to make demonstration grants to local educational agencies eligible to receive assistance under title I of the Elementary and Secondary Education Act of 1965, as modified

by chapter 1 of the Education Consolidation and Improvement Act of 1981, in order to strengthen the educational partnership between the family and the school, and for other purposes.

S. 1345

At the request of Mr. KARNES, his name was added as a cosponsor of S. 1345, a bill to allow the National Association of State Racing Commissioners, State racing commissions and regulatory authorities that regulate parimutuel wagering to receive and share Federal Government criminal identification records.

S. 1453

At the request of Mr. HEINZ, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1453, a bill to amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes.

S. 1489

At the request of Mr. KARNES, his name was added as a cosponsor of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass-thru entities.

S. 1561

At the request of Mr. BOND, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1598

At the request of Mr. DOLE, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of S. 1598, a bill to provide for the increased use of motor fuel blended with ethanol in order to enhance the energy security of the United States and to expand markets for agricultural commodities.

S. 1611

At the request of Mr. KENNEDY, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1611, a bill to amend the Immigration and Nationality Act to effect changes in the numerical limitation and preference system for the admission of immigrants.

S. 1692

At the request of Mr. MURKOWSKI, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1692, a bill to amend title 38, United States Code, to provide for the payment of a veterans' disability benefit in the case of certain veterans who have non-Hodgkin's lymphoma.

SENATE JOINT RESOLUTION 41

At the request of Mr. GLENN, the names of the Senator from Georgia [Mr. NUNN], the Senator from Colorado [Mr. WIRTH], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Utah [Mr. GARN], the Senator from North Carolina [Mr. SANFORD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Georgia [Mr. FOWLER], the Senator from New York [Mr. MOYNIHAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Illinois [Mr. SIMON], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 41, 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 172

At the request of Mr. BRADLEY, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from Colorado [Mr. WIRTH], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 172, joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. WILSON, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 181, joint resolution designating the week beginning February 1, 1988, as "National VITA Week."

SENATE JOINT RESOLUTION 196

At the request of Mr. BRADLEY, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 196, joint resolution to designate February 4, 1988, as "National Women in Sports Day."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. STEVENS, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. MCCLURE], the Senator from Missouri [Mr. BOND], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 246

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. EVANS] was added as a cosponsor of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

SENATE CONCURRENT RESOLUTION 82—RELATING TO THE SHOOT TO KILL ORDER OF THE EAST GERMANS AT THE BERLIN WALL AND ISSUANCE OF AN ORDER TO TEAR DOWN THE BERLIN WALL

Mr. LUGAR (for himself, Mr. BOSCHWITZ, Mr. D'AMATO, Mr. GARN, Mr. NICKLES, Mr. BRADLEY, Mr. KENNEDY, Mr. KERRY, and Mr. LEAHY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 82

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 peoples 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; and

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 Senate (the House of Representatives concurring), That Congress urges the German Democratic chief of state Erich Honecker to repeal permanently 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.

SENATE RESOLUTION 296—AUTHORIZING ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE submitted the following resolution; which was referred to the Committeee on Rules and Administration:

S. RES. 296

Resolved, That section 21, of Senate Resolution 80, 100th Congress, agreed to on January 28, 1987, is amended by striking out

"$842,335" and inserting in lieu thereof "$902,335."

AMENDMENTS SUBMITTED

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1988

WEICKER AMENDMENT No. 953

Mr. WEICKER proposed an amendment to the bill (H.R. 3058) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On Page 36, line 26, strike out "1,237,000,000" and insert in lieu thereof "1,822,265,000."

CONTINUING AUTHORIZATION FOR INDEPENDENT COUNSEL

LEVIN (AND COHEN) AMENDMENT No. 954

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. COHEN) on behalf of the Committee on Government Affairs, submitted an amendment intended to be proposed by them to the bill (S. 1293) to amend the Ethics in Government Act of 1978 to provide a continuing authorization for independent counsel, and for other purposes; as follows:

On page 33, line 11, after "Severability" insert "and Sunset".

On page 36, line 16, before "during" insert "applicable".

On page 36, line 17, before "during" insert "applicable".

On page 37, lines 2 and 3, strike "a person described in subsection (b)(4)" and insert "the Attorney General".

On page 39, line 24, and page 40, lines 1 and 2, strike "involved if there is conflicting or inconclusive evidence of the state of mind of such person" and insert "unless there is clear and convincing evidence that the person lacked such state of mind".

On page 44, line 18, after the period, insert the following: "The division of the court shall select an individual to serve as an independent counsel from those attorneys with appropriate prosecutorial experience. The determination of the division of the court on prosecutorial experience shall not be subject to judicial review.".

On page 49, line 19, after the period, insert the following: "Notwithstanding any other provision of law, the Department of Justice shall pay all costs relating to the establishment and operation of any independent counsel and shall be reimbursed for these expenditures out of the fund established pursuant to section 1304 of title 31, United States Code. The Attorney General shall submit to the Congress on a quarterly basis a report of the reimbursements from the fund. There is authorized to be appropriated such sums as may be necessary to reimburse the fund established by section 1304 of title 31, United States Code, for any withdrawals made pursuant to this subsection.".

On page 55, line 8, before "Access" insert "(A)".

On page 55, line 11, after the period designate the sentence that follows as subparagraph "(B)".

On page 55, line 17, after "Procedure." designate the sentence that follows as subparagraph "(C)".

On page 56, beginning on line 11 with the dash strike all through line 16 and insert the following: "serve as counsel or co-counsel to a person who is the subject of proceedings under this chapter.".

On page 57, lines 5 and 6, strike "shall be exempt from paragraph (2)(B) during their current terms of office but".

On page 57, line 7, strike "all other" and insert "the ".

On page 61, lines 1 and 2, strike "the division of the court and, if such removal was based on error of law or fact," and insert "a United States district court and".

On page 62, between lines 6 and 7, insert the following new subsection:

"(c) AUDIT.—Upon termination of the office of an independent counsel, an audit of the expenditures of such office shall be conducted by the General Accounting Office and a report shall be provided to the appropriate committees in Congress.

On page 62, line 9, strike "; Resolution of Disputes".

On page 63, line 1, after "Severability" insert "and Sunset".

On page 63, line 2, after the quotation marks, insert "(a) SEVERABILITY PROVISION.—".

On page 63, line 6, strike the quotation marks and the second period.

On page 63, between lines 6 and 7, insert the following new subsection:

"(b) SUNSET PROVISION.—This chapter shall cease to have effect 5 years after the date of the enactment of the Independent Counsel Reauthorization Act of 1987, except that this chapter shall continue in effect with respect to the pending matters before an independent counsel that in the judgment of such independent counsel require such continuation until that independent counsel determines such matters have been completed.".

On page 64, line 22, after "Columbia" insert "Circuit".

On page 64, line 25, after the quotation marks insert a period.

On page 64, after line 25, insert the following new subsection:

(e) SAVINGS PROVISION.—Each appointment, agreement, and contract which has been made under chapter 39 of title 28, United States Code, as such title was in effect prior to the date of enactment of this Act, shall, after the date of enactment of this Act, continue in effect until modified, terminated, superseded, set aside, or revoked in accordance with law. No criminal investigation or prosecution under chapter 39 of title 28, United States Code, as such title was in effect prior to the date of enactment of this Act, shall abate by reason of the enactment of this Act.

● Mr. LEVIN. Mr. President, S. 1293, the Independent Counsel Reauthorization Act of 1987, was ordered reported to the full Senate on July 1, 1987, by the Governmental Affairs Committee. The committee ordered the bill reported with an amendment in the nature of a substitute. S. 1293, as amended by the substitute, has been on the Senate calendar since July 24. Certain issues which arose at or after the committee markup had since been resolved in an amendment which the committee will offer on the floor to modify its substitute to S. 1293. To facilitate understanding of the committee amendment, I ask unanimous consent that an explanation of its provisions, as well as its text, be included in the RECORD at this time.

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

EXPLANATION OF COMMITTEE FLOOR AMENDMENT TO S. 1293

(1) Sunset provision.—The bill as introduced and the Committee substitute would have made the independent counsel process a permanent part of our criminal justice system. However, because the bill makes several changes in the current statute and the activity by sitting independent counsels is expected to provide additional information about the statute over the next few years, the Committee floor amendment postpones a permanent authorization, in lieu of a five-year sunset provision. This sunset provision, which has been used in previous independent counsel legislation, will ensure a comprehensive review of the statute by the Congress in five years' time to correct any problems. It also provides, as does current law, that any cases pending at the time of expiration will continue without disruption.

(2) Prosecutorial experience.—In response to concerns expressed at the markup about the background of those chosen to be independent counsels, the Committee floor amendment requires the special court, when selecting individuals to serve as independent counsels, to choose attorneys with "appropriate prosecutorial experience." In assessing such experience, the court is expected to consider the character and extent of an attorneys experience, how recent such experience is, and its relationship to the particular case at issue. Use of the word "appropriate" is intended to permit the court to apply the standard in a flexible manner according to the type of case before it and the available pool of candidates. The provision also states that the special court's determination on the adequacy of an individual's prosecutorial experience is not subject to judicial review, thereby precluding legal challenges to the appointment of an independent counsel on the basis of that counsel's prior experience.

(3) Audits.—The Committee floor amendment increases still further the fiscal controls over independent counsel proceedings by requiring an audit of the expenditures of every independent counsel, upon the completion of the independent counsel's activities. The audit is to be conducted by the General Accounting Office. A report containing the findings and conclusions of the audit is to be filed with the appropriate committees of Congress, namely the House and Senate committees with oversight, authorization and appropriations responsibilities for the independent counsel process. These audits and reports will permit a more informed analysis on whether Congress needs to impose additional fiscal controls.

(4) Recusal.—The bill as introduced would have required the Attorney General's recusal from all cases which: (a) involve a person with whom the Attorney General has a personal or financial relationship, or (b) involve certain high-level Justice Department officials, including the Attorney General. Section 591(c)(1). The second part of this recusal obligation is overly broad, since there may be cases involving Justice Department officials in which the Attorney General may not have the type of relationship or involvement for which recusal is required.

The Committee floor amendment therefore narrows the Attorney General's recusal obligation to cases which: (a) involve a person with whom the Attorney General has a personal or financial relationship, or (b) involve the Attorney General personally. Examples of personal involvement are instances where the Attorney General performed or played a material role in the conduct being questioned, participated in the decisionmaking process to plan or approve such conduct, provided specific legal advice on such conduct, or otherwise is a material witness in the case. As applied to cases involving other Justice Department officials, the provision requires the Attorney General to determine recusal by evaluating his or her relationship with those officials.

(5) State of mind.—The bill was amended in subcommittee to clarify the circumstances under which an Attorney General may close a case in the early stages of the independent counsel process when the Attorney General believes criminal intent would be difficult to prove. The bill currently states that the Attorney General may not close a case in these early stages if there is "conflicting or inconclusive evidence" on the person's state of mind. Section 592(a)(3)(B).

The Committee floor amendment modifies this provision by replacing "conflicting or inconclusive" with "clear and convincing." The modified provision reads that an Attorney General may not close a case in the early stages of the independent counsel process due to a lack of criminal intent, unless the Attorney General has clear and convincing evidence that the subject of the case lacked the state of mind necessary to commit a crime. Using a phrase, "clear and convincing," does not change the substance of the bill as reported by committee, but clarifies it by incorporating a more common legal standard which has a body of law interpreting its application. The bill's current standard, "conflicting or inconclusive evidence," has no such body of law to explain it.

(6) Backup appointments.—The bill was amended in subcommittee to prohibit sitting independent counsels from simultaneously holding any other federal office. Section 594(1)(2)(B). This prohibition was included to prevent an actual or apparent impropriety which may arise when an independent counsel holds a position in the same administration in which he or she is investigating another official. The Committee floor amendment deletes this prohibition, because it would prevent independent counsels from accepting so-called "backup appointments" from the Department of Justice. Such appointments may be needed or appropriate. In accepting such "backup appointments" or appointments to other federal office, however, independent counsels should remain sensitive to their continuing obligation to avoid even an appearance of a conflict of interest in their activities.

(7) Judicial review.—Current law and the bill as introduced permit judicial review of a decision by an Attorney General to remove an independent counsel from office. Section 596(a)(3). The provision specifies the standard for judicial review and lodges authority in the special court. The Committee floor amendment modifies this provision in two ways. First, the federal court in which judicial review may be obtained is changed from the special court to Article III district courts in order to make use of the district courts' expertise in such matters. Second, the specified standard for reviewing a removal decision is deleted in order to permit the district courts to develop the appropriate standard for review, consistent with existing case law and the Constitution.

(8) Technical corrections.—The Committee floor amendment also makes a number of technical corrections in the bill as reported to the floor. It corrects the name of the United States Court of Appeals for the District of Columbia Circuit; corrects several captions; inserts paragraph headings in a subsection on storage of records from closed independent counsel cases; inserts words which were omitted from a subsection describing the time period during which the statute applies to campaign officials; clarifies certain budgeting and accounting procedures for independent counsel cases; and adds a savings clause to protect existing cases from any disruption when the bill is enacted.●

NOTICE OF HEARING

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a joint hearing before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources and the Selection Committee on Indian Affairs.

The hearing is scheduled for October 28, 1987, beginning at 9 a.m. in room 562 of the Dirksen Senate Office Building. Testimony is invited regarding S. 1415, the Colorado Ute Indian Water Rights Settlement Act of 1987.

For further information regarding the hearing, you may wish to contact Russell R. Brown of the subcommittee staff at 224-2366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Subcommittee on Water and Power, room SD-364, Dirksen Senate Office Building, Washington, DC. 20510.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, October 13, 1987, in closed session to receive testimony on the military balance in Europe.

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 Tuesday, October 13, 1987 to receive testimony concerning S. 1217, a bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal Plain of the North Slope of Alaska for oil and gas exploration, development, and production.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, October 13, 1987, to conduct oversight hearings on the globalization of securities markets.

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

ADDITIONAL STATEMENTS

HOW RURAL WATER DISTRICTS PROMOTE GOOD COMMUNITY LIVING

● Mr. BOREN. Mr. President, each year the Oklahoma Farmers Union sponsors a speech contest for high school students. One of this year's winners was Miss Kendra Jimison of Frederick, OK.

I ask that Miss Jimison's speech be inserted in the CONGRESSIONAL RECORD.

The speech follows:

HOW RURAL WATER DISTRICTS PROMOTE GOOD COMMUNITY LIVING

I always love getting together with my family and listening to Grandma talk about her life on a small farm in Oklahoma when she was young. There were always the usual chores to be done, like cleaning, feeding the animals and hauling water for the wash basin. Today, that chore is pretty much a thing of the past, thanks to the Oklahoma Rural Water Association and its districts. Just being able to reach out and turn on that faucet is something many of us take for granted, but it wasn't always that easy.

Hello, I'm Kendra Jimison and I'd like to tell you how rural water districts have and still are making community living a little better by supplying us with the water that we need.

My rural water district consists of Comanche, Kiowa, and Tillman counties and includes my hometown of Frederick. Rural water districts in Oklahoma are very well di-

versified. They range from serving 18 members, as in the case of Kay County and Woods County, the smallest in the state, right on up to Rogers County in Northeast Oklahoma which serves 3000 members.

Not only can the Rural Water Association serve many, but can bring the luxury of having water on tap to as wide an area as 200 miles of distribution line, which is contained in Caddo County, the largest service area in our state.

Now that we know who the rural water districts serve, let's find out why. Drinking water in many rural areas of Oklahoma contained substances so harmful it was left veritably unused. Many of my rural Oklahoma ancestors hauled water because their wells could only meet their bare needs. The blessed coming of rural water systems greatly improved the quality and availability of water to rural Oklahomans.

Rural residents in my area of Tillman and Commanche counties, who once consumed water so high in nitrates that it was deemed hazardous to expectant mothers and the elderly can now have a safe, sufficient water supply. Finally, let's focus on the average rural water district. It serves 450 members. Statewide, about 1 out of every 5 Oklahomans (which equals 650,000 people) are served by a rural water system. Why, everyday, ⅔ of a million Oklahomans turn their hydrants on to receive water provided by 475 rural water districts, but the Oklahoma Rural Water Association doesn't stop with supplying those 650,000 rural Oklahomans with water. It also spends a great deal of time and effort in educating districts in efficient operation and maintenance as well as stressing the need for water conservation. Yes, it's safe to say that there is a future for rural water districts.

Here in Oklahoma our rural population is continually in need of clean and pure water, and thanks to the Oklahoma Rural Water Assocaition and its districts we will have that water with the ease that makes for better living.

Yes, many people take for granted being able to reach out and turn on that faucet, but with organizations like the Farmers Union who have allowed me to bring this matter to your attention, we as a state can be informed about this tremendous service and say "Thank You" to the Oklahoma Rural Water Districts for promoting good community and allowing my generation to experience the chore of hauling in the water only in Grandma's stories.●

PERSECUTION OF THE BAHA'IS

● Mr. HEINZ. Mr. President, I want to draw my colleagues' attention to section 511 of the State Department authorization bill, which was passed by the Senate last Thursday. This section, inserted in committee deliberations by Senator PAUL SIMON of Illinois, is a ringing condemnation of the Iranian Government's persecution of the Baha'is of Iran.

The Senate is not powerless in attempting to protect a beleagured minority such as the Baha'is of Iran. Past experience has shown that Iran's religious and political leadership are sensitive to world opinion as expressed in congressional resolutions and resolutions by the United Nations General Assembly and the United Nations Commission on Human Rights.

The Bahai faith is not considered a religion by Iran's intolerant religious warlords. It is rather considered a heresy, a political conspiracy, a challenge to the extremist and all-inclusive religious claims of Shi'te Islam. As recently as last week two Baha'is were executed in Tehran. These men, whose only crime was to practice freedom of conscience, were shot at the very time that U.N. Secretary General Perez de Cuellar was visiting the region to work out a cease-fire in the Iran-Iraq war.

The Baha'is of Iran have only the Senate and other concerned outsiders to protect them. And our only method of helping the Baha'is at this time is to speak out, to speak out loudly and remind the mullahs in Tehran that the world's eyes are on them and their barbarism. Islam is a great religion and the Iranian people have a long proud history and a rich cultural tradition reaching back nearly 3,000 years.

But the extremists of Iran have besmirched the name of Islam by their persecution of the Baha'is. So long as the Iranian leadership persists in oppressing the loyal and patriotic Baha'is of Iran, solely for their profession of faith, Iran will be regarded as outside the community of civilized nations.

Unfortunately, the sickness of religious persecution against Baha'is is not limited to Iran. In Egypt, 48 Baha'is have been convicted of sedition, while it is crystal clear that they are being persecuted for their refusal to recant their faith. Egypt's brand of Islam is generally far more tolerant than that now ruling Iran. But even in Egypt, extremists seek to destroy the Bahai faith, which they consider a heresy.

It is not clear what will happen with the Egyptian Baha'is. My hope is that the Egyptian Government will ensure that Egypt's democratic principles will be upheld with respect to the Bahai religious minority. The United States is a close partner in security, in economic development, in efforts for regional peace. This partnership would be seriously damaged by any acts in Egypt that run counter to the democratic and tolerant values our two countries share. I urge our friends in Egypt to avoid damaging the close and special ties between our two countries.

Egypt's example is especially important, because many moderate Islamic countries in Asia and Africa will be influenced by Egyptian policy toward religious minorities. Iran is increasingly isolated in the Islamic world. Iranian extremism is increasingly rejected. Egyptian maturity and tolerance should be confirmed as the proper model for emulation throughout the Islamic world.

Mr. President, I urge my colleagues to speak out on the persecution of the Baha'is of Iran and other countries. Our cherished American traditions of freedom of conscience and religion are at the center of this controversy. If there is anything that America stands for, it is the right of people such as the Baha'is of Iran to worship God in a manner of their choosing. Their cause is our cause. Let the Baha'is of Iran know, and their oppressors be put on warning, that their fate is of vital concern to Americans and civilized people around the world.

To better inform my colleagues about the persecution of the Bahai community, I ask that a report from the National Spiritual Assembly be printed in the RECORD.

The report follows:

TWO PROMINENT BAHA'IS EXECUTED IN IRAN—DIPLOMATS FEAR LESS SUPPORT FOR U.N. ACTION ON IRAN/HUMAN RIGHTS—EGYPTIAN BAHA'IS CONVICTED ON RELIGIOUS CHARGES

Two executions in Iran: Two Baha'is executed in Tehran September 28 had been members of the last elected Baha'i National Assembly of Iran, the group disbanded by Iranian government decree in 1983. The latest victims, Mr. Ardeshir Akhtari and Mr. Amir Husayn Naderi, had been in prison since September 12, 1984 and were among the 14 Baha'i prisoners whose fate has been a source of acute concern since the beginning of this year.

Their death sentences were imposed while U.N. Secretary General Perez de Cuellar was visiting Iran in an effort to end the Iran-Iraq war.

Five Baha'is have been executed this year. Since 1979, 188 Iranian Baha'is have been killed for religious reasons, while 15 others (including several elected leaders of the community) have disappeared and are presumed dead.

There has been no significant change in the situation of the Iranian Baha'i community since 1985. Although the number of executions is far below 1983-1984 levels and fewer Baha'is are in prison than in prior years, Baha'is continue to be persecuted solely because of their religious beliefs, and to suffer physical, social and economic intimidation as Iranian officials seek to compel them to recant their faith. The Baha'i Faith is not recognized as a religion but is treated as a heresy and political conspiracy.

Iranian government actions against Baha'is include executions; summary arrests; detention without trial; torture; denial of education; deprivation of the means to earn a livelihood; confiscation of business and personal property; and denial of religious freedom.

U.N. General Assembly Action Urgent: Some diplomats fear a loss of support among U.N. member-nations for a proposed resolution condemning Iran's human rights practices.

Because Baha'is have no rights or protections under the constitution and laws of Iran, they are especially dependent on the support of the international community, particularly the U.N. It is vital to their security and survival that the General Assembly approve at its current session a resolution condemning Iran's human rights practices,

with specific reference to the situation of the Baha'i religious minority.

Similar resolutions were adopted by the General Assembly in 1985 and 1986, despite intense Iranian opposition. There is no doubt that these resolutions and other expressions of concern have deterred Iranian actions against Baha'is.

Experts fear a falloff in support, possibly even defeat of the Iran resolution at the current session of the General Assembly, which will consider a report by the U.N. Special Representative for Iran.

The resolution on Iran barely survived defeat in the 1987 session of the U.N. Commission on Human Rights when a motion to defer action (in effect, to kill the measure) lost on a 16-16 tie vote. The U.N. Commission on Human Rights then approved the resolution with a smaller majority than in prior years.

Iran has lobbied vigorously against action by the UNCHR and the General Assembly and has not allowed the Special Representative to visit Iran, as proposed by the UNCHR.

Failure to adopt a strong U.N. resolution condemning Iran's continuing violations of basic human rights would probably lead to escalation of persecution of Iranian Bahi'is.

Egyptian Baha'is appeal convictions on religious charges: Forty-eight Egyptian Baha'is were convicted in Cairo May 11 and sentenced to the maximum of three years in jail for allegedly violating a 1960 edict banning Baha'i activities. Two others originally charged were acquitted after they proved they were Muslims, not Baha'is.

Acquittal of the two Muslims clearly demonstrates that religious beliefs rather than the alleged activities were the central issue. Although Egypt ratified the International Covenant on Civil and Political Rights on January 14, 1982, the Judge stated that the rights specified by the Covenant apply only to religions recognized by the Egyptian Government, and not to the Baha'i Faith, which is not recognized as a religion in Egypt.

American Baha'is are concerned not only for the fate of the Egyptian Baha'i community (there are fewer than 500 Baha'is in Egypt today) but for the impact of Egypt's example on Sunni Muslim nations in Africa and southeast Asia, where there are ten of thousands of Baha'is.

Appeals of 14 of the Baha'is are to be heard in the District Court for the South of Cairo on October 7. Nine of the 48 were not in Egypt at the time of the trial and were convicted in absentia. Cases of 25 others who were not represented in court by a lawyer are to be re-heard in the Misdemeanor Court on November 16; if the verdicts are confirmed, those Baha'is would then have the right to appeal to the District Court.

Charges against Baha'is: The Baha'is were arrested during a midnight sweep of six Egyptian cities on February 24, 1985. Their homes were searched and Baha'i books and documents seized. They were initially charged with "holding ideas that run counter to the divinely revealed religions on which the system of government in Egypt is based," and of belonging to an "apostate religion."

When the Egyptian State Security Prosecutor found that those charges did not constitute a crime under Egypt's penal code, he transferred the cases to the Abdin Misdemeanor Court in Cairo for prosecution under laws forbidding the use of religion to promote seditious ideas and under the 1960 law banning organized Baha'i activity.

Charges against the Baha'is included gathering in small groups, praying together in private homes and being in possession of Baha'i holy writings and prayer books.

Islamic fundamentalist pressures: To date the Egyptian parliament has not adopted legislation introduced by Islamic fundamentalists in 1985, calling for fines and harsh punishment for Baha'i belief or membership in a Baha'i group.

Fundamentalists have called for a general boycott of Baha'is, "spilling of the blood of the Baha'is" and the Islamic punishment of death for Baha'is. The Islamic Center of Cairo's Al-Azhar Mosque and University, the foremost seat of learning in the Sunni Islamic world, has publicly attacked the Baha'is, and other Islamic groups have urged the government to exterminate the Baha'is. Since the 1985 arrests, attacks on Baha'is have appeared regularly in the Egyptian press, with allegations of heresy, atheism, immorality, espionage and promoting "Zionism."

American Baha'i Vice Chairman Firuz Kazemzadeh calls recent actions in Egypt "alarming, since they indicate that the wave of persecution which still afflicts the Baha'is of Iran is now spreading over other Muslim countries, based on the same fanatical arguments and motivated by the same spirit of religious intolerance."●

GAMING ON INDIAN LANDS

● Mr. INOUYE. Mr. President, in its business meeting today, the Senate Select Committee on Indian Affairs unanimously adopted a resolution regarding legislation that might be offered with the intent or effect of altering current law with respect to gaming on Indian lands. The statement follows:

It has come to the attention of the Senate Select Committee on Indian Affairs that an effort or efforts may be undertaken to adopt an amendment to an upcoming appropriations measure that would alter the existing state of the law with respect to gaming on Indian lands. The Indian Affairs Committee is actively considering substantive legislation to address this issue in a comprehensive manner. Therefore, the position of the Select Committee on Indian Affairs is that, at this time, the Committee strongly opposes any efforts to address the issue of gaming by Indian tribes through amendment to spending measures as inappropriate, premature and an infringement of the Committee's legislative process.●

S. 305—A BILL TO IMPROVE THE COMMODITY SCHOOL LUNCH PROGRAMS

● Mr. McCLURE. Mr. President, I have been asked to withdraw my request for consideration in any time agreement on S. 328 the Prompt Payment Act. I do not wish to delay or detain this bill in any way and I hope to find a way to allow this bill to move forward today. However, I would like to clarify my position and explain why I requested time on this bill. I am very interested in providing alternatives to the Commodity School Lunch Programs and have supported an extension of a small program which allows specific school districts to receive commodity letters of credit or cash instead of commodities. The original program authorization expired on July 1, and it was necessary to extend the program for the next school year. It was necessary to find a legislative vehicle which was scheduled to come to the Senate floor before the expiration date.

At the time S. 328, the prompt payment bill was cleared for Senate floor action and I requested 30 minutes of time to discuss this issue on any time agreement under consideration. This was granted but another Member of the Senate objected to considering this extension amendment on S. 328.

My colleagues on the Senate Agriculture Committee were at this time preparing for subcommittee markup on a bill, S. 305, which makes changes to the Commodity School Lunch Program. The chairman of the subcommittee and the chairman of the full committee agreed to include language extending the cloc and cash program for 2 years. Unfortunately, this bill was not reported out of committee prior to the expiration date. Thus I was anxious to continue my efforts to find a bill to which I could bring an amendment to extend the programs.

As the Senate Agriculture Committee has now reported out S. 305 and has filed the report, S. 305 is now ready for Senate consideration. I hope that the leadership will quickly move toward consideration of this bill. I understand that the House of Representatives has a similar bill which will be reported out of the House on August 3 under a suspension of the rules and that this bill includes language extending the cash and cloc programs and that a preconference will be held in order to facilitate passage of this measure by the conference committee.

● Mr. LEAHY. Mr. President, my colleague Mr. McCLURE is correct, we expect no opposition to this measure and expect quick Senate floor action. Discussions have already been started with House Members and I expect and will work toward fast Senate passage and conferencing of this measure. I expect that this measure will be reported out of conference and passed by both houses and sent to the President for signature by August 7, 1987.

I appreciate Mr. McCLURE's concerns and hope that given this time table he will withdraw his request for consideration of the cash and cloc extension on the prompt payment bill.

● Mr. McCLURE. Mr. President, I do appreciate the efforts my colleagues Mr. LEAHY and Mr. HARKIN have made toward including this extension in S. 305. I do not wish to delay consideration of S. 328, thus I will rely on their assistance that they will press toward fast action and passage of S. 305. Mr. President, I withdraw my request for

time on S. 328, the prompt payment bill.●

REMEMBERING A. WILLIAM "BILL" BISHOP

● Mr. RIEGLE. Mr. President, on October 16, 1987, the Flint Community will honor Mr. A. William Bishop at the anniversary dinner/dance of the Clayton K. Stroup Foundation. This foundation is dedicated to funding substance abuse treatment for the less fortunate in the community, and has chosen its first anniversary celebration to pay tribute to the life and works of Mr. Bishop. The following statement will appear in the program in remembrance of Mr. Bishop's important contribution to the Flint community and I ask that a copy of this statement be included in the RECORD.

Bill Bishop's numerous contributions to the community, whether acts of charity or civic accomplishment, demonstrate the character and unselfishness of a man who dedicated much of his life to helping others.

A. William "Bill" Bishop's roots are traced to his grandfather, Arthur Giles Bishop, for whom Flint's Bishop Airport is dedicated. His grandfather was a local banker and philanthropist credited with helping develop the area's automotive industry. Many historians consider his business proposition that lured the Weston-Mott Company of New York as the founding of General Motors. A Giles Bishop serves as the president of the Genesee County Savings Bank, currently Genesee Bank, in addition to serving on the boards of GM, Chevrolet, Monroe Motors and the Coleman Electric Stove Company. The A.G. Bishop Charitable Trust was established as a stipulation of his will.

His parents, Russell Spencer Bishop and Mary Beasom Bishop, were also local volunteers and philanthropists. His father, Russell Spencer Bishop, was a regent at the University of Michigan-Ann Arbor as well as chairman of the Board of Genesee Bank, treasurer of the Genesee Red Cross Chapter, Urban League member and president of the City Club of Flint. His mother was national vice president of the Girl Scouts of America and regional president of the local Girl Scout Council. She was also active in the local arts.

While Bill Bishop may be remembered for his wry, subtle humor, his quiet acts of generosity and leadership by example will not be forgotten by friends and associates who knew him well. He held a position on a committee concerned for the progress of downtown Flint and was one of the innovators of the Downtown Development Authority. His tremendous interest in helping Flint's "street people" resulted in the Vista Drop-In Center which provides clothing, food and essentials for the community's poorest residents.

As owner of the Allsports Equipment Co. and the Crystal Water Co., Bishop was active in Flint's business community. For several years he served as a director of Genesee Bank and was a member of many local organizations, including the Flint Golf Club, Flint City Club, the University Club and Alcoholics Anonymous. Up until his death he served as the trustee of the A. Giles Bishop Trust, which has contributed significant amounts to local nonprofit health care chemical dependency agencies.

Bishop will be remembered for his active involvement in local substance abuse issues. He and the esteemed Dr. Clayton K. Stroup, for whom Hurley Medical Center dedicated a floor in honor of Stroup's commitment to treating chemically dependent residents, were successful in convincing area hospitals to treat inebriates. A recovering alcoholic, Bishop became unswerving in his efforts to help those trying to recover from alcoholism. He was a board member of the National Council on Alcoholism and was instrumental in promoting AA locally. In addition, he was a charter board member of Insight, a nonprofit substance abuse and mental health treatment agency.

His concern for his fellow man was evidenced by his work after moving to Delray Beach, FL where he became involved in a local substance abuse center.

Bishop has been referred to by many as "unostentatious", a man whose unsung devotion helped countless people, whether they were personal friends, less fortunate strangers or fellow AA members. A tremendous debt of gratitude is owed to Bill Bishop—not only for his numerous civic accomplishments—but for the good humor and generous spirit he consistently gave to his fellow man.

"Let your light shine" and "To whom much has been given much will be required" are two creeds which epitomize Bill Bishop's philosophy of living and are reflective of his quiet dignity.

It is only fitting that the community honor a man whose financial and personal generosities have enriched the lives of countless people from all walks of life.●

IS RESTRICTIVE TRADE LEGISLATION WISE?

● Mr. ARMSTRONG. Mr. President, as the time for decisionmaking on a number of pieces of trade legislation is approaching, it is important for Senators and the public to have the best possible information available.

Within the next few months, Congress is likely to address the trade bill, the textile bill, the United States-Canada Free Trade Agreement and other legislation that will have a tremendous impact on the future of our trade relations with other countries. None of these issues should be taken lightly because the consequences for the Nation are critical if we are to continue to experience economic growth.

In order to obtain a straightforward assessment of the wisdom of pending trade legislation, Julian Simon and Robert Crandall polled a number of economists about their views. When the political and parochial issues are removed from the trade debate, Simon and Crandall found that these economists are deeply concerned about where the Nation may be heading.

I urge my colleagues to read the following Simon/Crandall article. It is thought provoking and well worth considering.

The article follows:

[From the Washington Times, Sept. 10, 1987]

SINGULAR ECONOMIC RESPONSE

(By Julian Simon and Robert Crandall)

The 1987 foreign trade bill, now in congressional conference and about to be sent to the president, is another example of politics subverting economics. As often happens, economic theory and America's most highly respected economists are on one side; the politicians on the other.

Some in Congress think that by bashing our competitors they can curry favor with job-worried workers. The economists know better, and feel strongly that the protectionist trade bill will damage both the U.S. economy and those of other countries.

Ever since President Harry S Truman's jibe about wanting a one-armed economist because he was tired of hearing "on the one hand this—and on the other hand that," the public has thought that economists disagree about most things. But on a wide range of matters—especially international trade—economists speak with one voice. All trade barriers are bad, they say.

While Congress debated trade policy, we polled the current and past presidents of the American Economic Association—a mainstream organization whose presidents are considered at the top of their profession. The survey results are representative, and more authoritative than selected "experts" testifying before Congress. On the issue of trade an economist who argues for restricting trade is almost as common today as a physician who favors leeching patients.

We asked the economists whether the president should veto legislation containing the main provisions of the Senate and House bills. The economists felt strongly on this one: Fourteen said "yes, veto," one said "no." None was "undecided," though one didn't answer this question. The verdict is clear.

Both the Senate and House bills call for sanctions against nations with large trade surpluses with the United States—Japan, Taiwan, Hong Kong and Singapore, for example.

The House version of the sanctions proposal, drafted by Missouri Rep. Richard Gephardt, would penalize countries that sell more than they buy from the United States—the equivalent of penalizing Nebraska because it sells more to Massachusetts than Massachusetts sells to Nebraska. Such formulas, of course, fail to take into account the fact that every pair of states shows an imbalance. What matters is the entire trade network, which tends to balance out, not just the relationship between two countries or states.

We asked the economists whether the economy would benefit from the so-called Gephardt sanctions. Sixteen said "no"; none said "yes."

The trade bill also increases the authority of the U.S. International Trade Commission to decide whether an industry has been "injured" by imports, and to prescribe a "remedy." The bill reduces the president's authority. Among our blue-ribbon panel, just two approved of this proposal, 12 disapproved, and two were undecided.

In answer to the general question: "In comparison to present regulations, what sort of general policy would be best for the U.S. economy?" None said "tougher," five said "about the same as at present," 11 said "less tough."

We also asked about the trade regulation that has been most in the news recently: the

control of computer chip sales. When questioned whether "intervention with respect to computer chips" has been "good or bad for the United States, compared to no intervention," none said "good," 11 said "bad," and five were undecided.

The economists are sure that tougher trade barriers means a lower U.S. standard of living. Trade barriers raise the prices of protected goods and invite retaliation. Though the protected industries may benefit for a while from the barriers, in the long run they usually fail.

The cost to the U.S. taxpayers and consumers is tremendous. For example, "saving" jobs in the textile and apparel industry has cost about $40,000 per year per job, more than double the wages of those whose jobs are temporarily "saved."

The top economists do not agree on everything, however. The trade bill contains a provision requiring employers to notify their workers some months in advance of a plant closing. The poll split on this issue—six said it would economically benefit the United States in the long run, six said it wouldn't two were undecided. The economists split in their views because—unlike ideas about trade—this judgment is not based on a single clear-cut economic principle.

If trade restrictions are out-and-out evil, why do politicians embrace them?

Let's be charitable and assume that most politicans sincerely don't know any better and think they are being helpful. This raises the question: How can so many politicians be so ignorant?

The answer was supplied more than a century ago by the great economic journalist Frederic Bastiat. He wrote that the most important element in sound economic reasoning lies in paying attention both to "what is seen" and to "what is not seen."

Henry Hazlitt, in "Economics in One Lesson," put it thus: "The art of economics consists in looking not merely at the immediate but at the longer effects of any act or policy; it consists in tracing the consequences of that policy not merely for one group but for all groups."

Foreshadowing the current battle over the protectionism, Mr. Hazlitt warned about "the persistent tendency of men to see only the immediate effects of a given policy, or its effects only on a given group, and to neglect to inquire what the long-run effects of that policy will be not only on that special group but on all groups. It is the fallacy of overlooking secondary consequences."

The propensity for foreseeing secondary consequences—especially the myriad ways the market will behave to evade and undo the devices that government employs to achieve political ends—is what distinguishes the trained economist from the person who thinks economics is just the common sense of business writ large.

At rare shining times in history the economic wisdom of free trade has overcome ignorance and political cynicism, and a country has flourished because of it.

Perhaps the defenders of free trade in Congress can still find the strength to keep the lamp of free trade shining in the United States. And if Congress does not, the best-respected economists in the United States; in a concerted voice, have told the president what to do: Veto.●

THE 18TH ANNUAL CONVENTION OF THE PUERTO RICAN CONGRESS OF NEW JERSEY

● Mr. LAUTENBERG. Mr. President, the Puerto Rican Congress of New Jersey, which has contributed so much to the growth and development of the Hispanic community in my State, holds its annual convention on October 17. I rise to recognize the Congress for its work and to commend the participants at the convention.

The Puerto Rican community in New Jersey has faced a great many challenges in its efforts to secure for its members the opportunities that should be available of all Americans. Confronted too often by the ugly face of discrimination, they strive for what we all strive for: Decent housing, employment opportunity, and the kind of education for our children that will give them the chance to be all they can be.

The Puerto Rican Congress has worked to fulfill these goals. The congress began in 1970. It involved political leaders, local governmental officials, and Hispanic leaders throughout the State. The annual convention has provided a positive forum for the assessment of problems facing the Puerto Rican community, and the development of strategies to address those problems.

I commend the work of Jose Morales, executive director of the congress, Carlos Pacheo, chairman of the congress, and Angel Dominguez, president of this year's convention and wish them and other participants well in their work.●

SYLVANUS THAYER AWARD

● Mr. McCAIN. Mr. President, on September 24, Senator Barry Goldwater, who served the State of Arizona in the Senate for 30 years, was presented with the 1987 Sylvanus Thayer Award to commemorate his long and selfless service to his country.

This prestigious award is presented by the Association of Graduates of the United States Military Academy to a U.S. citizen whose outstanding character, accomplishments, and stature as a civilian symbolize the ideal of West Point, as expressed in its motto, "Duty, Honor, Country." I can think of no one more deserving of such a high award than Senator Goldwater. He well deserves the honor of joining the ranks of such distinguished Thayer Award recipients as John Foster Dulles and Dwight Eisenhower.

Barry Goldwater's life has been one of outstanding service to the citizens of the United States. His career started as a Reserve officer in the Army in 1930. He served with the Air Transport Command during World War II, organized and directed the Arizona National Guard from 1947 to 1952, and continued with the Air Force Reserve until his retirement as a major general in 1967. During his three decades as Senator, Barry Goldwater established a national reputation for honesty, candor, and love of country. He consistently supported the men and women of the Armed Forces, pressed for a balanced budget and proved to be a stable and skillful leader during the Watergate crisis of 1974. His leadership, legislative skill, and sense of duty make him truly deserving of such a great honor as the Sylvanus Thayer Award.

Upon receiving this prestigious award, Senator Goldwater made a fitting speech for the occasion by addressing the principles of duty, honor, and country. These ideals have been vitally important to the history of our country and, I believe, will be even more essential to its future. Mr. President, I ask that Senator Goldwater's speech be printed in the RECORD.

The speech follows:

SYLVANUS THAYER AWARD

(Speech by the Honorable Barry M. Goldwater)

The Thayer award is the greater honor I have ever received. I am grateful beyond my capacity for expression to the Association of Graduates for selecting me.

The Academy, and it's honor code, have influenced me all my life. Fifty-nine years ago I was graduated from the Staunton Military Academy in Virginia. My greatest desire then was to sit where you cadets are sitting tonight. I wanted the military life. I wanted to live the inspiration of men such as Washington, Madison, Jefferson and Franklin, who had so much to do with creating the United States of America.

Those men had not been cadets, of course. There was no military academy then. But they were men who lived the principles of duty, honor, country. They applied them in originating this wonderful country of ours. And this Academy has done more than any other educational institution in America to preserve these principles of democracy.

My father's illness in 1928, however, prevented me from becoming one of you.

As cadets, you may have heard more about duty, honor, country than you care to hear from an old curmudgeon like me. But, ladies and gentlemen of the Corps, the principles of your code are without peer in the history of this world. They were the basis of the formation of Ancient Greece. They created the Roman Empire. They brought Lafayette to colonial America to help form the United States. Erosion of those principles brought the demise of those and other great civilizations. May we in our country never let the code escape us.

No free nation ever was formed without men and women who lived those values. No country ever survives without them.

I have tried to live the code—even though it was never drilled into my heart and mind here at the academy. I learned it from my parents and grandparents, who moved West to help settle Arizona. They learned those basic truths from their parents, just as Sylvanus Thayer did from his Puritan forebearers, who settled in New England early in the Seventeenth century.

Without their vision of integrity, there would have been no land of the free. Our forefathers survived because they lived it. Those standards of conduct were perpetuated in the home, in church and in school. That's the way we older Americans learned about serving one another, about preserving our country, and about integrity.

There would not have been a Constitution without the sense of duty felt by men like Washington, Jefferson, and Madison. That document of liberty would not have survived for these 200 years without the basis of honor, which its authors wrote into the Constitution. There would have been no country without the loyalty that these men felt to freedom—and without the same devotion of men and women who followed them.

Living an honor code becomes automatic. There is just no other way to act. You may be accused of shooting from the hip, of being fast with the lip, or making statements that are judged dumb politically. But your instincts will be right. You will be proud. You will be honorable. You will be an outstanding soldier. You will be a great American. You will hold the respect of your peers. And you will get as much satisfaction as you will experience in your lifetime.

The Military Academy has lived up to its responsibilities. It is the premier educational institution in America teaching integrity as well as academic subjects. It has faced serious challenges to its own observance of duty and honor. Some dozen or more years ago, this Academy suffered a cheating scandal, culprits violated their honor. Some liberal educators, some politicians, some editorial writers and many pantywaists publicly advised the superintendent only to slap the culprits' wrists a bit. They said cheating was only a minor crime, common in colleges and universities throughout the land. Punish the guilty with demerits, put them on probation, but let them stay here, they argued. The Academy stood firm. It discharged the lot.

An institution vital to the nation's future could not violate its own honor. I am proud it did not fail itself.

I speak as an outsider. I am not of the Long Gray Line. But I see West Point as one of the critical institutions offering the nation men and women who will preserve the United States of America. God has not ordained that Americans shall be forever free or that the United States shall live eternally. Our liberty is not guaranteed. It must be fought for every day of our lives. Every citizen must be in the fight. That means every Congressman and Senator, every soldier, every business executive, every educator, every worker, and yes, even every journalist. None of us has a higher calling than preserving the freedom handed down to us by our ancestors—almost all from foreign lands.

Even so, all men and women do not see the light. Serving them, guiding them, influencing them is the task of leadership. And leadership is what this institution is all about.

One person, one leader, can make a difference. Colonel Thayer proved that 170 years ago. The Academy was a chaotic place when he arrived. Most of the cadets were absent. The superintendent actually was forced to advertise in newspapers asking cadets to return to West Point. There was no discipline, no harmony, no inspiration. Colonel Thayer created a new Academy, essentially the one we have today. He rejected congressional tampering. He picked a select group of men to help him. He created high scholastic standards, instilled discipline and patriotism. And today we have a unique organization, the pride of the nation—as a result of one man's leadership.

Our country has been in deep trouble many times in our two centuries. And it was men of leadership, men instilled with duty, honor, country, who bailed us out. Many of these leaders came from this Academy, and many more will come from it in the future. The Eisenhowers, the MacArthurs, the Pattons, the Lees, the Taylors, the Grants—and their civilian counterparts, the Lincolns, the Roosevelts, the Trumans. They led us in desperate times. And some of you here tonight will lead us through future difficulties.

Our nation is in trouble now. Foreign armies are not on our shores, it is more corrosion than invasion. It is evident at all levels of our society, both in the public and private sectors. We are experiencing a flight from basic principles of character.

Some Congressmen and Senators are substituting public opinion surveys for leadership. They are influenced by financial contributions. They are looking to the next election rather than to the country.

Congress is sticking its nose too deeply in foreign policy, a constitutional responsibility of the President. Television preachers are raising millions of dollars, supposedly for God, and injecting politics into religion in a society that always has believed in separation of church and state. Men in high places have lied and quibbled. Our growing national debt darkens our future. Our government is oversize. And the military is under constant attack in Congress and in the press.

We need our public officials and all citizens to understand what duty, honor, country means. There would have been no Watergate, no Iran scandal, under the honor code. Neither would our country be in trouble.

This nation needs you—you cadets—to lead us in the future, to devote your lives even after your military careers are over, to our country. There is no Last Hurrah in the struggle to remain free, unless it might be that time when the Lord calls us back home.●

INFORMED CONSENT: OREGON

● Mr. HUMPHREY. Mr. President, as you know, I have been presenting the issue of informed consent to this body every day it is in session. I do it every day for several reasons—first, because every day across the country, women are choosing to have an abortion without first being apprised of all the risks, effects, and alternatives. This has led to a great deal of trauma for many women across these United States. Second, my office has received so many letters detailing such trauma that I feel it is only just for the women who wrote the letters to get a fair hearing before the Senate and the American people. Lastly, it is an issue we can do something about.

My informed-consent legislation, S. 272 and S. 273, will go far toward rectifying this injustice by requiring medical personnel to fully inform those considering abortion of the risks, effects, and alternatives. I urge my colleagues to support this legislation, and I ask that letters from women in Oregon be entered into the RECORD.

The letters follow:

FEBRUARY 18, 1987.

SENATOR HUMPHREY: I am 31 years old. I had an abortion 9½ years ago. My husband and I were not married at the time, but were planning to be. I was using an I.U.D., which I obtained thru Planned Parenthood. I was having trouble with my cycle months before my abortion, but they told me everything was alright and the I.U.D. was fine. In looking back at the signs and symptoms I had those months I can say now I had two miscarriages. They denied the possibility to me. Then I became sick with flu symptoms which continued for many weeks. After seeing two separate doctors, the second one suggested a pregnancy test. I didn't think it was a possibility because I was continually spotting or having light periods as before. The test was positive. I was in shock. All I could think about was that I didn't want to be pregnant, I didn't want to "have" to get married, and what would everybody think. I never once considered the baby. I saw a doctor after the test. He asked me what I wanted to do. I said "have an abortion." He then gave me information on where to go without any further discussion. The only people I told were my husband to be and my sister, who I knew had previously had an abortion. I was seen in the clinic for a brief talk prior to scheduling me for the abortion. Not once did they tell me anything about the baby, its development, etc. They said, they thought I was about 12 weeks along and that was the latest they could do a (suction) abortion. In my case they would go ahead and schedule me soon. They explained the procedure basically, but they didn't tell of the intense pain you feel during the procedure or the emotions you have afterwards.

It was a couple of years later that the reality of what I had done hit me. When my husband and I had our first child. I read books during pregnancy and heard the heart beat at 10 weeks! and felt movement at 18 weeks. I have anguished over what I did, I have felt tremendous guilt, sorrow, remorse . . . and anger. I have cried many times over the child I chose to kill. I will never get over the pain or forgive myself. The only way I can cope with the fact is knowing that God has forgiven me through his son Jesus Christ.

I definitely believe that if someone had sat me down and told me about what was inside me, that that baby is a person and showed me how it develops, I wouldn't have had the abortion. I never once thought of it as a baby—only that I was pregnant. There were opportunities for a couple of professional people to do this, but they never said a word.

I pray for your victory on this bill thru Christ.

OREGON.

MARCH, 1987.

SENATOR HUMPHREY: I had three boys (2 toddlers) and a faltering marriage when I found out I was pregnant. I was devastated. How could I possibly take care of all these people alone?

Abortion was legalized that year, 1973. So I went to see about getting one, worried about how I could convince them that I needed it. I was called into the "counselling" room. After the name, address information was taken she asked me why did I

want an abortion. I said, "Well, I have 3 boys . . ." She interrupted me there and laughed and said, "That's all the reason you need." End of "counsel."

I was required to see a film before the abortion took place. It snowed heavily that day and I couldn't get out of my driveway. So I called them and was told that it would be okay to miss the film—no problem.

Next I went in for the seaweed stick to be inserted into the cervix to start dilation. Then back a day or so later for the abortion.

There were approximately 12 of us there that night. They took in 1 or 2 at a time. I was about 8th on the list. I was a nervous wreck about the whole thing. I was absolutely flabbergasted at the conversation around me. Not one woman was a single girl "in trouble." All were married and this pregnancy was just an inconvenience. All, except me and one other, were pregnant with first babies.

I was called in and prepped. The nurse explained that the anesthesia doesn't always take effect on everyone. If there was pain, I could squeeze her hand. They couldn't stop doing the abortion if that happened, but the pain would only last 30 seconds, so hang in there and watch the clock. One side of my uterus did not "take." I wondered how many others this happened to, since the clock was set up for pain watching. Those 30 seconds were the most horrid pain I've ever experienced before or since.

We were monitored an hour afterwards to see if anyone were bleeding badly (one was). Then I went home . . . not pregnant any more.

No one prepared me for the guilt or the nightmares to follow. The nightmares have quit and the guilt has changed to more of a sorrow now. I've since been found by Jesus and I know he's forgiven me for murdering my baby. I wonder if the female problems I'm dealing with now could be some of the results of the abortion.

Yes, counseling as to what an abortion really is and all the medical facts concerned with the surgical procedure and what the possible harm to the mother could result should be given before the abortion.

For His Glory.

LaRae Hickman,

Oregon.●

TALIESIN WEST

● Mr. McCain. Mr. President, I rise today to bring to the attention of my colleagues an important milestone in the history of a remarkable institution. On October 23, the Frank Lloyd Wright Foundation celebrates the 50th anniversary of the establishment in Scottsdale, AZ of Taliesin West, Frank Lloyd Wright's winter home, office and architectural school.

Frank Lloyd Wright's contributions to art, architecture, culture and education in America during the 70 years of his career are widely recognized. His creation of an American architecture, a style which expresses freedom and democratic ideals in its use of space, is exemplified in the National Landmark of Taliesin West.

Taliesin West is a monument to Frank Lloyd Wright's spirit of enterprise. It exemplifies his contributions to art, architecture, culture and education in America and throughout the world. I ask my colleagues to join me in commemorating the 50th anniversary of this fine institution.●

IN SUPPORT OF H.R. 1366, THE CONVEYANCE OF LAND TO THE PAYSON SCHOOL DISTRICT

● Mr. McCAIN. Mr. President, I would like to take this opportunity to voice my support for the enactment of H.R. 1366, which concerns the conveyance of 60 acres of Forest Service land to Payson School District No. 10.

A community rich in history and heritage, the town of Payson is justifiably proud of the academic achievements the school district has attained. Since their establishment as a frontier community, the Payson School District has implemented an educational program that ensures equity, yet does not compromise educational excellence. But, the current problem the school district has encountered regarding the Forest Service land could pose a serious challenge to their continued pursuit of educational excellence.

Mr. President, in 1961, Payson School District No. 10 entered into an agreement with the National Forest Service which permitted them to lease 45 acres for the purpose of building school facilities. In 1965, the Forest Service granted another permit which extended the leased land by an additional 15 acres.

This agreement had worked reasonably well up until the last few years when rising land values caused leasing costs to rise rapidly. The land was usually reappraised by the Forest Service every 5 years but, because of unanticipated delays in its appraisals between 1980 to 1986, the town was hit with a 200-percent increase for 1987. Furthermore, lease payments are estimated to rise by 515 percent between 1986 and 1989. This substantial and unexpected increase would pose a problem even for a well financed school district, but for a relatively small district such as Payson, this incredulous increase is financially devastating.

The Payson community is very cognizant of the importance of adequate levels of funding for the school district and is not averse to seeking alternative funding methods. Twice in the last 5 years the community has approved bond issues totaling more than $9 million. The school had previously invested $4.3 million into buildings and improvements on the leased land, and is in the process of completing several more buildings worth $8 million. It is unlikely, however, that the community would approve another bond election for the outright purchase of the Forest Service property. Moreover, Payson has almost reached its maximum bonding capacity, thereby, precluding this avenue as a viable alternative.

The ability of Payson School District No. 10 to complete these pending projects moves Payson closer to their goal of continuing to provide a quality education in a small community with limited funds. It also reflects the Department of Education's philosophy which reintroduces excellence into our educational system by providing specialized instruction, improved textbooks, and better teachers.

Another problem the Payson School District faces is its limited tax base, which stems mainly from the fact that it is surrounded by National Forest land. The fact that the town of Payson is unable to increase its land base is an inhibiting factor, and one that has plagued city officials for many years. But their inability to expand does not reflect the fact that the town's population has grown by almost 50 percent over the last few years. Furthermore, the student enrollment is expected to grow by 66 percent by the year 1995.

To keep and improve the land Payson has developed over the last 20 years, the town is faced with only one viable alternative; the passage of H.R. 1366. H.R. 1366, which has already passed the House of Representatives, would allow the Payson School District to apply for conveyance of the land within the next 30 years by adhering to the provisions set forth by this legislation. It permits the school district to make payments, not to exceed $12,500 per year, while continuing to use the school grounds. The land will be bought by the school at fair market value, less amounts paid out by the school district in the past for the lease. The passage of this legislation will allow the Payson School District to shoulder the financial burden of acquiring the land while allowing them to continue to upgrade and expand their facilities. In addition, the integrity of this legislation is protected by a clause which reverts the land back to the Government if ownership of the property is transferred.

Mr. President, I believe that the enactment of H.R. 1366 is in the best interests of the American taxpayer, our Nation, and the residents of Payson, AZ. I would appreciate its immediate passage.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I thank Mr. Armstrong for his cooperation in conducting morning business.

Mr. ARMSTRONG. Mr. President, I thank the distinguished leader and note with anticipation and approval that I think he is preparing to recess or adjourn.

I note with extraordinary pleasure that it may yet be daylight outside. That would be a wonderful precedent. I hope it would be a habit-forming experience, I say to the leader, and I hope we can do it often in the future.

Mr. BYRD. It just goes to show if we can get in early enough, we get our work done earlier.

Mr. ARMSTRONG. I would not want to draw this out, but I would say publicly to the leader what I have said privately, that I appreciate his having votes early in the morning. I know there are Senators who do not like to have bed-check votes, but I think we ought to get them in early, get on with our work, and if we continue to do that, and I hope he will persevere, I hope that we can get out at a reasonable hour in the evenings.

Mr. BYRD. Mr. President, I thank the distinguished Senator. We cannot always get out as early as we would like, but I find that the early votes get Senators to the Capitol. They call up their amendments; they begin debate on the legislation that is on the floor; we get an earlier start, whereas otherwise we have to wait around 2 or 3 hours before we can get Senators to come to the floor. Those who do not participate in the debate on the floor can go on to their committee meetings and do other things. It seems to me that it is working out all right.

I thank the distinguished Senator for his observations. They are helpful.

REPORT ON BORK NOMINATION

Mr. BYRD. Mr. President, I ask unanimous consent that the committee on the Judiciary may have until 9 o'clock this evening to file the report on the Bork nomination.

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

PROGRAM

Mr. BYRD. Mr. President, I have a parliamentary inquiry. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is H.R. 3058 making appropriations for the Departments of Labor, Health and Human Services.

Mr. BYRD. I thank the Chair.

Mr. President, the Senate will come in at 8:45 and, after the two leaders have been recognized for not to exceed 7½ minutes each, the Senate would then resume consideration of the pending business, which is the Labor-HHS appropriation bill, following a rollcall on the motion to instruct the Sergeant at Arms. That rollcall will occur beginning at 9 o'clock, and I will ask in a moment that the regular order be automatic at 9:30.

Following that rollcall vote, the Senate will be on the pending business. I misstated it earlier. I hope that action can be completed on that measure relatively early tomorrow.

Senators have been busy discussing an amendment to the catastrophic illness bill, and I understand that progress is being made, in which case, hopefully, action can be completed on that bill early tomorrow.

Also, the distinguished Republican leader and I, in the morning, will again discuss the taking up of the Bork nomination. The report will have been filed, and I hope that the leader and I, if we cannot get consent, can press ahead and join in waiving the rule and take up that nomination and let the Senate get started on it. There is not anything to be gained, in my view, in a long, drawn-out discussion of this nomination. The Sun has set pretty much on this nomination, and it seems to me that we all should be thinking in terms of the next nomination and filling the vacancy at a reasonably early date, as soon as the confirmation process can be reasonably concluded.

Mr. President, I ask unanimous consent that it be in order now to order the yeas and nays on the motion to instruct the Sergeant at Arms tomorrow morning to request the attendance of absent Senators at circa 9 a.m.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays on the motion to instruct the Sergeant at Arms.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR RECESS UNTIL 8:45 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:45 tomorrow morning.

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

PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the prayer tomorrow, the two leaders be recognized under the standing order for not to exceed 7½ minutes each; that upon the conclusion of those two orders or the reservation of time therefrom, the Senate resume consideration of the now pending business, the Labor-HHS appropriations bill.

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

Mr. BYRD. At that time, I will suggest the absence of a quorum. Upon the calling of the roll and the announcement by the Chair that a quorum is not present, I will move to instruct the Sergeant at Arms to request the attendance of absent Senators. The yeas and nays will be held on that motion, they having already been ordered.

I ask unanimous consent that the regular order be called on that rollcall vote at 9:30 a.m. or at the conclusion of the 30 minutes, whichever is the later.

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

Mr. BYRD. Mr. President, the Senate will then resume consideration of the Labor-HHS appropriation bill.

I know of nothing else to come before the Senate today, unless the distinguished Republican leader has a statement or wishes to transact further business.

Mr. President, I ask unanimous consent that the entire order for tomorrow be slipped 15 minutes, so that instead of coming in at 8:45 a.m., the Senate will come in at 9. The orders will end and the quorum call will begin at 9:15. The regular order will be called at 9:45, and we will be on our way.

I thank the distinguished Republican leader.

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

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to, and at 5:24 p.m., the Senate recessed until tomorrow, Wednesday, October 14, 1987, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 13, 1987:

DEPARTMENT OF COMMERCE

C. WILLIAM VERITY, JR., OF OHIO, TO BE SECRETARY OF COMMERCE.

NATIONAL SCIENCE FOUNDATION

FREDERICK PHILLIPS BROOKS, JR., OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1992.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH & IMPROVEMENT

NOREEN C. THOMAS, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL OF EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1988.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

MONEESA L. HART, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON WOMEN'S

EDUCATIONAL PROGRAMS FOR A TERM EXPIRING MAY 8, 1990.

JUDITH D. MOSS, OF OHIO, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS FOR A TERM EXPIRING MAY 8, 1990.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

LIEUTENANT GENERAL WILLIAM W. QUINN, U.S. ARMY, RETIRED, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 6 YEARS.

DEAN BURCH, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM OF 6 YEARS.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JERALD CONWAY NEWMAN, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARAM BAKSHIAN, JR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1992.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JOY CHERIAN, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1988.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.